

Tolling Waiver Request of  
Red River Broadcast Co., LLC for KDLT-TV, Sioux Falls, South Dakota

As described below, Red River Broadcast Co., LLC (“Red River”), the licensee of KDLT-TV, Sioux Falls, South Dakota (FCC Facility ID No. 55379) (“KDLT”) will not be able to complete construction of its permanent post-auction antenna facility, by its current construction permit expiration date of May 29, 2019, because of (1) exceptionally severe winter weather conditions and (2) scarce tower construction resources, all of which are beyond Red River’s control. Red River has been advised by the Commission’s staff that winter weather conditions are not considered “acts of God” for tolling under Section 73.3598(b)(1) of the Commission’s rules. Therefore, Red River respectfully requests a waiver of the Section 73.3598(b) of the rules, based on the following.

It has been an especially brutal winter in and around Sioux Falls, South Dakota this season (winter, 2018-2019). KDLT was unable to complete its channel change on time because its tower company (Tower King II) withdrew from the area on November 13, 2018, having determined that weather conditions were too unsafe to allow its personnel to complete work on the KDLT tower structure. A November 13, 2018 e-mail message from Tower King II stated:

... after further discussions and considerations of current and future weather days incurring costs, schedule, upcoming holidays and most of all, safety of our workers, Tower King has decided to de-mobilize crew and equipment out of the KDLT tower site for the winter. We do not feel there is a sufficient amount of consistent weather to complete this year. We will reschedule this project in the spring 2019.

(A copy of that message was provided to the FCC’s staff.) Accordingly, the Commission granted an extension so that KDLT could continue its interim operation on Channel 21 from its temporary side-mount antenna until the weather cleared sufficiently to permit safe completion of the construction of KDLT’s permanent antenna system from the top of its tower. LMS File No. 0000059335.

Conditions through the winter deteriorated. For example, according to the *Argus Leader*, the daily newspaper for Sioux Fall, South Dakota, by February 21, 2019, the 2018-19 winter season has been an “arctic hellscape.” The season included, among other problems, wind chills colder than minus 60 degrees during the “polar vortex.” Weather conditions, including large snowfalls, meant that there was not a single complete week of school in January and most of February. There was a record-breaking snowfall in February. By mid-February, there had been 32 days with measurable snow recorded. On only one day had local temperatures risen above zero.<sup>1</sup>

According to AccuWeather, there have been large temperature swings in the Sioux Falls area in recent weeks, with March and April lows well below freezing and some highs above freezing.<sup>2</sup>

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<sup>1</sup> <https://www.argusleader.com/story/weather/2019/02/21/nws-sioux-falls-weather-national-weather-service-winter-cold-snow/2922056002/>

<sup>2</sup> See, <https://www.accuweather.com/en/us/sioux-falls-sd/57103/march-weather/330686?monyr=3/1/2019#>

Such fluctuations in temperature could, and in some cases did, cause heavy icing on the KDLT transmission tower. South Dakota experienced additional heavy snowfalls, of as much as a foot, on or around March 9, 2019.<sup>3</sup>

On or around April 14, 2019, severe icing caused considerable damage to the KDLT antenna system, including damage to its transmission line and its transmitter, which caught on fire. KDLT was unable to transmit until operations were restored partially on April 19, 2019. Red River informed the Commission about this reduced power operation caused by weather-related damage in a letter dated April 24, 2019. It is likely that KDLT will need to apply for an STA to continue at reduced power beyond 30 days.

Winter weather conditions made construction work virtually impossible at the KDLT antenna site for all of March and most of April. The recent storm damage, another act of God outside of Red River's control, delayed completion of construction further.

As the Commission knows, the availability and resources of tower construction companies have been stretched extremely thin, nationwide, due to compliance demands related to the historic channel repacking requirements which flowed from the broadcast incentive auction. Tower riggers cannot safely conduct construction operations on tall towers unless weather conditions are safe. The KDLT antenna is more than 1,500 feet/465 meters high. To date, weather conditions at the KDLT antenna structure have been hazardous, subject to strong winds, snow and ice.

Tower King II has committed informally to being on site to begin the final work on the KDLT antenna system by approximately mid-June. Other essential vendors are similarly committed.

Therefore, Red River submits that the combination of extraordinarily severe long-term winter weather, and extremely scarce tower construction resources, represent good grounds upon which to grant a waiver of Section 73.3598(b) of the Commission's rules. That confluence of circumstances, all of which are far beyond the control of Red River, has made it impossible to complete construction timely under its construction permit. On that basis, Red River requests that the Commission grant this request so that the KDLT construction permit would be valid until July 26, 2019 (less than additional 60 days) in order to permit Red River to complete construction of KDLT's permanent antenna in an orderly and safe fashion. Grant of this waiver request would serve the public interest in preservation of television station broadcasting service, including to rural areas. In addition, this brief delay in completing the construction of KDLT's permanent facilities would be without harm or prejudice to the post-auction transition process because KDLT relinquished its pre-auction channel (47) in October, 2019, and has been transmitting on its permanent post-auction channel (21) ever since, from a temporary antenna under Special Temporary Authority granted by the Commission.

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<sup>3</sup> <https://www.kdlt.com/2019/03/10/snowfall-totals-march-9th-2019/>