

WGTV-CD Tolling Request

Victory Christian Center, Inc. ("VCC"), licensee of the WGTV-CD, Fac. ID 70097, Charlotte, NC respectfully requests waiver of the Tolling restrictions, pursuant to Section 73.3598(b).

WGTV-CD was licensed to pre-auction Channel 28 with an ERP of 1.3 kW and was assigned to post-auction Channel 27 with a replication ERP of 1.3 kW. VCC timely filed a construction permit application for the assigned post-auction parameters and followed that up with a timely filed maximization application for an ERP of 15 kW which was granted and a post-auction construction permit (0000080004) was issued on 8/13/2019. However, the construction permit expiration date was 9/6/2019 which was only 24 days after the maximization construction permit was granted; therefore, VCC filed a request to extend the construction permit for 6 months which was granted by the FCC (0000080381) with a new construction permit deadline of 3/9/2020.

What ensued was several months of the station itself trying to determine what equipment was needed for the additional ERP, as opposed to what had already been determined for the original CP. Furthermore, the station itself tried to determine what was reimbursable and what would be an out of pocket expense as it pertained to transmitting with the new, higher 15kW ERP. As a result, VCC finally decided to retain an experienced consultant, Osborn Engineering to assist them in the project.

Osborn's first realization was that WGTV-CD was very unlikely to be able to meet the deadline imposed by the first CP extension – 3/9/2020. It became immediately apparent WGTV-CD would require a second extension, as no equipment other than a mask filter had been purchased, nor had any arrangements been made for a tower crew. Even as of this date, getting a tower crew will be the most difficult part of the continuing process.

WGTV-CD did meet their phase 5 date for vacating the pre-repack channel (28) and transitioning to the post-repack channel (27) by retuning their existing transmitter, using the same transmission line and using the same antenna. Subsequent line sweeps, however, have shown the line and antenna to be quite inefficient on the post-repack channel (which was only one channel away from the DTV channel, but both the

line and the antenna were cut for Channel 28 specifically and by no means broadband enough for even the seemingly small step to Channel 27).

In order to implement the instant construction permit, WGTB-CD will require a new transmitter, new line and a new antenna, along with a tower crew to do the antenna installation. Because of the initial confusion in trying to determine what equipment was needed and further, what was and was not reimbursable, plus the difficulty in finding and scheduling a tower crew (which still remains a problem), VCC requests a waiver of the Tolling rules.

Stations needing additional time to construct beyond the initial 6 month extension period are directed to make showings under the Commission's Tolling restrictions set forth in Section 73.3598(b) or to seek additional time pursuant to a request for waiver of those restrictions due to rare and exceptional circumstances. *Initial Auction Task Force and Media Bureau Remand Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, DA 18-884 (August 27, 2018). The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. See *Northwest Cellular Telephone Co. v. FCC* 897 F. 2d 1164, 1166 (D.C. Circuit 1990). Waiver of the Commission's rules is appropriate if (i) special circumstances warrant a deviation from the general rule and (2) such deviation will serve the public interest. See *id.*

A waiver of the tolling provisions is warranted. WGBT-CD's maximization construction permit was only granted less than a month before its initial expiration date. As a result, the licensee, due to inexperience, was confused regarding which equipment it would need for the new facilities and about which costs were reimbursable and finally brought in an experienced consultant.

Further, grant of the waiver is in the Public Interest. WGTB-CD timely transitioned to its post-auction channel, and is, and has been, operating on its post-auction channel with 1.3 kW, which was the originally authorized power. Allowing its construction permit for 15 kW to expire would only prevent its viewers and community of license from receiving a better television signal and prevent the station from expanding its reception area to better serve its community of license.