

## Second Request for Tolling of Construction Permit

and

### Waiver of Section 312(g) to extend Silent STA and Extend License

Christian Faith Broadcast, Inc. (“Licensee”), the licensee of WGGN-TV, Sandusky, Ohio, (Fac ID: 11027) (the “Station”), pursuant to Section 73.3598(b) of the Commission’s rules, respectfully requests a waiver of the Commission’s tolling provisions for the Station’s post-auction construction permit (“CP”) for Channel 3 (LMS File No. 0000027852) and 312(g) waiver to extend the Station’s silent STA beyond the 12-month off air date to keep the Station’s license alive. On April 8, 2020 the FCC granted Licensee’s request for tolling of the CP until October 15, 2020 (0000111209). The Station permanently suspended operation on its pre-auction channel on October 18, 2019 (LMS File No 0000086926). The current extension of the silent STA (LMS 0000111482) expires on October 9<sup>th</sup>.

Based on the following unusual and extraordinary circumstances, the Licensee seeks a further tolling of the Station’s CP and a waiver of Section 312(g) to allow the Licensee to complete the process of implementing its post-auction facility. While this request does not fall within the express exceptions provided in Section 73.3598 of the Commission’s rules, the reasons for the delay are clearly beyond the Licensee’s control. If a station does not qualify for tolling under one of the express criteria in Section 73.3598, good cause may exist to waive the Commission’s tolling provisions and tolling may be warranted where the licensee can demonstrate that “rare and exceptional circumstances” prevented construction by the station’s construction permit expiration date.<sup>1</sup> The Media Bureau has previously granted waivers of the tolling requirements in the repack context in cases where a station is unable to complete construction of its repack facility due to circumstances outside of its control, and where the tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. As demonstrated below, Licensee respectfully submits that good cause exists in this case to further extend the Modified Repack CP expiration date.

As a result of significant delays in manufacture and delivery of the equipment needed for its post-repack facility, Christian Faith Broadcast sought and was granted a Phase waiver from Phase 4 to Phase 6 (LMS 0000078502) for which the final transition date was October 18, 2019. When it became clear that its post-repack facility could not be completed by the end of Phase 6 due to causes beyond its control, Christian Faith Broadcast sought and received an extension of its repack CP (LMS 0000086272). As a result, WGGN-TV ceased operation on UHF Channel 42 at 11:59 PM on October 18, 2019.

The Licensee continues to be constrained in the final implementation of its repack facility by the failure of Jampro to complete and deliver the required antenna. Jampro, like so many other companies and individuals, has been significantly delayed due to the Covid-19 pandemic restrictions. On September 2, 2020, the Licensee learned from Jampro that the WGGN-TV antenna is finally back from being galvanized and it is being reassembled at Jampro and re-tested and the tuning confirmed. On September 18, 2020, the Licensee learned that the Channel 3 antenna is scheduled to be delivered in Ohio on or about October 3, 2020. A helicopter is tentatively scheduled for October 6 or 7 to remove the old Channel 42 antenna and install the new Channel 3 antenna. If all goes well, it is believed that

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<sup>1</sup> See 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, 14 FCC Rcd 17525 (1999), ¶ 42; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972); 47 C.F.R. § 1.3.

installation and commencement of operation could occur by October 9, 2020 – the *very day* that the silent STA expires and only a week before the expiration of the tolled Channel 3 construction permit. The Licensee is doing everything it can to complete construction, file a license to cover, and return the Station to on-air operation by the expiration of the Silent STA and the current CP expiration date<sup>2</sup>, but the timing is such that if there is any delay or contingency of any kind, the Licensee could be left without a valid license or CP.

The Licensee is very anxious to complete the installation of the repack antenna and to get the station back on the air. Out of an abundance of caution, it is hereby requesting a further three month extension of time to ensure that both the CP and the license remain viable. The delays are entirely beyond the control of the Licensee.

Therefore, the Licensee submits that a grant of the instant request for further tolling and its simultaneously filed request for 312(g) waiver to allow the station to remain off the air for more than twelve consecutive months and extend its license is in the public interest.

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<sup>2</sup> Note that while the station went silent on October 18, 2019, the current silent STA shows an expiration date of October 9<sup>th</sup>. While Licensee timely filed a suspension of operations notice in October 2019 and asked for a silent STA, an STA was not separately granted. When this was discovered, Licensee filed for and was granted a silent STA which was granted on April 10, 2020 and thus showed an expiration date of October 9<sup>th</sup> not October 17<sup>th</sup> (one year from the date the station actually suspended operation on its pre-auction channel).