



Federal Communications Commission
Washington, D.C. 20554

April 9, 2021

Window to the World Communications, Inc.
Eshed Halpern
5400 North St. Louis Avenue
Chicago, IL 60625
ehalpern@wttw.com
(via electronic mail)

Re: Request for Tolling Waiver
WTTW(TV), Chicago, IL
Facility ID No. 10802
LMS File No. 0000141934

Dear Licensee,

On March 31, 2021, Window to the World Communications, Inc. (WWC), the licensee of WTTW(TV), Chicago, Illinois (WTTW or Station), filed the above-referenced request for waiver of the Commission's tolling provisions and tolling of the Station's construction permit expiration date. For the reasons below, we grant WWC's request and toll the expiration date of WTTW's construction permit 180 days to October 12, 2021.¹

Background. Pursuant to section 73.3700(b)(5) of the Commission's rules (Rules), a station that was assigned a new channel as a result of the Commission's incentive auction and repacking process may request a single extension of its construction permit deadline of up to 180 days to complete construction of its post-auction facility.² All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of section 73.3598(b) of the Rules.³ The Commission's tolling provisions provide that a construction permit deadline may be tolled under specific circumstances such as acts of God, delays due to administrative or judicial review, or construction that is delayed by any cause of action pending before a court of competent jurisdiction relating to any necessary local, state, or federal requirement for the construction or operation of the station, including any zoning or environmental requirement.⁴ If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission's tolling provisions and tolling may still be warranted where the licensee can demonstrate that "rare and exceptional circumstances" prevented construction by the station's construction permit expiration date.⁵

¹ Because 180 days from the Station's current construction expiration date falls on Saturday October 9, 2021, we will extend the construction permit to the next business day, which due to the Columbus Day holiday would be Tuesday, October 12, 2021. *See* 47 CFR § 1.4.

² *See* 47 CFR § 73.3700(b)(5).

³ *See* 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

⁴ *Id.*

⁵ *See 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17542, para. 42 (1999) (recognizing that there may be "rare and exceptional circumstances" beyond the control of the licensee that do not fall under the tolling provisions, but "which would warrant the tolling of construction time." The Commission concluded that in such "limited circumstances," it would entertain requests for waiver of its "strict tolling provisions"); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C.

WWC requests waiver of the tolling rule and tolling of its construction permit for the Station's post-incentive auction channel facilities. WTTW was granted an extension and two waivers of the tolling rule and the Station's construction permit was most recently tolled to April 12, 2021.⁶ The Station is currently operating on its post-auction channel with interim facilities.⁷

WTTW facilities are located on the Willis Tower in Chicago which is home to repacked stations WLS-TV, Chicago, Illinois; WMAQ-TV, Chicago, Illinois; and WFLD(TV), Chicago, Illinois (collectively Chicago Licensees). As reported in the Chicago Licensees' tolling requests,⁸ all of these stations broadcast from Willis Tower, which hosts a shared, multi-tenant communications facility that supports a variety of broadcast stations, including full power television stations, Class A television stations and several FM radio stations. All of the work required to implement the repack, including the fabrication and installation of the WTTW's post-auction main antenna, must be coordinated through Willis Tower and their engineering/construction firm. In addition, all work on the Willis Tower site requires prior approval from various city zoning and planning departments (CBD). WWC and the Chicago Licensees are continuing to work with CBD to obtain the necessary approvals for the installation of their post-auction channel facilities. Some CBD approvals have been obtained but additional permits are still required. Once the current pending approvals are obtained and installation is finally approved, all of the stations will then need to obtain separate CBD approvals for the six helicopter lifts that will be needed to install their antennas. As a result, WWC seeks a waiver of the tolling rules and tolling of the Station's construction permit deadline.

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive the rules and toll the expiration date of the Station's construction permit to October 12, 2021.⁹ WWC has demonstrated it did not complete construction of the Station's post-auction channel facilities due to construction delays. We also find that grant of WWC's waiver and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. The Station has already ceased operation on their pre-auction channels and is operating from interim facilities on its post-auction channel. To the extent some viewers are unable to receive the Station's signal while it operates using interim facilities, we believe that WWC has every incentive to ensure viewers are fully informed about the Station's transition plans. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station's construction permit.

We remind WWC that pursuant to the Spectrum Act, the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs "reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other."¹⁰ Additional expenses incurred, such as expenses resulting from changes in a Station's transition plan that are not related to the post-incentive

Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

⁶ See LMS File Nos. 0000087265 and 0000111780. WTTW was repacked from channel 47 to channel 25 and operates on a shared basis with WYCC, Chicago, Illinois.

⁷ See LMS File No. 0000141933.

⁸ See LMS File Nos. 0000139978, 0000139992, and 0000139959.

⁹ 47 CFR § 73.3598(b).

¹⁰ 47 U.S.C. § 1452(b)(4)(A)(i). See also *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268 et. al., Report and Order, 29 FCC Rcd 6567, 6821, para. 622 (2014) (*Incentive Auction R&O*), *aff'd*, *Nat'l Ass'n of Broadcasters v. FCC*, 789 F.3d 165 (D.C. Cir. 2015) ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

auction channel change, may not be reimbursable from the Fund.

We further remind WWC of the deadline for submitting final expense documentation for reimbursement for the Station is March 22, 2022.¹¹ Thus, we strongly encourage the Station to diligently pursue satisfaction of the current deadlines to improve the chances that there will be sufficient funds available to reimburse the Station for its legitimate repacking expenses, and we encourage WWC to submit eligible invoices as soon as practicable.

The above facts considered, Window to the World Communications, Inc.'s request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000084508) for WTTW(TV), Chicago, Illinois, **IS TOLLED to October 12, 2021**. Grant of this tolling waiver does not permit WTTW to recommence operation on its pre-auction channel. We also remind WWC that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.¹² To the extent the Station seeks an additional extension of tolling, such a request must include a detailed plan for completing construction of the Station's permanent post-auction facilities. We will look unfavorably upon any future request that does not include such a plan.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic email): Todd D. Gray, Esq.

¹¹ See *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 35 FCC Rcd 11273, 11277, paras. 10-11 (IATF/MB Oct. 7, 2020) (setting three filing deadlines for submission of all remaining repack invoices: for eligible entities assigned repack transition completion dates in the first half of the 39-month post-auction transition period, the deadline for submitting all remaining invoices is October 8, 2021; the deadline for entities assigned completion dates in the second half of the transition period is March 22, 2022; and the deadline for all other participants in the reimbursement program is September 5, 2022).

¹² See 47 § CFR 73.3598(b).