

Explanation for CP Tolling Request

Pursuant to FCC Public Notice, DA 17-442, released May 12, 2017,¹ Joan and Kenneth Wright (“Wright”), licensees of WGBS-LD, Carrollton, Virginia (Facility ID 31350) respectfully requests that the Commission toll the deadline for WGBS-LD displacement construction permit for six months,² making the new construction deadline January 31, 2022.

The Commission’s rules generally provide that a construction permit deadline may be tolled when circumstances outside a licensee’s control, such as acts of God or delays due to administrative or judicial review.³ In addition, the LPTV Displacement Public Notice specifically contemplates that stations may need to file tolling requests or even seek waivers of the Commission’s tolling rule to request an extension of their construction permit deadline during the post-incentive auction transition.⁴ As explained more fully below, Wright therefore requests that the Commission toll WGBS’s July 30, 2021 construction permit deadline or, in the alternative, waive the tolling rule and grant a six month extension of time for WGBS to complete its post-incentive auction transition.

In preparing for the post-incentive auction transition, the Commission anticipated that large number of stations transitioning simultaneously might cause shortages in equipment availability, consulting engineers, tower crews, and other resources stations need to transition to their post-auction channels.⁵ Low power stations, such as WGBS, were particularly vulnerable to these industry-wide challenges because many low power stations have limited financial resources and tend to rely on smaller companies for engineering support that are similarly vulnerable to significant economic disruption.

In addition to the industry-wide challenge of dealing with the post-incentive auction transition, the COVID-19 pandemic has had a catastrophic impact on the country and the broadcasting industry in particular. A public health crisis on par with the COVID-19 pandemic had not occurred in this country for approximately 100 years. In every respect, the impact of the COVID-19 pandemic constitutes an act of God and the hardships it caused were entirely outside the control of those who were impacted. With respect to WGBS specifically, the COVID-19 pandemic contributed to both significant financial hardships and logistical delays in completing the station’s post-incentive auction construction. For example, the RF engineer WGBS uses was reluctant to fly or stay at hotels during the pandemic, which delayed WGBS’s construction progress. In addition, physical construction in WGBS’s transmitter room was delayed because of the necessity of accommodating COVID-19 health and safety precautions. As is often the case,

¹ *The Incentive Auction Task Force and Media Bureau Announce Procedures for Low Power Television, Television Translator and Replacement Translators During the Post-Incentive Auction Transition*, Public Notice, 32 FCC Rcd 3860 (2017) (“LPTV Displacement Public Notice”).

² See File No. 0000053236.

³ See 47 C.F.R. § 73.3598(b).

⁴ LPTV Displacement Public Notice, 32 FCC Rcd at 3868.

⁵ See, e.g., *id.* at 3867-68.

WGBS's transmitter room is a small enclosed space, precisely the type of space health experts have said are susceptible to the spread of COVID-19. Therefore, WGBS has conducted work in its transmitter room in stages to avoid having multiple people working in the enclosed space at the same time. Along with being a sensible precaution taken pursuant to general medical advice, the licensees of WGBS are in higher risk groups for COVID-19 and, thus, took every reasonable precaution to prevent contracting the disease. Finally, the pandemic's impact on travel also caused delays in shipments, especially for any overseas parts needed to complete transition work.

In the alternative and to the extent that the Commission determines that the impact of COVID-19 on WGBS does not meet the standards for the tolling of a construction permit deadline under the Commission's rules, licensees request that the Commission waive the tolling rule and grant additional time for WGBS to complete its post-incentive auction construction. The LPTV Displacement Public Notice specifically contemplates granting such waivers "where 'rare or exceptional circumstances' prevent construction."⁶ The impact of the COVID-19 pandemic outline above certainly qualify as rare and exceptional circumstances, and good cause exists for the waiver of the Commission's tolling rule. Granting a six month extension for WGBS to complete its post-incentive auction transition will not prejudice any other party, and maintaining WGBS's ability to service its community is in the public interest. Therefore, grant of this tolling request is appropriate either under the Commission's tolling rule or pursuant to a waiver of that rule.

⁶ *Id.* at 3868.