



Federal Communications Commission  
Washington, D.C. 20554

March 24, 2022

Puerto Rico Public Broadcasting Corporation  
P.O. Box 190909  
Hato Rey, PR 00918  
[MLasanta@wipr.pr](mailto:MLasanta@wipr.pr)  
(via electronic mail)

Re: Requests for Tolling Waiver  
WIPM-TV, Mayaguez, PR  
WIPR-TV, San Juan, PR  
Facility ID No. 53863 and 53859  
LMS File Nos. 0000186994 and  
0000186997

Dear Licensee,

On March 22, 2022, Puerto Rico Public Broadcasting Corporation (PRBC), the licensee of WIPM-TV, Mayaguez, Puerto Rico (WIPM) and WIPR-TV, San Juan, Puerto Rico (WIPR) (collectively Stations) filed requests for waiver of the Commission's tolling provisions and tolling of the Stations' construction permit expiration dates. For the reasons below, we grant PRBC's requests and toll the expiration date of the Stations' construction permits through September 6, 2022.

*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.<sup>1</sup> All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of section 73.3598(b) of the Rules.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

---

<sup>1</sup> See 47 CFR § 73.3700(b)(5).

<sup>2</sup> See 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

<sup>3</sup> *Id.*

<sup>4</sup> 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. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

PRBC requests waiver of the tolling rule and tolling of its construction permits for its post-incentive auction channel facilities. The Stations were each granted an extension and multiple waivers of the tolling rule and their construction permits were most recently tolled to March 22, 2022.<sup>5</sup> The Stations are currently operating interim facilities on their post-auction channels.<sup>6</sup>

For WIPM, PRBC reports that since grant of its last tolling waiver, the main transmitter has been partially installed but the manufacturer has additional work to perform. After installation is complete, PRBC states that it must then conduct a proof of performance test of the antenna. PRBC reports that the antenna manufacturer hasn't yet provided a firm timeline for completing the installation. Additionally, PRBC states that its consulting engineer has tested the transmission line and believes it may be interfering with the antenna's performance. Thus, PRBC maintains that WIPM must hire a tower rigger to open the transmission line to identify the source of the problem. Finally, because PRBC must obtain Puerto Rico General Services Administration (PRGSA) approval for any service contracts, it believes it will not be able to hire the rigger, test the transmission line, and complete the final transmitter installation before the current March 22, 2022 construction permit expiration date.

With respect to WIPR, PRBC states that it has faced new delays since the grant of its last tolling waiver in October 2021. PRBC states that it needs to be named by the Puerto Rico Department of Natural and Environmental Resources (DRNA) as the "primary permittee," but has not yet been able to effectuate that change. PRBC also states that it must obtain approval from PRGSA to clear some areas at the site, install tower guy wires, and construct three new tower anchors. PRBC reports that PRGSA has not yet approved these expenses, despite PRBC's best efforts to obtain such approval. Finally, PRBC states that neither the manufacturers of WIPR's antenna, nor its tower have shipped their respective equipment to the site, in part due to worldwide supply chain issues.

Accordingly, in light of these circumstances, PRBC requests waiver of the tolling rule and tolling of the Stations' construction permits.

*Discussion.* Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive Section 73.3598(b) of the Rules and to toll the expiration date of Stations' construction permits through September 6, 2022. We find that PRBC was unable to complete construction of the Stations' post-auction channel facilities due to government procurement and construction delays. We find that grant of PRBC's waivers and tolling requests are not likely to negatively impact the overall transition schedule and will not cause interference to other stations. The Stations have already ceased operation on their pre-auction channels and initiated temporary operations on their post-auction channels. To the extent some viewers are unable to receive the Stations' signals while they operate using interim facilities, we believe that PRBC has every incentive to ensure viewers are fully informed about the Stations' transition plans. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Stations' construction permits.

---

<sup>5</sup> LMS File Nos. 0000055291, 0000055292, 0000067308, 0000067309, 0000082557, 0000082558, 0000110372, 0000110376, 0000122457, 0000122455, 0000141194, 0000141195, 0000153936, 0000153938, 0000161279 and 0000161281.

<sup>6</sup> LMS File Nos. 0000187000 and 0000187001. WIPM was repacked from channel 35 to 32 and WIPR from channel 43 to 26.

We remind PRBC that pursuant to the Spectrum Act, the Stations are 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.”<sup>7</sup> Additional expenses incurred, such as expenses resulting from changes in a Stations’ transition plans that are not related to their post-incentive auction channel changes, may not be reimbursable from the Fund.

We further remind PRBC of the deadline for submitting final expense documentation for reimbursement for the Stations is September 6, 2022.<sup>8</sup> **We caution the Stations that we do not anticipate allowing further extensions of the final September 6, 2022 invoice filing deadline. A station’s failure to complete any remaining construction in a timely manner and to make final submissions by the assigned invoice filing assignment deadline could preclude that station from receiving full reimbursement.** Unobligated amounts in the Fund must be rescinded to Treasury and the Commission staff (with the support of the Fund Administrator) must have sufficient time to fully process all reimbursement requests and complete close-out procedures prior to July 3, 2023.<sup>9</sup> The Fund Administrator will initiate close out procedures for any entity that has failed to initiate interim close-out procedures by the September 6, 2022 invoice filing deadline. Any unused allocations made to that entity’s account will be returned to the Fund and made available for allocation to other program participants or rescinded to Treasury. Thus, we strongly encourage the Stations to diligently pursue satisfaction of the current deadlines and we encourage PRBC to submit eligible invoices as soon as practicable.

The above facts considered, Puerto Rico Public Broadcasting’s requests for tolling **ARE GRANTED**. The construction permits (LMS File Nos. 0000024551 and 0000034681, respectively) for WIPM-TV, Mayaguez, Puerto Rico and WIPR-TV, San Juan, Puerto Rico, **ARE TOLLED to September 6, 2022**. Grant of these tolling waivers does not permit the Stations to recommence operation on their pre-auction channels. While we anticipate this will be PRBC’s final requests for tolling, we remind PRBC that any subsequent tolling requests will be subject to the Commission’s tolling provisions.<sup>10</sup> To the extent the Stations seek 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

---

<sup>7</sup> 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.”).

<sup>8</sup> The Stations were granted extensions of the March 22, 2022 invoice submission deadline and the Stations’ deadline was extended to September 6, 2022. *See* LMS File Nos. 0000186118 and 0000186117; *see also 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 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 6, 2022).

<sup>9</sup> *See id.* at 11277-78, para 13.

<sup>10</sup> *See* 47 CFR § 73.3598(b). A station may also seek a waiver of the tolling rule to receive additional time to construct in the case where “rare or exceptional circumstances” prevent construction. *See 1998 Regulatory Review - Streamlining of Mass Media Applications, Rules and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17536, para. 42 (1999).

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 mail): Mark Denbo, Esq.