

Request for Waiver of Tolling

MCS, LLC (“MCS”), permittee of K28HS, Agana, GU (Fac ID 129878) (the “Station”) hereby requests a waiver of the Commission’s tolling rules to allow for an extension of the Station’s Digital Flash Cut (File No. 0000149946) (the “CP”). As described herein, MCS has been working diligently to complete the conversion of the Station’s digital flash cut facilities. However, MCS has experienced significant and insurmountable challenges obtaining digital broadcast equipment as a result of global supply chain disruptions.

I. Background

The Station is one of four stations licensed to MCS that are used by the over-the-air viewing public in Guam. Guam is a remote U.S. island territory in Micronesia. As a result, the viewing public has limited sources for television programming and MCS has worked hard to serve them by bring in networks via the internet. For many, this over-the-air source is the only television available.

MCS has worked hard trying to get the digital equipment there but due to their remoteness and Covid, acquiring and installing the digital equipment has been a challenge.

II. The Commission Should Waive Tolling and Extend The Digital Flash Cuts

Under the present circumstances, a waiver of tolling and extension of the CP is justified. 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. If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission’s tolling provisions and still toll the expiration of the Station’s construction permit where the station can demonstrate that “rare and exceptional circumstances” prevented construction. Tolling is appropriate here because MCS’s inability to complete construction of its digital flash cut facilities is due to rare and exceptional circumstances beyond its control. The global supply chain disruptions and their specific effect on the availability of broadcast equipment have been well documented. As a result of these supply chain issues, despite its diligence, MCS has been unable to obtain an adequate supply of the transmitters for all of its digital construction permits. Nevertheless, MCS now has the needed equipment at their office with and with minor modification of its construction permits; they will be able to get their digital facilities on the air in the next 30-45 days.

For the reasons stated above, and for the public’s best interest served, the Commission should waiver the tolling standard and provides MCS with an additional 60 days to complete construction and license its digital flash cut facilities.