



Federal Communications Commission  
Washington, D.C. 20554

October 22, 2015

Barry D. Wood, Esq.  
Wood, Martin and Hardy, PC  
3300 Fairfax Drive  
Suite 202  
Arlington, VA 22201

Re: KCLP-CD, Boise, ID  
CDBS File No. BDFCDTA-20130819AAH  
LMS File No. 0000005039  
Request for Tolling and Reinstatement  
Facility ID: 27621

Dear Counsel:

This concerns the October 19, 2015 request for tolling and reinstatement filed on behalf of Alpha and Omega Communications, LLC (AOC), requesting that the September 1, 2015 expiration date for the above-referenced digital construction permit for KCLP-CD, Boise, Idaho (station) be tolled. For the reasons set forth below, we grant your request, reinstate the construction permit and briefly toll its expiration date.

The subject digital construction permit (CBDS File No. BDFCDTA-20130819AAH) was recently granted on August 24, 2015. When originally granted, the construction permit was erroneously given an expiration date of August 24, 2018. However, since the station is a Class A television station, it was required to complete its digital construction by the September 1, 2015 digital transition date.<sup>1</sup> The expiration date was later corrected to September 1, 2015. You state that AOC has been unable to complete construction of the station's digital facilities due to financial hardship but is now in the position financially to complete its digital transition. You provide a budget estimate and timeline for completion of construction. In addition, you argue that a seven-day construction period was insufficient and you request that the station be afforded a reasonable amount of time to complete construction. Accordingly, you request that the construction permit be reinstated and its expiration date be tolled until December 19, 2015.

On June 13, 2009, the Commission began applying the tolling provisions of Section 73.3598 of the rules to DTV construction deadlines occurring after June 12, 2009.<sup>2</sup> Section 73.3598(b) of the rules provides 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 is delayed by any cause of action pending before any 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> The station does not qualify for tolling under any of those circumstances. We find, however, that good cause exists to waive Section 73.3598 and to toll the expiration of the station's digital construction permit. The station was unable to complete the construction of its digital facilities due to circumstances that were beyond its control. Further, the station believed it had more time to complete construction because its construction permit was originally given an expiration date of August 24, 2018.

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<sup>1</sup> See 47 C.F.R. § 74.731(l).

<sup>2</sup> See *Implementation of DTV Delay Act*, MB Docket No. 09-17, Second Report and Order and Notice of Proposed Rulemaking, 24 FCC Rcd 2526, 2540-41 (2009).

<sup>3</sup> See 47 C.F.R. § 73.3598(b).

In addition, we find the public interest would be served by grant of a waiver and brief extension of the station's construction permit.<sup>4</sup>

The above facts considered, Alpha and Omega Communications, LLC's request for reinstatement and tolling IS GRANTED, the construction permit IS REINSTATED and the construction deadline for construction permit CDBS File No. BDFCDTA-20130819AAH, KCLP-CD, Boise, Idaho, IS TOLLED until December 19, 2015.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B A K', with a long horizontal flourish extending to the right.

Barbara A. Kreisman, Chief  
Video Division  
Media Bureau

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<sup>4</sup> We note that the facilities in the above-referenced digital construction permit were not constructed and licensed (or subject to a pending application for license) before the May 29, 2015, Incentive Auction Pre-Auction Licensing Deadline. See *Media Bureau Designates May 29, 2015 as Pre-Auction Licensing Deadline*, Public Notice, 30 FCC Rcd 393 (MB 2015). Therefore, the facilities authorized in the above-referenced digital construction permit will not be protected in the Incentive Auction repacking process.