



Federal Communications Commission
Washington, D.C. 20554

July 17, 2015

David A. O'Connor, Esq.
Wilkinson, Barker and Knauer, LLP
2300 N Street, N.W.
Suite 700
Washington, DC 20037

Re: WBUP(TV), Ishpeming, MI
Request for Tolling
File No. BMPCDT-20130802ABN
Facility ID 59281

Dear Mr. O'Connor:

This concerns your June 25, 2015 letter, filed on behalf of Lake Superior Community Broadcasting Corporation requesting that the expiration date for the above-referenced digital television (DTV) construction permit (File No. BMPCDT-20130802ABN) for WBUP(TV), Ishpeming, Michigan (station) be tolled. For the reasons set forth below, we grant your request and the toll the expiration of the station's digital construction permit.

The digital construction permit was originally set to expire July 21, 2013, but has been tolled three times by staff action and currently expires on July 21, 2015. You state that unusual circumstances continue to justify tolling of the construction deadline. Alternatively, you seek a waiver of the Commission's tolling rules due to "rare and exceptional circumstances." You state that you have completed construction of the station's new tower and have acquired all necessary equipment for operating the station. You have also completed construction of the transmitter building and all electrical and HVAC facilities. You represent that a tower crew has been scheduled to move the antenna from its current tower to its new tower during the third week of September 2015. Completion of the new tower facilities were once again delayed this year due to the remote location of the new tower site and the harsh environment of the Upper Peninsula where the construction season is very limited. You request a brief tolling of three months to October 21, 2015 for expiration date of the station's digital construction permit.

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, 2009.¹ Section 73.3598 provides that a construction permit deadline may be tolled under specific circumstances such as acts of God or delays due to administrative or judicial review.² WBUP(TV) does not qualify for tolling under either of those circumstances. We find, however, that good cause exists to waive Section 73.3598 and to toll the expiration of the station's DTV construction permit. The circumstances in this case are sufficiently unique to permit waiver of the rule. The station was unable to complete construction of its digital facilities due to remote location of its new tower site and the limited construction season in the Upper Peninsula. Despite these obstacles, the station has taken steps and is ready to complete construction. We believe the public interest will be served by tolling the station's DTV construction deadline until October 21, 2015.

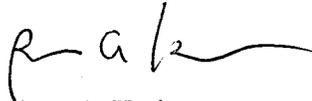
¹ See Implementation of DTV Delay Act, *Second Report and Order and Order and Notice of Proposed Rulemaking*, 24 FCC Rcd 2526 (2009).

² See 47 C.F.R. § 73.3598.

You note that the facilities in the above-referenced 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.³ Therefore, you acknowledge that the facilities authorized in the above-referenced construction permit will not be protected in the Incentive Auction repacking process.⁴

The above facts considered, WBUP(TV)'s tolling request IS GRANTED and the DTV construction deadline for WBUP(TV), Ishpeming, Michigan IS TOLLED until October 21, 2015.

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

³ Earlier this year, the Media Bureau announced that May 29, 2015 would be the Pre-Auction Licensing Deadline. See *Media Bureau Designates May 29, 2015 as Pre-Auction Licensing Deadline*, Public Notice, 30 FCC Rcd 393 (MB 2015).

⁴ The construction permit was issued with the following condition: "grant of this application is conditioned upon acceptance of any interference that may occur as a result of the reorganization of channels in the incentive auction authorized by the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) and Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and Order, FCC 14-50, paras. 211-213, released June 2, 2014."