



Federal Communications Commission
Washington, D.C. 20554

May 24, 2019

LR Telecasting, LLC
Ridge Lake Office Bld #304
855 Ridge Lake Blvd
Memphis, TN 38120

Re: Request for Tolling Waiver
KMYA-DT, Camden, AR
Facility ID No. 86534
LMS File No. 0000072858

Dear Licensee,

On May 16, 2019, LR Telecasting, LLC (LR), the licensee of KMYA-DT, Camden, Arkansas (KMYA or Station), filed the above-referenced request for waiver of the Commission's tolling provisions and tolling of the Station's construction permit expiration date. For the reasons below, we grant LR's request and toll the expiration date of KMYA's construction permit through September 30, 2019.

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.¹ All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of Section 73.3598(b) of the Rules.² 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.³ 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.⁴

LR requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities through September 30, 2019. KMYA is currently operating on its post-auction

¹ See 47 CFR § 73.3700(b)(5).

² See 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

³ *Id.*

⁴ 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).

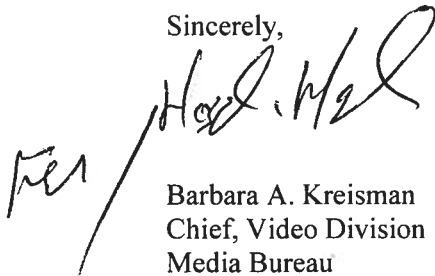
channel at reduced power.⁵ LR states that it has continued to experience construction delays that have prevented completion of its permanent post-auction channel facility. LR explains that, unexpectedly, on April 28, 2019, the Station's project engineer was notified by its equipment supplier that the production of the Station's primary transmission line has been delayed due to a delay in receipt of copper from Germany needed to make the line. As a result the Station states that it will be unable to meet its construction permit deadline. LR argues that based on these facts, "rare and exceptional" circumstances exist to support a grant of its waiver and to toll its construction permit until September 30, 2019.

Discussion. Upon review of the facts and circumstances presented, we find that rare and exceptional circumstances exist to waive Section 73.3598(b) of the Rules and to toll the expiration date of the Station's construction permit to September 30, 2019. Specifically, unusual equipment delays related to fabrication and delivery of the station's transmission line have caused the Station to be unable to complete construction of its post-auction facility by its construction permit deadline. We also find that grant of LR's waiver and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. KMYA has already ceased operation on its pre-auction channel and initiated temporary operations on its post-auction channel. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station's construction permit.

We remind LR that pursuant to the Spectrum Act, the Station is 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." Additional expenses incurred, such as expenses resulting from changes in a Station's transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, LR Telecasting, LLC's request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit for KMYA, Camden, Arkansas **IS TOLLED to September 30, 2019**. Grant of this tolling waiver does not permit KMYA to recommence operation on its pre-auction channel. We also remind LR that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.⁶

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Ronald Maines, Esq.

⁵ See LMS File No. 0000072911.

⁶ See 47 § CFR 73.3598(b).