



Federal Communications Commission  
Washington, D.C. 20554

November 15, 2019

Telecinco, Inc.  
P.O. Box 43  
Mayaguez, PR 00681

Re: Request for Tolling  
WRFB, Carolina, PR  
Facility ID No. 54443  
LMS File No. 0000082223

Dear Licensee,

On September 30, 2019, Telecinco, Inc. (Telecinco), the licensee of WRFB, Carolina, Puerto Rico (WRFB or Station), filed the above captioned request for tolling of the Station's construction permit expiration date. For the reasons below, we grant Telecinco's request and toll the expiration date of WRFB's construction permit for 180 days to **March 30, 2020**.

*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>

Telecinco requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities to March 30, 2020. The Station was granted tolling of its post-transition channel construction permit through October 2, 2019.<sup>4</sup> WRFB is currently operating an interim facility on its post-auction channel. In the instant request, Telecinco notes that the Station's pre-auction facilities were destroyed in Hurricane Maria. Telecinco states that obtaining the necessary permits, equipment, and resources to restore the Station's facilities has been challenging, as Hurricane Maria greatly strained the accessibility of services and materials in Puerto Rico. Telecinco maintains that it has taken "substantive steps" to complete construction of its post-auction channel facility. Telecinco reports

<sup>1</sup> See 47 CFR § 73.3700(b)(5). Grant of an extension of the construction permit deadline does not alter the deadline by which a station must cease operating on its pre-auction channel. A station anticipating the need for an extension must submit an extension application using FCC Form 2100, Schedule 337. The application must demonstrate that the station is unable to complete construction on time due to circumstances that were either unforeseeable or beyond the station's control. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567,6804-05, paras. 581-2 (2014) (*Incentive Auction R&O*); 47 CFR § 73.3700(b)(5)(ii) and (iii).

<sup>2</sup> 47 CFR § 73.3598(b).

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

<sup>4</sup> See LMS File No. 0000055271 and 0000067310.

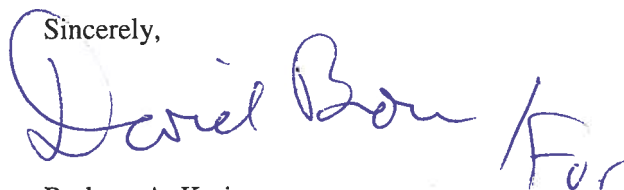
it is still waiting for local zoning approval for the construction of its new tower. Once the local zoning approval is granted, Telecinco states that it can move forward with final design of the tower and establish a tower delivery and construction schedule. Assuming that the local zoning authority is granted in a timely basis, Telecinco estimates that the Station's permanent facilities will be completed by March 2020. Therefore, Telecinco requests an additional 180-days of tolling for its construction permit.

*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 the Station's construction permit to March 30, 2020. Specifically, Hurricane Maria, resource limitations, and permitting requirements have resulted in construction delays. We find that grant of Telecinco's tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. The Station has already ceased operation on its pre-auction channel, has resumed operations on its post-auction channel at reduced power, and Telecinco is actively working towards completion of its permanent post-auction channel facilities. We believe that Telecinco has every incentive to ensure viewers that currently are not able to receive the Station's signal due to its reduced power are fully informed about the Station's plan to resume full operation on its post-auction channel once it is able to complete construction of its post-auction facility. Ultimately, we conclude that the public interest will be served by tolling of the Station's post-transition channel construction permit.

We remind Telecinco 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."<sup>5</sup> 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, Telecinco, Inc.'s request for tolling **IS GRANTED**. The construction permit for WRFB, Carolina, Puerto Rico **IS TOLLED to March 30, 2020**. Grant of this tolling waiver does not permit Telecinco to recommence operation on its pre-auction channel. We also remind Telecinco that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>6</sup>

Sincerely,



Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail): Lee G. Petro, Esq.

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<sup>5</sup> 47 U.S.C. § 1452(b)(4)(A)(i). *See also Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

<sup>6</sup> *See* 47 § CFR 73.3598(b).