



Federal Communications Commission
Washington, D.C. 20554

January 6, 2020

CBS Television Licenses, LLC
Daniel G. Ryson
1725 DeSales St. NW
Suite 501
Washington, DC 20036

Re: Request for Tolling Waiver
WBZ-TV, Boston, MA
Facility ID No. 25456
LMS File No. 0000092274

Dear Licensee,

On December 2, 2019, CBS Television Licenses, LLC (CBS), the licensee of WBZ-TV, Boston, Massachusetts (WBZ 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 CBS' request and toll the expiration date of WBZ's construction permit to April 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.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

CBS requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities to April 30, 2020. WBZ is currently operating on its post-auction channel with

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).

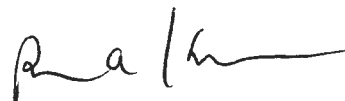
temporary facilities.⁵ WBZ was previously granted a construction permit extension through January 29, 2020.⁶ CBS states that the town where the Station's leased tower is located requires the tower owner to have a special permit before a top-mounted antenna can be installed. Although such a permit was recently approved, it was not expected to be finalized until late December 2019. As a result, in anticipation of impending winter weather in the Boston area, CBS reports that the tower owner released the tower crew. As a result, CBS does not expect to be able to complete construction by its current deadline and requests tolling of its construction permit until April 30, 2020.

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 April 30, 2020. We find that construction was delayed due to local permitting requirements and tower crew availability. We also find that grant of CBS' waiver and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. WBZ has already ceased operation on its pre-auction channel and initiated temporary operations on its post-auction channel. To the extent some viewers are unable to receive WBZ's signal while it operates using its interim facility, we believe that CBS has every incentive to ensure viewers are fully informed about the Station's transition plan. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station's construction permit.

We remind CBS 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."⁷ 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, CBS Television Licenses, LLC's request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000034573) for WBZ-TV, Boston, Massachusetts **IS TOLLED to April 30, 2020**. Grant of this tolling waiver does not permit WBZ to recommence operation on its pre-auction channel. We also remind CBS that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.⁸

Sincerely,



Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁵ See LMS File No. 0000072329. WBZ was repacked from channel 30 to 20.

⁶ See LMS File No. 0000072330.

⁷ 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.").

⁸ See 47 § CFR 73.3598(b).