



Federal Communications Commission
Washington, D.C. 20554

April 14, 2020

Window to the World Communications, Inc.
Eshed Halpern
5400 North St. Louis Avenue
Chicago, IL 60625

Re: Request for Tolling Waiver
WTTW(TV), Chicago, IL
Facility ID No. 10802
LMS File No. 0000111780

Dear Licensee,

On April 8, 2020, Window to the World Communications, Inc. (WWC), the licensee of WTTW(TV), Chicago, Illinois (WTTW 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 WWC's request and toll the expiration date of WTTW's construction permit through October 13, 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

WWC requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities through October 13, 2020. WTTW has been granted an extension and its construction permit was most extended to April 15, 2020.⁵ WTTW ceased operations on its pre-

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).

⁵ LMS File No. 0000087265. WTTW was repacked from channel 47 to channel 25.

auction channel and is operating an interim facility while it completes construction of its post-auction channel facilities.⁶

WWC states that while it had hoped that WTTW could transition to its permanent post-auction channel facilities by the end of 2019, the Station's contractors encountered weather delays that prevented installation of the Station's antenna and other equipment. Now, WWC reports that installation of WTTW's new antenna and one of the two needed air conditioning units has been delayed as a result of the COVID-19 pandemic.⁷ Accordingly, WWC requests that the Commission waive its tolling rule and toll the WTTW construction permit expiration date to October 13, 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. WWC has demonstrated it will be unable to complete construction of its post-auction channel facilities due to construction delays, including as a result of weather and the COVID-19 pandemic. We also find that grant of WWC's waiver and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. WTTW has already ceased operation on its pre-auction channel and is operating on its post-auction channel from an interim facility. To the extent some viewers are unable to receive WTTW's signal while it operates its interim facilities, we believe that WWC 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 WWC 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."⁸ Additional expenses incurred, such as expenses resulting from changes in a Stations' transition plans that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, Window to the World Communications, Inc.'s request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000084508) for WTTW(TV), Chicago, Illinois **IS TOLLED to October 13, 2020**. Grant of this tolling waiver does not permit WTTW to recommence operation on its pre-auction channel. We also remind

⁶ LMS File No. 0000111781.

⁷ The World Health Organization has classified COVID-19 as a pandemic and the President declared it a national emergency.

⁸ 47 U.S.C. § 1452(b)(4)(A)(i). *See also Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268 et. al., Report and Order, 29 FCC Rcd 6567, 6821, para. 622 (2014) ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

WWC that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.⁹

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Derek Teslik, Esq.

⁹ See 47 § CFR 73.3598(b).