



Federal Communications Commission
Washington, D.C. 20554

November 9, 2020

The Videohouse, Inc.
Ronald J. Bruno
975 Greentree Road
Pittsburgh, PA 15220
ron@thevideohouse.com
(via electronic mail)

Re: Request for Tolling Waiver
WOSC-CD, Pittsburgh, PA
Facility ID No. 66636
LMS File No. 0000125108

Dear Licensee,

On October 28, 2020, The Videohouse, Inc. (Videohouse), the licensee of Station WOSC-CD, Pittsburgh, Pennsylvania (WOSC-CD), filed the above-referenced request for waiver of the Commission's tolling provisions and tolling of the Station's construction permit. For the reasons below, we grant Videohouse's waiver request and briefly toll WOSC-CD's construction permit through November 30, 2020.

Background. WOSC-CD was one of a small number of "out-of-core" Class A-eligible low power television stations as of February 22, 2012, to which the Commission declined to extend discretionary protection in the post-Incentive Auction repacking process.¹ Nevertheless, the Commission agreed to provide these stations with the opportunity to file a modification application and apply for a new channel during a "priority" filing window.² Construction permits for such modified facilities were granted for a three-year period and such stations were not included in the Commission's post-Incentive Auction transition schedule.

Stations needing additional time to construct may file a request subject to the Commission's tolling provisions of section 73.3598(b) of the Rules.³ 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.⁴ If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission's tolling

¹ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd. 6567, paras. 233-34 (2014), subsequent history omitted.

² See *Incentive Auction Task Force And Media Bureau Announce The Opening Of The First Priority Filing Window For Eligible Full Power And Class A Television Stations From August 9 Through September 8, 2017*, Public Notice, 32 FCC Rcd 5785 (MB 2017).

³ See 47 CFR § 73.3598(b).

⁴ *Id.*

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.⁵

WOSC-CD’s channel 26 facilities were displaced by the Incentive Auction and repacking process. During the priority filing window, Videohouse filed an application to operate WOSC-CD on the same channel at the existing licensed site but with modified facilities.⁶ The modification application was granted on October 19, 2017, and the construction permit was issued with an expiration date of October 19, 2020.

Videohouse states that while all equipment was timely manufactured and delivered to meet its October 19, 2020 construction deadline, it encountered delays completing construction of its facilities due to delays in the installation of equipment as a result of the availability of necessary crews due to the COVID-19 pandemic. Videohouse states that currently all crews are on-site and working to complete construction. In light of these delays, and to allow the Station to complete construction, Videohouse requests a brief waiver of the tolling rules and tolling of the Station’s modification construction permit through November 30, 2020.

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive the rules and briefly toll the expiration date of the Station’s construction permit through November 30, 2020.⁷ Videohouse has demonstrated it did not complete construction of its modified facilities due to the unavailability of necessary installation crews due to the COVID-19 pandemic. We find good cause exists to waive the rules in this case and to briefly toll the Station’s construction permit.

The above facts considered, The Videohouse, Inc.’s request for waiver of the Commission’s tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000121162) for WOSC-CD, Pittsburgh, Pennsylvania, **IS TOLLED to November 30, 2020**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic email): Joan Stewart, Esq.

⁵ 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).

⁶ See LMS File No. 000029678 modified by LMS File No. 0000121162.

⁷ 47 CFR § 73.3598(b).