



Federal Communications Commission
Washington, D.C. 20554

March 4, 2021

The Greater Chattanooga Public Television Corp.
Bryan Fuqua
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Chattanooga, TN 37416
bfuqua@wtcity.org
(via electronic mail)

Re: Request for Tolling
WTCTV(TV), Chattanooga, TN
Facility ID No. 65667
LMS File No. 0000135883

Dear Licensee,

On February 9, 2021, The Greater Chattanooga Public Television Corp. (GCPT), the licensee of WTCTV(TV), Chattanooga, Tennessee (WTCTV or Station), filed the above-referenced request, as amended, for tolling of the Station's construction permit expiration date. For the reasons below, we grant GCPT's request and toll the expiration date of WTCTV's construction permit to April 30, 2021.

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

GCPT requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities. GCPT was granted an extension and two previous waivers of the

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).

tolling rule and its construction permit was tolled to March 8, 2021.⁵ WTCI is currently operating on its post-auction channel with an interim facility.⁶

GCPT states that it has secured Federal Aviation Administration clearance for the Station's new tower, however it will not be able to file a license to cover its post-auction channel facilities until the Commission finishes processing its Environmental Assessment. Once the Commission has issued its Finding of No Significant Impact and GCPTC is able to secure an ASR number for its tower, GPTC represents that it will be able to license the facilities in short order. Therefore, in light of these circumstances, GCPT requests additional tolling of the Station's construction permit.

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive the rules and toll the expiration date of the Station's construction permit to April 30, 2021.⁷ GPTC has demonstrated it did not complete construction of its post-auction channel facilities due to delay of the Station's tower review due to the requirements of the National Historic Preservation Act. We also find that grant of GPTC's tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. WTCI has already ceased operation on its pre-auction channel and initiated interim operations on its post-auction channel. To the extent some viewers are unable to receive WTCI's signal while it operates using its interim facility, we believe that GPTC 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 tolling of the Station's construction permit.

We remind GPTC 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 Station's transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

We further remind GPTC of the deadline for submitting final expense documentation for reimbursement for the Station is October 8, 2021.⁹ Thus, we strongly encourage the Station to diligently pursue satisfaction of the current deadlines to improve the chances that there will be sufficient funds available to reimburse the Station for its legitimate repacking expenses, and we encourage GPTC to submit eligible invoices as soon as practicable.

⁵ LMS File Nos. 0000079991, 0000106208, and 0000121193.

⁶ See LMS File No. 0000135880. WTCI was repacked from channel 29 to channel 35.

⁷ 47 CFR § 73.3598(b).

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) (*Incentive Auction R&O*), aff'd, *Nat'l Ass'n of Broadcasters v. FCC*, 789 F.3d 165 (D.C. Cir. 2015) ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

⁹ See *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 35 FCC Rcd 11273, 11277, paras. 10-11 (IATF/MB Oct. 7, 2020) (setting three filing deadlines for submission of all remaining repack invoices: for eligible entities assigned repack transition completion dates in the first half of the 39-month post-auction transition period, the deadline for submitting all remaining invoices is October 8, 2021; the deadline for entities assigned completion dates in the second half of the transition period is March 22, 2022; and the deadline for all other participants in the reimbursement program is September 5, 2022).

The above facts considered, The Greater Chattanooga Public Television Corp.'s request for tolling under Section 73.3598(b)(2) of the Rules **IS GRANTED**. The construction permit (LMS File No. 0000034751) for WTCI, Chattanooga, Tennessee, **IS TOLLED to April 30, 2021**. Grant of tolling does not permit WTCI to recommence operation on its pre-auction channel. We also remind GCPT that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.¹⁰

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic email):
Margaret Miller, Esq.
Derek Teslik, Esq.

¹⁰ See 47 § CFR 73.3598(b).