



Federal Communications Commission
Washington, D.C. 20554

May 5, 2021

PMCM TV, LLC
Robert McAllan
201 Main Street
Allenhurst, NJ 07711
Bob@RMcAllan.com
(via electronic mail)

Re: Request for Tolling Waiver
WJLP(TV), Middletown Township, NJ
Facility ID No. 86537
LMS File No. 0000138306

Dear Licensee,

On March 10, 2021, PMCM TV, LLC (PMCM), the licensee of WJLP(TV), Middletown Township, New Jersey (WJLP 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 PMCM's request and toll the expiration date of WJLP's construction permit through November 30, 2021.

Background. Requests for additional time to construct new or modified digital full power television facilities are subject to the Commission's tolling provisions of section 73.3598(b) of the Rules.¹ 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.² 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.³

Request For Tolling Waiver. PMCM requests waiver of the tolling rule and tolling of its construction permit (LMS File No. 0000035766) for its modified digital facilities (Mod CP) through November 30, 2021. The Mod CP will provide expanded service for WJLP's viewers from a facility to be built on the World Trade Center (WTC) in New York City. PMCM states that it has been working

¹ See 47 CFR § 73.3598(b).

² *Id.*

³ 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).

diligently toward completing construction and pre-operational testing of its Mod CP facilities but has been stymied by a number of factors beyond its control.

PMCM states that the COVID-19 pandemic crisis has significantly delayed construction of the Mod CP facilities. COVID-19 restrictions on travel and access to the WTC site prevented personnel from travelling to New York to conduct necessary antenna testing at the site and posed problems in getting the antenna and transmitter manufacturers' personnel to do inspections and final testing and, where necessary, needed repairs or upgrades.

In addition, PMCM cites to the unusually-severe Winter weather conditions in the New York area in January and February 2021 that further hindered its ability to work on the outdoor portions of the installation. PMCM concludes that it is relatively confident, given its considerable progress toward operational status, that construction can be completed within the next six months. Based on the foregoing, PMCM requests that the Commission waive its tolling rule and toll the Mod CP expiration date through November 30, 2021.

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 Mod CP to November 30, 2021.⁴ PMCM has demonstrated it has been diligently making progress towards completion of its facility, but was unable to complete construction of the Station's Mod CP facilities due to construction delays outside of its control. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station's construction permit.

The above facts considered, PMCM TV, LLC's request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000035766) for WJLP(TV), Middletown Township, New Jersey, **IS TOLLED through November 30, 2021**. We remind PMCM that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.⁵ To the extent the Station seeks an additional extension of tolling, such a request must include a detailed plan for completing construction of the Station's facilities. We will look unfavorably upon any future request that does not include such a plan.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Anne Goodwin Crump, Esq.

⁴ 47 CFR § 73.3598(b).

⁵ *Id.*