



Federal Communications Commission  
Washington, D.C. 20554

April 13, 2021

Caguas Educational TV, Inc.  
P.O. Box 3869  
Carolina, PR 00984  
[conciliofav@hotmail.com](mailto:conciliofav@hotmail.com)  
(via electronic mail)

Re: Request for Tolling Waiver  
WUJA(TV), Caguas, PR  
Facility ID No. 8156  
LMS File No. 0000141567

Dear Licensee,

On March 29, 2021, Caguas Educational TV, Inc. (CETV), the licensee of WUJA(TV), Caguas, Puerto Rico (WUJA or Station), filed the above captioned request for waiver of the tolling rules and tolling of the Station's construction permit expiration date. For the reasons below, we grant CETV's request, waive the rules and toll the expiration date of WUJA's construction permit to July 27, 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.<sup>1</sup> All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of section 73.3598(b) of the Rules.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

CETV requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities. WUJA was granted an extension and multiple waivers of the tolling

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<sup>1</sup> See 47 CFR § 73.3700(b)(5).

<sup>2</sup> See 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

<sup>3</sup> *Id.*

<sup>4</sup> 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).

rule and its construction permit was most recently tolled to March 29, 2021.<sup>5</sup> WUJA is currently operating an interim facility on its post-auction channel.<sup>6</sup>

CETV notes that the Station's pre-auction channel facilities were destroyed in Hurricane Maria in 2017. The Station subsequently resumed operations at reduced power on its post-auction channel. In the time since the grant of its last tolling waiver request, CETV states that it has been able to make progress to complete its permanent post-auction facilities. CETV states it has retained a contractor, who is ready to build and has also procured the antenna. CETV states that the transmitter has been installed and that it is awaiting delivery of the transmission lines. CETV must now procure the necessary local building permits. CETV estimates this will take approximately four months, and an additional 90 days to finish construction once the necessary local building permits are obtained. Accordingly, CETV seeks a waiver of the tolling rules and tolling of its construction permit deadline.

*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 July 27, 2021.<sup>7</sup> While the timeline set forth in CETV's tolling request asserts that they will need potentially an additional seven months to complete construction, we believe an extension through July 27, 2021 is appropriate and will allow us to better monitor the Station's construction progress. CETV has demonstrated it did not complete construction of her post-auction channel facilities due to construction and permitting delays. We also find that grant of CETV's tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. WUJA 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 WUJA's signal while it operates using its interim facility, we believe that CETV 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 CETV 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."<sup>8</sup> 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.

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<sup>5</sup> LMS File Nos. 0000058675, 0000067235, 0000067238, 0000108378 and 0000

<sup>6</sup> LMS File No. 00001141565. WUJA was repacked from channel48 to channel24. WUJA is currently operating on channel24 on a licensed shared basis with WDWL(DT), Bayamon, Puerto Rico.

<sup>7</sup> 47 CFR § 73.3598(b).

<sup>8</sup> 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.").

We further remind CETV of the deadline for submitting final expense documentation for reimbursement for the Station is October 8, 2021.<sup>9</sup> 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 CETV to submit eligible invoices as soon as practicable.

The above facts considered, Caguas Educational TV, Inc.'s request for tolling waiver **IS GRANTED**. The construction permit for WUJA(TV), Caguas, Puerto Rico (LMS File No. 0000059688), **IS TOLLED to July 27, 2021**. Grant of this tolling waiver does not permit WUJA to recommence operation on its pre-auction channel. We also remind CETV that any subsequent requests for tolling of the construction permit deadline will be subject to the Commission's tolling provisions.<sup>10</sup> 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 permanent post-auction 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 email): Francisco Montero, Esq.

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<sup>9</sup> 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).

<sup>10</sup> See 47 § CFR 73.3598(b).