



Federal Communications Commission
Washington, D.C. 20554

July 22, 2021

Edge Spectrum, Inc.
Randy Weiss
P.O. Box 54025
Hurst, TX 76054
randy@crosstalk.org
(via electronic mail)

Re: Request for Tolling Waivers

Dear Licensee,

This concerns requests for waiver of the Commission's tolling provisions and tolling of construction permit expiration dates (Requests) filed by Edge Spectrum, Inc. (Edge), licensee of eight low power television stations.¹ For the reasons below, we grant Edge's Requests and toll the expiration date of Stations' construction permits for a period of 180 days from their current expiration dates.

Background. Requests for additional time to construct modified digital low power television facilities 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

Request For Tolling Waivers. As part of the Incentive Auction and repacking process, each of the Stations' pre-auction operating channels were displaced. Each of the Stations filed a displacement application (Displacement CP) requesting a new digital channel in the Commission's displacement application filing window for low power television stations that were displaced by the Incentive Auction

¹ A list of the stations covered by this action (referred to herein collectively as "Stations") and the LMS file numbers of the Requests are contained in the Appendix to this letter.

² See 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) (*Streamlining MO&O*) (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).

and repacking process. The displacement applications were granted on various dates in June and July 2018 and were each given three-year construction periods ending in June and July 2021.⁵

Since the grant of the Displacement CPs, Edge states that all of the equipment to convert the Station to digital operations on its displacement channel has been ordered, deliveries are being staged, and tower crews are being scheduled to complete construction. However, Edge states that the Station has been unable to complete construction due to equipment manufacturer and installation crew delays. Edge also notes that many tower owners only permit the use of specific authorized tower crews thus resulting in further delays due to the current high demand for those crews.

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 Displacement CP for a period of 180 days.⁶ Edge has demonstrated he has been diligently making progress towards completion of the Station's displacement facilities but was unable to complete construction due equipment manufacturing and installation crew delays. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station's construction permit.

We note that Edge has stated it plans to construct its displacement facilities to commence operation using the ATSC 3.0 standard. We remind Edge that its decision to forgo construction facilities that operate in the ATSC 1.0 standard was a voluntary business decision, not one required by the Commission. In the *ATSC 3.0 Report and Order* the Commission chose to exempt stations from the need to provide an ATSC 1.0 simulcast of its ATSC 3.0 signal in order to avoid forcing LPTV/TV translator stations from needing to double-build.⁷ However, this exemption pertained solely the need to comply with the local simulcasting requirement, not the requirement that converting analog stations or displaced stations meet their established construction permit deadlines. We note that our decision to grant tolling here is not based on the fact that Edge has voluntarily chosen to construct its displacement facilities to operate using ATSC 3.0, but as a result of the progress it has made to date and the delays it has encountered with regards to the construction of its displacement facilities, regardless of the type of facility it has chosen to construct. Any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.⁸ To the extent the Station seeks an additional extension of tolling, such a request must include what actions have been taken since tolling was granted and a detailed plan for completing construction of the Station's facilities. We will look unfavorably upon any future request that does not provide such information and include such a plan. We will also look unfavorably on future requests that are solely based on the Station's independent business decision to construct ATSC 3.0 facilities in lieu of ATSC 1.0 facilities.

⁵ The expiration dates of the Stations' displacement construction permits are set forth in the Appendix.

⁶ 47 CFR § 73.3598(b).

⁷ See *Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard*, GN Docket No. 16-142, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9930, 9951, para. 41 (2017) (*ATSC 3.0 Report and Order*)

⁸ *Id.*

The above facts considered, the requests filed by Edge Spectrum, Inc. and listed in the Appendix **ARE GRANTED** and the construction permits listed in the Appendix **ARE TOLLED** for a period of 180 days from their current expiration dates, as listed in the Appendix.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

APPENDIX

Call Letters	FAC ID	City	Tolling Waiver LMS File No.	Construction Permit LMS File No.	Current Construction Permit Expiration Date	New Construction Permit Expiration Date
K16IP-D	183664	Bonnerdale, AR	0000151470	000051750	7/27/2021	1/24/22
K19IR-D	184019	Enid, OK	0000149762	000052042	6/14/2021	12/13/21
K46KW-D	183924	Tyler, TX	0000149753	000051815	6/26/2021	12/23/21
W16CV-D	183796	Parkersburg, WV	0000149760	000051789	6/21/2021	12/20/21
W33AY-D	49183	Springfield, IL	0000149716	000051745	6/20/2021	12/20/21
W48DU-D	184035	Albany, GA	0000149665	000052013	6/6/2021	12/6/21
WGEI-LD	187828	Enterprise, AL	0000151560	000054046	7/31/2021	1/31/22
WHOB-LD	127496	Buxton, NC	0000149516	000029488	6/6/2021	12/6/21