



Federal Communications Commission Washington, D.C. 20554

February 4, 2022

Val Vista RV Park, LLC
Larry O'Donnell
P.O. Box 627
Cadillac, MI 49601
LarryODonnell@9and10news.com
(via electronic mail)

Re: Requests for Tolling Waivers

Dear Permittee,

This concerns requests for waiver of the Commission's tolling provisions and tolling of construction permit expiration dates (Requests) filed by the Val Vista RV Park, LLC (Val Vista), permittee of ten Michigan low power television (LPTV) stations.¹ For the reasons below, we grant Val Vista's Requests and toll the expiration dates of the Stations' construction permits to April 8, 2022.

Background. Requests for additional time to construct digital LPTV 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

Requests For Tolling Waiver. The Stations are unbuilt, new LPTV stations located in various communities in Michigan. The construction permits (CPs) were originally issued to CTB Spectrum Services Two, LLC (CTB) and CTB's commonly owned Landover 2, LLC (collectively CTB/Landover) in 2011 and 2012 and had expiration dates of July 13, 2021.⁵ Extension applications filed by CTB/Landover were granted on May 10, 2021 and the Stations' CPs were extended to January

¹ A list of the stations covered by this action (referred to herein collectively as "Stations") and the LMS file numbers of the Requests and digital construction permits 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).

⁵ See *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, MB Docket No. 03-185, Third Report and Order and Fourth Notice of Proposed Rulemaking, 30 FCC Rcd 14927, 14932-33, para. 9 (2015). In that decision, the Commission extended the expiration

10, 2022.⁶ In CTB/Landover’s extension applications, Val Vista provided a statement as the proposed buyer of unbuilt construction permits that included a timeline for completing construction of the Stations. Val Vista stated that it fully intended to complete construction of the Stations in accordance with its timeline and by the January 10, 2022 extended construction deadline. Val Vista subsequently acquired the Stations from CTB/Landover on June 30, 2021.⁷

In its Requests, Val Vista provides well-documented, station specific showings that include supporting documentation of its efforts to complete construction of each of the Stations and of the various delays that it has encountered. Val Vista notes that despite its best efforts since acquiring the Stations in June 2021, it has encountered numerous delays outside of its control including delays receiving its transmitters due to supply chain issues, difficulty scheduling necessary analyses of its towers due to crew shortages, and an inability to undertake installation of equipment received due to man power shortages and weather delays. In support of its claims, Val Vista provides copies of invoices demonstrating timely ordering of equipment, logs showing diligent communications with its vendors, and letters from its vendors documenting the causes for delays. Based upon the foregoing, Val Vista contends that grant of the Requests are in the public interest and that it can complete construction of the Stations by April 8, 2022.

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive the rules and toll the expiration dates of the Stations’ CPs to April 8, 2022.⁸ Val Vista has demonstrated, since acquiring the Stations in June 2021, it has been diligently making progress towards completion of the Stations’ facilities, but was unable to complete construction due to delays outside of its control including delays obtaining equipment due to supply chain issues and problems scheduling tower crews and installing equipment due to man power shortages and weather. Ultimately, we conclude that the public interest will be served by grant of waivers and tolling of the Stations’ CPs.

The above facts considered, the requests filed by the Val Vista RV Park, LLC and listed in the Appendix **ARE GRANTED** and the expiration dates of the construction permits listed in the Appendix **ARE TOLLED** to April 8, 2022. To the extent the Stations seek additional tolling, such requests must include a detailed plan for completing construction and a showing demonstrating that completion of the Stations’ facilities were prevented for either an eligible tolling reason or rare and extraordinary circumstances outside of Val Vista’s control.⁹ We will look unfavorably upon any future request that

date of valid construction permits for new digital low power television stations to the LPTV digital transition date which is set as 12 months following the completion of the 39-month post-Incentive Auction transition period or 51 months from the completion of the Incentive Auction and the release of the *Closing and Channel Reassignment Public Notice*. *Id.* See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (IATF and MB 2018) (*Closing and Channel Reassignment Public Notice*). Given the April 13, 2017 release date of the *Closing and Channel Reassignment Public Notice*, the LPTV digital transition date and expiration date of all valid construction permits for new digital LPTV stations were set as July 13, 2021.

⁶ See LMS File Nos. 0000136363, 0000136365, 0000136540, 0000136546, 0000136576, 0000136582, 0000136594, 000013651 and 0000136709.

⁷ See LMS File Nos. 0000140256, 0000140258, 0000140259, 0000140260, 0000140161, 0000140262, 0000149263, 0000149264 and 0000149265.

⁸ 47 CFR § 73.3598(b).

⁹ See *id.* A station may also seek a waiver of the tolling rule to receive additional time to construct in the case where

does not include such information.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Gregg P. Skall, Esq.

“rare or exceptional circumstances” prevent construction. *See Streamlining MO&O*, 14 FCC Rcd at 17536, para. 42.

APPENDIX

Call Letters	FAC ID	City	ST	Tolling Waiver File No.	Construction Permit File No.
W15DF-D	184805	Houghton Lake	MI	0000178648	0000143611
W16DN-D	186363	Traverse City	MI	0000178655	0000143607
W19EZ-D	184807	Houghton Lake	MI	0000178647	0000143600
W20DT-D	184928	Vanderbilt	MI	0000178650	0000143604
W22EL-D	184927	Vanderbilt	MI	0000178651	0000143605
W27DQ-D	184934	Elmhurst	MI	0000178652	0000143603
W27DU-D	186364	Traverse City	MI	0000178649	0000143606
W28EJ-D	184941	Charles	MI	0000178656	0000143599
W30DQ-D	184940	Charles	MI	0000178654	0000143602
W31FA-D	184943	Elmhurst	MI	0000178653	0000143601