



Federal Communications Commission  
Washington, D.C. 20554

April 5, 2019

Televicentro of Puerto Rico, LLC  
P.O. Box 362050  
San Juan, PR 00936

Re: Requests for Tolling  
WNJX-TV, Mayaguez, PR  
WTIN-TV, Ponce, PR  
Facility ID No. 73336 and 26681  
LMS File No. 0000067112 and  
0000067113

Dear Licensee,

On January 28, 2019, Televicentro of Puerto Rico, LLC (TPR), the licensee of WNJX-TV, Mayaguez, Puerto Rico (WNJX) and WTIN-TV, Ponce, Puerto Rico, (WTIN) (collectively, Stations), filed the above captioned requests for tolling of the Stations' construction permit expiration dates. For the reasons below, we grant TPR's requests and toll the expiration dates of WNJX and WTIN's construction permits for 180 days from the date of this letter to **October 2, 2019**.

*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>

<sup>1</sup> See 47 CFR § 73.3700(b)(5). Grant of an extension of the construction permit deadline does not alter the deadline by which a station must cease operating on its pre-auction channel. A station anticipating the need for an extension must submit an extension application using FCC Form 2100, Schedule 337. The application must demonstrate that the station is unable to complete construction on time due to circumstances that were either unforeseeable or beyond the station's control. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567,6804-05, paras. 581-2 (2014) (*Incentive Auction R&O*); 47 CFR § 73.3700(b)(5)(ii) and (iii).

<sup>2</sup> 47 CFR § 73.3598(b).

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

In the instant request, TPR notes that the Stations' pre-auction facilities were destroyed in Hurricane Maria. After requesting and receiving a phase change from the Commission, TPR states that both Stations resumed operation on temporary facilities on their post-auction channels. The Stations were granted 180-day extensions of their post-transition channel construction permits.<sup>4</sup> TPR now seeks additional time to complete construction of the Stations' post-transition channel facilities pursuant to the Commission's tolling provisions in Section 73.3598 of the rules. TPR cites to an Act of God – Hurricane Maria – as justification for tolling of its construction permit. TPR states that the ability to schedule a certified tower crew to perform the necessary tower work has been delayed because of the high demand for tower crews in Puerto Rico because of the extensive damage caused by Hurricane Maria. TPR states that extensive modifications to the Stations' tower, including substantial tower reinforcement work, are needed before its permanent antenna can be installed. In the case of WNJX, TPR states that the necessary tower reinforcement needs to be coordinated with two other stations that operate from the same tower—WIPM-TV, Mayaguez, Puerto Rico, and WJWN-TV, San Juan, Puerto Rico. TPR represents that its tower consultant is in the process of scheduling a certified tower crew to complete this work for both Stations. TPR is hopeful that construction of the WNJX's permanent post-auction channel facilities will be completed by July 2019 and WTIN by May 2019. Out of an abundance of caution, TPR requests that the construction permit be tolled for 180 days from the date of this letter.

*Discussion.* Upon review of the facts and circumstances presented, we find that TPR has demonstrated that it was unable to complete construction of the Stations' post-auction channel facilities due to Hurricane Maria – an “Act of God” tolling event that was outside of its control. We find that grant of TPR's tolling requests are not likely to negatively impact the overall transition schedule and will not cause interference to other stations. The Stations have already ceased operation on its pre-auction channel, have resumed operations on their post-auction channels at reduced power, and TPR is actively working towards completion of its permanent post-auction channel facilities. We believe that TPR has every incentive to ensure viewers that currently are not able to receive the Stations' signal due to its reduced power are fully informed about the Stations plans to resume full operation on its post-auction channel once it is able to complete construction of its post-auction facility. Ultimately, we conclude that the public interest will be served by tolling of the Stations' post-transition channel construction permit.

We note that under the circumstances affecting the Stations' post-auction transition construction work in the aftermath of Hurricane Maria, we are unable to calculate the exact number of days between the time the tolling event began and ended. Given the totality of the circumstances and consistent with our precedent in similar situations, we find that a 180-day period is a reasonable tolling period. Pursuant to Section 73.3598(b) of the rules, we toll the expiration date of each of the Stations' construction permits for a total of 180 days.

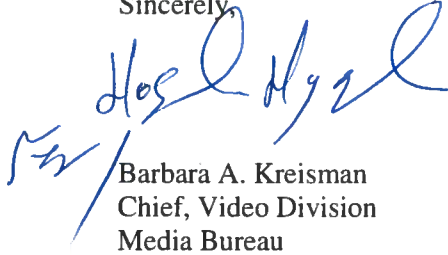
We remind TPR that pursuant to the Spectrum Act, the Stations are eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs “reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other.” Additional expenses incurred, for instance, as a result of the grant of the Stations' voluntary phase changes or due to other changes in the Stations' transition plans that are not related to the post-incentive auction channel changes, may not be reimbursable from the Fund. Such additional costs might include, but may not be limited to, additional legal or engineering expenses; filing fees; and interim or additional equipment that was not contemplated when the Stations filed their initial estimated expenses but was subsequently necessitated due to their voluntary phase change or other changes in the Stations' plans.

---

<sup>4</sup> See LMS File No. 0000064215 and 0000064216.

The above facts considered, Televiscentro of Puerto Rico, LLC's requests for tolling **ARE GRANTED**. The construction permits for WNJX-TV, Mayaguez, Puerto Rico and WTIN-TV, Ponce, Puerto Rico **ARE TOLLED to October 2, 2019**. Grant of this tolling waiver does not permit TPR to recommence operation on its pre-auction channels. We also remind TPR that any subsequent requests for tolling of its construction permit deadlines will be subject to the Commission's tolling provisions.<sup>5</sup>

Sincerely,

A handwritten signature in blue ink, appearing to read "Barbara A. Kreisman", is written over a horizontal line. To the left of the signature, the letters "FW" are handwritten in blue ink.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail): Sally A. Buckman, Esq.

---

<sup>5</sup> See 47 § CFR 73.3598(b).