



Federal Communications Commission  
Washington, D.C. 20554

April 5, 2019

Puerto Rico Public Broadcasting Corporation  
P.O. Box 190909  
Hato Rey, PR 00918

Re: Requests for Tolling  
WIPM-TV, Mayaguez, PR  
WIPR-TV, San Juan, PR  
Facility ID No. 53863 and 53859  
LMS File No. 0000067308 and  
0000067309

Dear Licensee,

On January 28, 2019, Puerto Rico Public Broadcasting Corporation (PRPBC), the licensee of WIPM-TV, Mayaguez, Puerto Rico (WIPM) and WIPR-TV, San Juan, Puerto Rico, (WIPR) (collectively the Stations), filed the above captioned requests for tolling of the Stations' construction permit expiration dates. For the reasons below, we grant ASG's requests and toll the expiration dates of WIPM and WIPR'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>

In the instant request, PRPBC notes that the Stations' pre-auction facilities were destroyed in Hurricane Maria. The Stations have both resumed operations at reduced power on their post-auction

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<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.*

channels. The Stations were granted 180-day extensions of their post-transition channel construction permits.<sup>4</sup> PRPBC 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. PRPBC cites to an Act of God – Hurricane Maria – as justification for tolling of its construction permit. PRPBC recounts what it calls "significant damage" to the Stations' towers, and substantial damage to the related transmission facilities. PRPBC states that the ability to obtain permits, equipment, and resources to restore the Station's facilities has been challenging, as Hurricane Maria greatly strained the accessibility of services and materials in Puerto Rico.

With respect to WIPM, PRPBC states that it has taken "substantive steps" to complete construction of its post-transition facilities. PRPBC must also coordinate its construction efforts with WNJX, Mayaguez, Puerto Rico (WNJX) because they are co-located on the same tower as part of a stacked antenna. PRPBC states that the tower owner is in the process of hiring a tower crew to reinforce the existing tower, and then restack the antennas located on the tower. The tower modifications are a pre-requisite to completing additional work. PRPBC states that it has ordered WIPM's main antenna and transmitter, but as of the time of filing delivery had not yet been made. PRPBC reasonably believes that the WIPM permanent facilities will be completed by July 2019. However, out of an abundance of caution PRPBC requests tolling of 180 days.

As for WIPR, PRPBC states that it was recently informed that the tower owner will not reconstruct the pre-auction tower which was seriously damaged as a result of Hurricane Maria. As a result, PRPBC has taken steps to obtain design and construction proposals to replace the tower for the WIPR. Once PRPBC has hired the design and construction companies, it states that it will need to obtain local zoning approval. PRPBC argues that it has worked expeditiously to move forward now that it is aware that it must construct the replacement tower. However, given continued uncertainty PRPBC could not provide a precise timeline for completing construction and as such it requested tolling of 180 days.

*Discussion.* Upon review of the facts and circumstances presented, we find that PRPBC 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 PRPBC'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, resumed operations on their post-auction channels at reduced power, and PRPBC is actively working towards completion of its permanent post-auction channel facilities. We believe that PRPBC 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 their post-auction channel once they are able to complete construction of their 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 from the date of this letter.

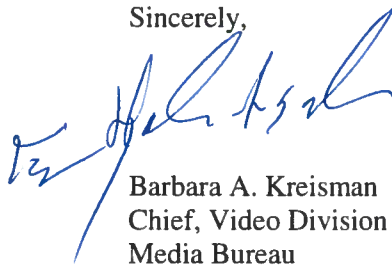
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<sup>4</sup> See LMS File No. 0000055292 and 0000055291.

We remind PRPBC 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 change, 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 changes or other changes in the Stations’ plans.

The above facts considered, Puerto Rico Public Broadcasting Corporation’s requests for tolling **ARE GRANTED**. The construction permits for WIPM-TV, Mayaguez, Puerto Rico and WIPR-TV, San Juan, Puerto Rico **ARE TOLLED to October 2, 2019**. Grant of this tolling waiver does not permit PRPBC to recommence operation on its pre-auction channels. We also remind PRPBC 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.

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail): Lee Petro, Esq.

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<sup>5</sup> See 47 § CFR 73.3598(b).