



Federal Communications Commission  
Washington, D.C. 20554

October 2, 2019

LR Telecasting, LLC  
Ridge Lake Office Bld #304  
855 Ridge Lake Blvd  
Memphis, TN 38120

Re: Request for Tolling Waiver  
KMYA-DT, Camden, AR  
Facility ID No. 86534  
LMS File No. 0000081968

Dear Licensee,

On September 23, 2019, LR Telecasting, LLC (LR), the licensee of KMYA-DT, Camden, Arkansas (KMYA or Station), filed the above-referenced request for waiver of the Commission's tolling provisions and tolling of the Station's construction permit expiration date. For the reasons below, we grant LR's request and toll the expiration date of KMYA's construction permit through November 27, 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> 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>

LR requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities through November 20, 2019. On May 24, 2019, KMYA was granted a waiver

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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).

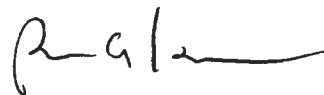
of the tolling rule and its construction permit was tolled to September 30, 2019.<sup>5</sup> KMYA is currently operating on its post-auction channel at reduced power.<sup>6</sup> LR states that it has continued to experience construction delays that have prevented completion of its permanent post-auction channel facility. Specifically, LR states that the manufacturer of its main and backup transmitters is experiencing production delays. LR expects that the transmitters will not be delivered until November 2019. As a result, LR states that it will be unable to meet its current construction permit deadline. Accordingly, LR seeks a waiver of the tolling rules and tolling of its construction permit deadline to November 27, 2019.

*Discussion.* Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive Section 73.3598(b) of the Rules and to toll the expiration date of the Station's construction permit to November 27, 2019. Specifically, construction delays related to delivery of the Station's transmitters have caused LR to be unable to complete construction of the Station's post-auction facility by its construction permit deadline. We also find that grant of LR's waiver and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. KMYA 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 KMYA's signal while it operates using its interim facility, we believe that LR 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 waiver and tolling of the Station's construction permit.

We remind LR 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>7</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.

The above facts considered, LR Telecasting, LLC's request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit for KMYA, Camden, Arkansas **IS TOLLED to November 27, 2019**. Grant of this tolling waiver does not permit KMYA to recommence operation on its pre-auction channel. We also remind LR that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.<sup>8</sup>

Sincerely,



Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail): Ronald Maines, Esq.

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<sup>5</sup> LMS File No. 0000072858.

<sup>6</sup> See LMS File No. 0000072911.

<sup>7</sup> 47 U.S.C. § 1452(b)(4)(A)(i). See also *Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

<sup>8</sup> See 47 § CFR 73.3598(b).