



Federal Communications Commission
Washington, D.C. 20554

November 13, 2019

Televiscentro of Puerto Rico, LLC
Javier Maynulet
P.O. Box 362050
Sam Juan, PR 00936

Re: Requests for Tolling
WNJX-TV, Mayaguez, PR
WTIN-TV, Ponce, PR
Facility ID No. 26681 and 73326
LMS File No. 0000083475 and
0000083476

Dear Licensee,

On October 1, 2019, Televiscentro 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, as amended, of the Stations' construction permit expiration dates. For the reasons below, we grant TPR's requests and toll the expiration dates of the Stations' construction permits to March 30, 2020.

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.¹ All subsequent requests for additional time to construct 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

TPR requests waiver of the tolling rule and tolling of its construction permits for its post-incentive auction channel facilities to March 30, 2020. The Stations are currently operating interim facilities on their post-auction channels.⁴ On April 5, 2019, the Stations were granted waivers of the

¹ 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).

² 47 CFR § 73.3598(b).

³ *Id.*

⁴ LMS File Nos. 0000064215 and 0000064216.

tolling rule and their construction permits were tolled to October 2, 2019.⁵ In the instant requests, TPR states that extensive modifications to each of the Stations' towers is still needed before the Stations' permanent antennas can be installed. TPR states that scheduling a certified tower crew to perform the necessary work on each of the towers is delayed because of the high demand for tower crews in Puerto Rico because of the extensive damage caused by Hurricane Maria. Because of the difficulty in scheduling a tower crew and the extent and difficulty of the work to reinforce the towers, TPR was not able to complete construction of the Stations' permanent facilities prior to the expiration date of their construction permits. TPR maintains that its tower consultant is continuing to try to schedule a certified tower crew to complete this work.

In the case of WNJX, TPR states that the work is also delayed because the necessary tower reinforcement must be coordinated with two other stations that operate from the same tower—WIPM-TV, Mayaguez, Puerto Rico, and WJWN-TV, San Juan, Puerto Rico, both of which are also repacked and have similarly sought extensions and tolling of the construction permits for their post-incentive auction channel facilities.⁶ Accordingly, TPR seeks a waiver of the tolling rules and tolling of its construction permit deadline.

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 Stations' construction permits to March 30, 2020. Specifically, construction delays related to the impact of Hurricane Maria and post-hurricane recovery efforts have caused TPR to be unable to complete construction of the Stations' post-auction facilities by its construction permit deadline. We find that grant of TPR's tolling requests is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. The Stations have already ceased operation on their pre-auction channels and have resumed operations on their post-auction channels with interim facilities. To the extent some viewers are unable to receive the Stations' signals while they operate using interim facilities, we believe that TPR has every incentive to ensure viewers are fully informed about the Stations' transition plans. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Stations' construction permits.

We remind TPR 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."⁷ Additional expenses incurred, such as expenses resulting from changes in a Stations' transition plans that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, Telecentro 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 March 30, 2020**. Grant of this tolling waiver does not permit the Stations to recommence operation on their pre-auction channels. We also remind TPR that any

⁵ LMS File Nos. 0000067112 and 0000067113.

⁶ See, e.g., LMS File Nos. 0000082557 and 0000082011.

⁷ 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.").

subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.⁸

Sincerely,

A handwritten signature in black ink, appearing to read 'B. A. Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

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

⁸ See 47 § CFR 73.3598(b).