



Federal Communications Commission
Washington, D.C. 20554

July 14, 2020

TEGNA Broadcast Holdings, LLC
Denise A. Branson, Sr. Paralegal
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(via electronic mail)

Re: Request for Tolling Waiver
WQAD-TV, Moline, IL
Facility ID No. 73319
LMS File No. 0000116317

Dear Licensee,

On June 18, 2020, TEGNA Broadcast Holdings, LLC (TEGNA), the licensee of Station WQAD-TV, Moline, Illinois (WQAD or Station), filed the above-referenced request for waiver of the Commission's tolling provisions and tolling of the Station's construction permit. For the reasons below, we grant TEGNA's waiver request and toll WQAD's construction permit to January 11, 2021.

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 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

¹ See 47 CFR § 73.3700(b)(5).

² See 47 CFR § 73.3700(b)(5)(i) citing 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) (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).

TEGNA requests waiver of the tolling rule and tolling of its construction permit for its post-incentive auction channel facilities to January 11, 2021. WQAD is operating an interim facility on its post-auction channel facilities.⁵ WQAD was previously granted a construction permit extension through July 15, 2020.⁶

TEGNA states that the tower crew scheduled to install the Station's post-auction channel antenna was delayed due to travel and work restrictions as a result of the COVID-19 pandemic.⁷ TEGNA states that the tower crew currently is scheduled to complete the installation of the antenna a few weeks after the Station's current construction permit deadline. Therefore, given these delays TEGNA requests tolling of the Station's construction permit 180 days to January 11, 2021.

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 January 11, 2021.⁸ TEGNA has demonstrated it did not complete construction of its post-auction channel facilities due to construction delays. We also find that grant of TEGNA's waiver and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. WQAD has already ceased operation on its pre-auction channel and is operating an interim facility on its post-auction channel. To the extent viewers are unable to receive WQAD's signal while it operates from its interim facility, we believe that TEGNA 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 TEGNA 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."⁹ 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.

We further remind TEGNA that the Commission has stated that the Bureau may announce a deadline for the submission of final expense documentation for reimbursement well before the statutory deadline of July 3, 2023.¹⁰ Thus, we strongly encourage the Station to diligently pursue satisfaction of the

⁵ See LMS File No. 0000116315. WQAD was repacked from channel 38 to channel 31.

⁶ See LMS File Nos. 0000094071.

⁷ The World Health Organization has classified COVID-19 as a pandemic and the President declared it a national emergency.

⁸ 47 CFR § 73.3598(b).

⁹ 47 U.S.C. § 1452(b)(4)(A)(i). See also *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268 et. al., Report and Order, 29 FCC Rcd 6567, 6821, para. 622 (2014) (*Incentive Auction R&O*), aff'd, Nat'l Ass'n of Broadcasters v. FCC, 789 F.3d 165 (D.C. Cir. 2015) ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").

¹⁰ See *id.* at 6567, para. 616; *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, MB Docket 18-214 and GN Docket No. 12-268, Report and Order, 34 FCC Rcd 1690, 1739, para. 105 (2019). See also *Incentive Auction Task Force and Media Bureau Report on the Status of the Post-Incentive Auction Transition and Reimbursement Program et al.*, MB Docket No. 16-306 and GN Docket No. 12-268, Public Notice, 34 FCC Rcd 304, 312, para. 23 and n.35 (IATF/MB 2019).

current deadlines to improve the chances that there will be sufficient funds available to reimburse the Station for its legitimate repacking expenses, and we encourage TEGNA to submit eligible invoices as soon as practicable.

The above facts considered, TEGNA Broadcast Holdings, LLC's request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000034243) for WQAD-TV, Moline, Illinois, **IS TOLLED to January 11, 2021**. Grant of this tolling waiver does not permit WQAD to recommence operation on its pre-auction channel. We also remind TEGNA that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission's tolling provisions.¹¹

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail):
Michael Beder, Esq.
(Attorney of Record)

¹¹ See 47 CFR § 73.3598(b).