



Federal Communications Commission
Washington, D.C. 20554

April 21, 2022

Val Vista RV Park, LLC
Larry O'Donnell
P.O. Box 627
Cadillac, MI 49601
LarryODonnell@9and10news.com
(via electronic mail)

Re: Requests for Tolling Waivers

Dear Permittee,

This concerns requests for waiver of the Commission's tolling provisions and tolling of construction permit expiration dates (Requests) filed by the Val Vista RV Park, LLC (Val Vista), permittee of eight Michigan low power television (LPTV) stations.¹ For the reasons below, we grant Val Vista's Requests and toll the expiration dates of the Stations' construction permits 60 days to June 7, 2022.

Background. Requests for additional time to construct digital LPTV facilities 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

Requests For Tolling Waiver. The Stations are unbuilt, new LPTV stations located in various communities in Michigan (Station CPs). Val Vista was previously granted waivers of the tolling rules and the expiration dates of the Station CPs was tolled to April 8, 2022.⁵

¹ A list of the stations covered by this action (referred to herein collectively as "Stations") and the LMS file numbers of the Requests and digital construction permits are contained in the Appendix to this letter.

² See 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) (*Streamlining MO&O*) (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).

⁵ See LMS File Nos. 0000178655, 0000178650, 0000178651, 0000178652, 0000178649, 0000178656, 0000178654 and 0000178653.

In its Requests, Val Vista provides well-documented, station specific showings that include supporting documentation of its efforts to complete construction of each of the Stations and of the delay that it has encountered since the grant of its previous tolling waivers on February 4, 2022. Val Vista demonstrates that over the past two months it has encountered additional delays receiving its transmitters due to supply chain issues. In support of its claims, Val Vista provides copies of correspondence from the transmitter manufacturer that they are experiencing a chip shortage which will delay completion and delivery of the transmitters. The manufacturer anticipates that transmitters will be delivered at the end of April, after which, Val Vista states that it will then proceed to install the transmitters and have the Stations resume operation. Based upon the foregoing, Val Vista contends that grant of the Requests are in the public interest and that it can complete construction of the Stations within 60 days (by June 7, 2022).

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to waive the rules and toll the expiration dates of the Stations' CPs 60 days to June 7, 2022.⁶ Val Vista has demonstrated, since grant of its tolling waivers in February 2022, it has been diligently making progress towards completion of the Stations' facilities, but was unable to complete construction due to continued delays outside of its control, notably delays obtaining its transmitters due to supply chain issues. This fact is supported by a letter from Val Vista's manufacturer. Ultimately, we conclude that the public interest will be served by grant of waivers and a brief tolling of the Stations' CPs for 60 days.

The above facts considered, the requests filed by the Val Vista RV Park, LLC and listed in the Appendix **ARE GRANTED** and the expiration dates of the construction permits listed in the Appendix **ARE TOLLED to June 7, 2022**. To the extent the Stations seek additional tolling, such requests must include a detailed plan for completing construction and a showing demonstrating that completion of the Stations' facilities were prevented for either an eligible tolling reason or rare and extraordinary circumstances outside of Val Vista's control.⁷ We will look unfavorably upon any future request that does not include such information.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Gregg P. Skall, Esq.

⁶ 47 CFR § 73.3598(b).

⁷ *See id.* A station may also seek a waiver of the tolling rule to receive additional time to construct in the case where "rare or exceptional circumstances" prevent construction. *See Streamlining MO&O*, 14 FCC Rcd at 17536, para. 42.

APPENDIX

Call Letters	FAC ID	City	ST	Tolling Waiver File No.	Construction Permit File No.
W16DN-D	186363	Traverse City	MI	0000188967	0000143607
W20DT-D	184928	Vanderbilt	MI	0000189003	0000143604
W22EL-D	184927	Vanderbilt	MI	0000189005	0000143605
W27DQ-D	184934	Elmhurst	MI	0000188979	0000143603
W27DU-D	186364	Traverse City	MI	0000188976	0000143606
W28EJ-D	184941	Charles	MI	0000188981	0000143599
W30DQ-D	184940	Charles	MI	0000188984	0000143602
W31FA-D	184943	Elmhurst	MI	0000188980	0000143601