



Federal Communications Commission
Washington, D.C. 20554

April 21, 2022

Cadillac Telecasting Co.
P.O. Box 282
Cadillac, MI 49601
JRNBOLA@AOL.COM
(via electronic mail)

Re: Request for Tolling Waiver
W23FL-D, Traverse City, MI
Fac ID No. 182741
LMS File No. 0000188986

Dear Licensee,

This concerns a request for waiver of the Commission's tolling provisions and tolling of digital construction permit expiration date (Request), as amended, filed by Cadillac Telecasting Co. (CTC), permittee of low power television (LPTV) station W23FL-D, Traverse City, Michigan (W23FL-D or Station). For the reasons below, we grant CTC's Request and toll the expiration date of the Station's construction permit 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.¹ 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.² 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.³

Request For Tolling Waiver. W23FL-D is an unbuilt, new LPTV station (Station CP). CTC was previously granted a waiver of the tolling rules and the expiration date of the Station CP was tolled to April 8, 2022.⁴

In its Request, CTC provides a well-documented showing that include supporting documentation of its efforts to complete construction of the Station and of the delay that it has encountered since the

¹ See 47 CFR § 73.3598(b).

² *Id.*

³ 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).

⁴ See LMS File No. 0000178646.

grant of its previous tolling waiver on February 4, 2022. CTC demonstrates that over the past two months it has encountered additional delays receiving its transmitter due to supply chain issues. In support of its claims, CTC provides a copy of a correspondence from the transmitter manufacturer that they are experiencing a chip shortage which will delay completion and delivery of the transmitter. The manufacturer anticipates that transmitter will be delivered at the end of April, after which, CTC states that it will then proceed to install the transmitter and have the Station resume operation. Based upon the foregoing, CTC contends that grant of the Request is in the public interest and that it can complete construction of the Station 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 date of the Station CP to June 7, 2022.⁵ CTC has demonstrated that it has been diligently making progress towards completion of its facilities, but was unable to complete construction due to continued delays outside of its control, notably delays in obtaining its transmitter due to supply chain issues. This fact is supported by a letter from CTC's manufacturer. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station CP.

The above facts considered, Cadillac Telecasting Co.'s request for waiver of the Commission's tolling provisions **IS GRANTED**. The construction permit (LMS File No. 0000158715) for W23FL-D, Traverse City, Michigan, **IS TOLLED through June 7, 2022**. To the extent the Station seeks additional tolling, such a request must include a detailed plan for completing construction and a showing demonstrating that completion of the Station's facilities was prevented for either an eligible tolling reason or rare and extraordinary circumstances outside of CTC's control.⁶ 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.

⁵ 47 CFR § 73.3598(b).

⁶ *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.