



Federal Communications Commission  
Washington, D.C. 20554

June 16, 2022

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

Re: Request for Tolling Waiver  
W23FL-D, Traverse City, MI  
Fac ID No. 182741  
LMS File No. 0000192918

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 to July 31, 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.<sup>1</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>2</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>3</sup>

*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 most recently tolled to June 7, 2022.<sup>4</sup>

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

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<sup>1</sup> See 47 CFR § 73.3598(b).

<sup>2</sup> *Id.*

<sup>3</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) (*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).

<sup>4</sup> See LMS File Nos. 0000178646 and 0000188986.

grant of its previous tolling waiver on April 21, 2022. The Station will be using an existing tower structure for its facilities. CTC states that a last-minute review of the original tower analysis revealed discrepancies, demonstrating that it would be dangerous to mount the Station's antenna and requiring modifications to the construction plan to ensure the public safety before construction could be scheduled and begin. CTC reports that a new construction plan has been developed and construction is scheduled to begin the week of June 6, 2022 with the contractor installing new anchors and completing modifications to the foundation. CTC states that the concrete used for the new anchors will need at least 28 days to cure before the guy-lines can be moved to the new anchors, which will likely not occur until early-July 2022. Based upon the current construction timeline, CTC anticipates that the Station's antenna will be installed in mid-July 2022. CTC notes that its request to mount the antenna prior to the reinforcement work being completed was rejected by the tower owner. 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 by July 31, 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 July 31, 2022.<sup>5</sup> 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 a last-minute issue with the strength of its proposed tower structure. This fact is supported by an email from the tower owner. 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 July 31, 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.<sup>6</sup> 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.

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<sup>5</sup> See 47 CFR § 73.3598(b) and *supra* note 4.

<sup>6</sup> See 47 CFR § 73.3598(b). 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.