



Federal Communications Commission  
Washington, D.C. 20554

February 21, 2014

David O'Connor, Esq.  
Wilkinson, Barker & Knauer, LLP  
2300 N Street, N.W.  
Suite 700  
Washington, DC 20037

Re: WMDE(TV), Seaford, DE  
File No. BNPCDT-20110330AAY  
Request for Tolling  
Facility ID: 189357

Dear Counsel:

This concerns your February 10, 2014 letter, filed on behalf of Western Pacific Broadcast, LLC (Western Pacific) requesting that the expiration date for digital construction permit (File No. BNPCDT-20110330AAY) for channel 5 for WMDE(TV), Seaford, Delaware (station) be tolled. For the reasons set forth below, we grant your request and the toll the expiration date of the station's digital construction permit for channel 5.

The subject digital construction permit for channel 5 expires on May 4, 2014. However, you state that Western Pacific qualifies for tolling because an administrative delay has prevented construction of its facilities. You note that the station's construction permit was granted on May 4, 2011, and that several months later, on March 15, 2013, PMCM TV, LLC, (PMCM) filed a petition seeking reconsideration of the original allotment of channel 5 to Seaford, Delaware. You also note that Western Pacific has initiated a rulemaking proceeding to change the station's community of license to Dover, Delaware. You maintain that tolling of the station's construction permit is appropriate here because the permit is the subject of an administrative review that is beyond the permittee's control – PMCM's pending petition for reconsideration of the original Seaford allotment as well as PMCM's comments in the Dover rulemaking proceeding. Based upon these facts, you request that the channel 5 construction permit expiration date be tolled until six months after all challenges to the station's construction permit and all challenges in the Dover rulemaking proceeding have become final and non-appealable.

On June 13, 2009, the Commission began applying the tolling provisions of Section 73.3598 of the rules to DTV construction deadlines occurring after June 12, 2009. *See* Implementation of DTV Delay Act, *Second Report and Order and Order and Notice of Proposed Rulemaking*, 24 FCC Rcd 77 (2009). Section 73.3598(b) of the rules provides that a construction permit deadline may be tolled under specific circumstances such as acts of God or delays due to administrative or judicial review. Because construction of the station's channel 5 facilities have been delayed due to the uncertainty surrounding the original allotment of channel 5 to Seaford, Delaware, we find that Western Pacific qualifies for tolling under 73.3598(b)(2) of the rules. Further, we believe the public interest will be served by tolling the station's construction deadline. We do not, however, find that Western Pacific separately qualifies for tolling due to the pendency of the Dover rulemaking proceeding – an action that was initiated voluntarily and therefore does not qualify as a tolling event under Section 73.3598(b)(2).

The above facts considered, Western Pacific's tolling request IS GRANTED and the construction deadline for construction permit BNPCDT-20110330AAY for WMDE(TV), Seaford, Delaware, IS TOLLED until six months after all challenges to the grant of the construction permit for channel 5 at Seaford, Delaware have become final and non-appealable.

Sincerely,

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

Barbara A. Kreisman, Chief  
Video Division  
Media Bureau