



Federal Communications Commission
Washington, D.C. 20554

September 19, 2014

Margaret L. Tobey, Esq.
Assistant Secretary
NBC Telemundo License, LLC
300 New Jersey Avenue, N.W.
Suite 700
Washington, DC 20001

Re: WNJU, Linden, NJ
File No. BPCDT-20111220AFK
Request for Tolling
Facility ID: 73333

Dear Counsel:

This concerns your September 17, 2014 letter, filed on behalf of NBC Telemundo License, LLC (NBC) requesting that the expiration date for the above-referenced digital construction permit for WNJU, Linden, New Jersey (station) be tolled. For the reasons set forth below, we grant your request and toll the expiration date of the station's digital construction permit.

The subject digital construction permit expires on December 21, 2014. You state that the station qualifies for tolling due to "circumstances beyond its control." The station's analog facilities were destroyed in the September 11, 2001 terrorist attacks on the World Trade Center. The station had also proposed to construct its digital facilities at the World Trade Center site. The station ultimately began operating its digital facilities from the Empire State Building where it operates today through Special Temporary Authority (STA) with a side-mounted antenna. The above-referenced digital construction permit is for a top-mounted antenna operation. You maintain that the station has been unable to complete construction of the top-mounted facility because of "complicated antenna space constraints at the Empire State Building." You note that there is "very little room on the Empire State Building tower and mooring mast, and the top-mount position on the tower is currently occupied." You state that the tentative plan is for the landlord and New York broadcasters to develop a shared top-mounted antenna. However, you state that the various parties have been unable to reach a consensus on the shared antenna plan and this has delayed final construction of the station's final digital facility.¹

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, 2009.² Section 73.3598(b) of the rules provides 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 is delayed by any cause of action pending before any court of competent jurisdiction relating to any necessary local, state or federal

¹ You also note that the station has filed an application for a digital construction permit (File No. BPCDT-20140917AFD) specifying the side-mounted location on the Empire State Building and that, upon grant, the station intends to promptly file an application for license to cover the new construction permit. You note that the station is requesting that the Commission waive Section 73.3518 of the rules and allow it to temporarily hold construction permits for both the top-mounted and side-mounted facilities, because this will allow the station "much needed flexibility to build out the facilities that will best serve the station's viewers." The station's application for digital construction permit and waiver request will be considered separately.

² See *Implementation of DTV Delay Act*, MB Docket No. 09-17, Second Report and Order and Notice of Proposed Rulemaking, 24 FCC Rcd 2526, 2540-41 (2009).

requirement for the construction or operation of the station, including any zoning or environmental requirement.³ The station does not qualify for tolling under any of those circumstances. We find, however, that good cause exists to waive Section 73.3598 and to toll the expiration of the station's DTV construction permit. The circumstances in this case are sufficiently unique to permit waiver of the rule. The station was unable to complete construction of its original planned digital facilities due to the destruction of its proposed tower location at the World Trade Center that occurred as a result of the terrorist attack on September 11, 2001. As you note, "absent the attacks on 9/11, the station would have been able to construct its digital facilities at the World Trade Center" In addition, the station has been unable to complete construction of its alternate facilities at the Empire State Building due to antenna space constraints. Further, we believe the public interest will be served by tolling the station's construction deadline.

The above facts considered, NBC's tolling request IS GRANTED and the construction deadline for construction permit BPCDT-20111220AFK for WNJU, Linden, New Jersey, IS TOLLED until December 21, 2015. Any further requests for tolling must be submitted not later than September 21, 2015.

Sincerely,

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

Barbara A. Kreisman, Chief
Video Division
Media Bureau

³ See 47 C.F.R. § 73.3598(b).