



Federal Communications Commission  
Washington, D.C. 20554

July 17, 2015

Marnie K. Sarver, Esq.  
Wiley Rein, LLP  
1776 K Street, N.W.  
Washington, DC 20006

Re: KETD(TV), Castle Rock, CO  
File No. BPCDT-20120314ADO  
Request for Tolling  
Facility ID: 37101

Dear Counsel:

This concerns your June 22, 2015 letter (supplemented on June 30, 2015), filed on behalf of KRCA License, LLC, (KRCA) requesting that the expiration date for the above-referenced digital construction permit for KETD(TV), Castle Rock, Colorado (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 was granted on March 22, 2012 with an original expiration date of March 22, 2015, and the expiration date was previously tolled to September 22, 2015. You previously stated that the subject construction permit involves the station relocating its antenna from its current location on Mount Morrison in Jefferson County, Colorado, to a new location on an existing tower currently occupied by an FM station which is planning to move to a new tower that is under construction. You now report that the FM station continues to face delays in completing its move to the new tower due to the winter conditions on Mount Morrison that limit accessibility by installation equipment. The FM station has also had to coordinate its move with other users in the area, further delaying its move. You maintain that the facts in this case present a "rare and exceptional circumstance" and that waiver of the construction permit deadline is appropriate. You request a one year extension of the construction permit to September 22, 2016.

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.<sup>1</sup> 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 requirement for the construction or operation of the station, including any zoning or environmental requirement.<sup>2</sup> 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 the relocation of its antenna due to delays in the FM station completing its move to a new tower. Relocation of the FM station's antenna was delayed due to difficulty accessing the tower site and winter weather limiting the construction season at the tower location – all circumstances outside of the station's control. In addition, we find the public interest would be served by grant of a waiver and extension of the station's construction permit.

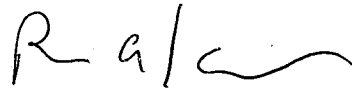
<sup>1</sup> See *Implementation of DTV Delay Act*, MB Docket No. 09-17, Second Report and Order and Notice of Proposed Rulemaking, 24 FCC Rcd 2526, 2540-41 (2009).

<sup>2</sup> See 47 C.F.R. § 73.3598(b).

You note that the facilities in the above-referenced construction permit were not constructed and licensed (or subject to a pending application for license) before the May 29, 2015, Incentive Auction Pre-Auction Licensing Deadline.<sup>3</sup> Therefore, you acknowledge that the facilities authorized in the above-referenced construction permit will not be protected in the Incentive Auction repacking process.

The above facts considered, KRCA's tolling request IS GRANTED and the construction deadline for construction permit BPCDT-20120314ADO for KETD(TV), Castle Rock, Colorado, IS TOLLED until September 22, 2016. Any further requests for tolling must be submitted not later than June 22, 2016.

Sincerely,

A handwritten signature in black ink, appearing to read 'R a / c' with a flourish at the end.

Barbara A. Kreisman, Chief  
Video Division  
Media Bureau

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<sup>3</sup> Earlier this year, the Media Bureau announced that May 29, 2015 would be the Pre-Auction Licensing Deadline. See *Media Bureau Designates May 29, 2015 as Pre-Auction Licensing Deadline*, Public Notice, 30 FCC Rcd 393 (MB 2015).