



Federal Communications Commission
Washington, D.C. 20554

July 11, 2019

In reply refer to:
1800B3-VM

Ms. Amy Meredith
Powell Meredith Communications Company
7884 Peacock Lane
Frisco, TX 75035

In re: W270CS, Gulfport, MS
Facility ID No. 142760

K221GE, Wickenburg, AZ
Facility ID No. 143311

K287BP, South Padre Island, TX
Facility ID No. 142717

Dear Ms. Meredith:

I am writing in response to your June 20, 2019 letter and various emails you have sent to me and Michelle Carey. Although your letter does not contain a specific request, we will treat it as a request for tolling or further waiver of the construction period for the referenced construction permits held by Powell Meredith Communications Company (PMCC). Based on the information you have provided, we deny any request for tolling or waiver and remind you that the three referenced permits will expire on July 29, 2019 if construction is not completed by that date.

Each of PMCC's tolling requests has failed to provide sufficient documentation to prove construction is prevented due to the causes enumerated in Section 73.3598(b) of the Rules.¹ **The three referenced permits expire at 3:00 a.m. on July 29, 2019. The construction permits will be subject to automatic forfeiture unless construction is complete and an application for license to cover is filed prior to expiration.**

Your letter dated June 20, 2019 raises concerns about our letter dated October 4, 2018 in which we cancelled a previously granted request for tolling. Although we subsequently granted a six-month waiver of the expiration of your construction permits to afford you additional time to construct, you have raised concern about our use of the phrase "false claim" in our letter. That phrase was not intended to assert that you had intended to deceive the FCC or that you had engaged in illegal conduct. Rather, we were pointing out, based on the information available to us, that the referenced stations were not eligible for tolling based on state or federal litigation.

¹ Pursuant to Section 73.3598(b) of the rules, tolling of the construction period can be granted under the following circumstances not within the control of the permittee: 1) Act of God, defined in terms of natural disasters (e.g., tornado, flood, hurricane, earthquake); 2) Administrative or judicial review of the grant of the permit; 3) Litigation related to a necessary governmental requirement for construction or operation of the station; and 4) Failure of a condition precedent on the permit (e.g., requirement of international coordination, or prior channel substitution of another station). See 47 CFR § 73.3598(b); 1998 Biennial Regulatory Review—Streamlining of Mass Media Application Rules and Processes, Report and Order, 13 FCC Rcd 23056, 23090, para. 84 (1998), *recon. granted in part and denied in part*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17540, para. 39 (1999).

If PMCC is not able to complete construction or operate the Stations due to a cause not under its control and recognized under Section 73.3598(b), PMCC is required to submit a new request for tolling prior to the July 29, 2019 expiration date. Any new tolling request must include a **signed and dated order of a court of competent jurisdiction that (i) explicitly references the permits by call sign or Facility ID number, (ii) articulates clearly and directly the encumbrance that prevents PMCC from constructing, operating or divesting the Stations, and (iii) directs the Commission to toll the construction permit.** The order must also indicate the date on which the encumbrance was established in order to determine the start date of tolling.

Any new request for tolling must be sent by letter to Secretary, FCC, 445 12 St., S.W., Washington, DC 20554 with a courtesy copy by e-mail to Victoria.McCauley@fcc.gov.

You also must notify the Commission within 30 days of any pending court matter relating to any of the Stations being resolved. *See* 47 CFR § 1.65.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Shuldiner", with a long horizontal flourish extending to the right.

Albert Shuldiner
Chief, Audio Division
Media Bureau