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December 15, 2020

BY EMAIL: Larry.Hannif-Ali@fcc.gov

Larry Hannif-Ali
Media Bureau, Audio Division
Federal Communications Commission

Re: Bicoastal Media Licenses IV, LLC
K260DH, Longview, WA
Facility ID No. 201361
Construction Permit File No. BNPFT-20171201AIV
Construction Deadline: January 12, 2021

Request for Waiver of Construction Deadline

Dear Mr. Hannif-Ali:

Bicoastal Media Licenses IV, LLC (“Licensee”), holds the above-captioned construction permit (“Construction Permit”) to construct the facilities of K260DH, Longview, Washington. By its counsel and pursuant to *Media Bureau Announces Availability of Construction Deadline Waivers for Certain FM Translator Stations Awarded in Auctions 99 and 100*, FCC Public Notice, DA-20-1059, released September 10, 2020 (the “Public Notice”), Licensee requests waiver of the construction deadline in order to have another six months added to the end of the construction period. In the alternative, it seeks tolling of the construction period until six months after the end of the government-imposed restrictions related to the pandemic.

The Public Notice announced that the Media Bureau would accept COVID-19 related waivers of the construction period for translator permits issued to applicants who filed for new translators in the Auction 99 and 100 windows if those permits expire on or before June 30, 2021. The Construction Permit for K260DH was issued with the conditions imposed on applicants filing in an Auction window opened in connection with the *Revitalization of the AM Radio Service*, Notice of Proposed Rule Making, 28 FCC Rcd 15221, 15227, para. 14 (2013), and First Report and Order, 30 FCC Rcd 12145,

FG:11354561.2

12154, para. 17 and n.43 (2015). Further, the Construction Permit's construction period ends January 12, 2021. Consequently, the Construction Permit is covered by the waiver provisions of the Public Notice if the applicant specifies how the pandemic or its economic impact has prevented timely construction.

The impact of COVID-19 pandemic has forced Licensee to delay construction of its facilities as authorized by the Construction Permit. The Governor of Washington signed an Executive Order on February 29, 2020 declaring a statewide state of emergency due to the COVID-19 outbreak in Washington.¹ Since then, the Governor has issued dozens of Executive Orders to protect public health and safety and to mitigate the effects of the COVID-19 pandemic (collectively, the "Orders").² The Orders and economic fall-out have made work on construction infeasible. Washington has surpassed 202,063 COVID-19 cases and currently has more than 2,879 deaths statewide from the disease.³ These severe limitations on business and work-from-home orders have taken their toll on local businesses having to shut down or operate with reduced capacity, and have had a significant impact on the Licensee's ability to marshal the resources to construct the translator as authorized in the Construction Permit.

Licensee submits a waiver of the construction deadline is appropriate. Construction of K260DH has been delayed due to circumstances beyond the control of Licensee. For the health and safety of its employees, Licensee is operating with limited staff. Given the substantial drop in advertising and subsequent fall in financial resources, including a year-over-year decline of 17% in revenues and 28% decline in cash flow in the Longview market,⁴ Licensee is also unable to commit resources to construction at this time. Licensee similarly has limited ability to schedule engineering and tower contractors for construction and anticipates delays will continue until after the constraints imposed to limit the spread of the virus have abated.

Even in the absence of the Public Notice, Section 73.3598(b) of the Commission's rules provides that a construction period will toll when construction is prevented for certain "causes not under the control of the permittee" including acts of God.⁵ These are defined in terms of natural disasters. Licensee submits that a global pandemic along with the public health measures government has imposed to mitigate its impacts qualifies as a natural disaster.

¹ See Jay Inslee, Governor of Washington, Office of the Governor, Executive Order 20-05 (Feb. 29, 2020, amended March 23, 2020) declaring a state of emergency and imposing a Stay at Home - Stay Healthy Order <https://www.governor.wa.gov/sites/default/files/proclamations/20-25%20Coronavirus%20Stay%20Safe-Stay%20Healthy%20%28tmp%29%20%28002%29.pdf> (last visited Dec. 14, 2020).

² The Governor extended previously announced statewide restrictions because of dramatically increasing cases. https://www.governor.wa.gov/sites/default/files/proclamations/proc_20-25.9.pdf?utm_medium=email&utm_source=govdelivery (last visited Dec. 14, 2020).

³ See <https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard> (last visited Dec. 14, 2020).

⁴ See attached declaration of Michael R. Wilson, President of the Licensee.

⁵ 47 C.F.R. § 73.3598(b) and (b)(1).

Given the unique circumstances caused by the COVID-19 pandemic, Licensee's inability to work on construction is beyond its ability to control and should be considered an "act of God," which serves as a basis for tolling under the Commission's rules. In any event, Licensee requests a waiver of the construction permit deadline for six months, pursuant to FCC Public Notice DA 20-1059, due to the significant economic impact of the pandemic.

Licensee therefore submits that the public interest will be served by waiving the January 12, 2021, construction deadline until the date which is 6 months after all pandemic-related orders affecting construction of K260DH's new facilities are lifted, or, at a minimum, by waiving the January 12, 2021 deadline for six months.

Respectfully submitted,

FOSTER GARVEY PC

A handwritten signature in blue ink, appearing to read "Melodie A. Virtue", is written over a horizontal line.

Melodie A. Virtue
Counsel for Bicoastal Media Licenses IV, LLC

Attachment

DECLARATION

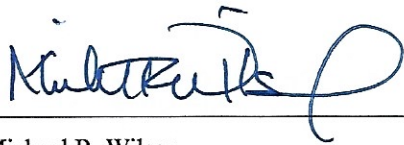
I, Michael R. Wilson, hereby declare under penalty of perjury as follows:

I am President of the Bicoastal Media Companies which are requesting tolling or waiver of the construction periods for its FM translator construction permits as a result of the COVID-19 pandemic impact on our business.

Our year-over-year revenues and cash flow are down by the percentages listed in the chart below for the applicable markets in which we have constructions permits outstanding for fill-in translators.

| <u>Market</u> | <u>Revenue %</u> | <u>Cashflow %</u> |
|----------------|------------------|-------------------|
| Fort Bragg, CA | -26% | -54% |
| Longview, WA | -17% | -28% |
| Arcata, CA | -31% | -49% |
| Corvallis, OR | -11% | -23% |
| Coos Bay, OR | -29% | -41% |
| Ukiah, CA | -26% | -54% |
| Ashland, OR | -32% | -57% |
| Eureka, CA | -31% | -49% |

The foregoing is true and correct based on my personal knowledge or based on information provided to me from our employees.



Michael R. Wilson
President

Dated: December 10, 2020