



**Federal Communications Commission
Washington, D.C. 20554**

December 1, 2020

In reply refer to: 1800B3-VM

SENT VIA EMAIL to AMYMEREDITHRADIOLANE@GMAIL.COM

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

In Re: **K287BP, South Padre, TX**
Facility ID No. 142717
File No. BPFT-20130826AGH

W270CS, Gulfport, MS
Facility ID No. 142760
File No. BPFT-20150518AFL

K221GE, Wickenburg, AZ
Facility ID No. 143311
File No. BPFT-20130827AEC

Dear Ms. Meredith:

On November 2, 2020, we received your request on behalf of Powell Meredith Communications Company (PMCC) for tolling of the construction deadline for the construction permits for FM Translators K287BP, South Padre, Texas, W270CS, Gulfport, Mississippi, and K221GE, Wickenburg, Arizona (Stations), granted on January 29, 2016, for a three-year term expiring on January 29, 2019. These permits were tolled previously, and on August 22, 2019, we restored the permits, ended tolling, and amended the expiration dates to April 20, 2021, based on the time left on each permit as of June 2017.¹ As is explained below, PMCC's request for further tolling is denied.

PMCC requests tolling of the April 20, 2021 deadline to construct the Stations based on the long history of problems it had obtaining the permits, and it further argues that the permits require significant additional engineering amendments which it has not yet undertaken. PMCC further claims that the restriction of movement caused by partial closures in Texas due to the COVID-19 pandemic forced PMCC to delay the construction of its facilities. It states that Ms. Meredith herself tested positive for COVID from June to August of this year, during which time she chose to remain in quarantine and did not take any action to proceed with construction of the permits.

We deny PMCC's tolling request for the following reasons. First, tolling was previously granted to PMCC for the period of time in which the permits were tied up in litigation, and is no longer available now that the litigation is concluded.² The engineering changes that PMCC mentions could have been done at any time and are within PMCC's control and therefore do not warrant tolling.³ Regarding COVID-19, we deny tolling for the following reasons. First, the

¹ See Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, FCC to Ms. Amy Meredith, PMCC, Ref. 1800B3-VM (Aug. 22, 2019).

² *Id.* See also 47 CFR § 73.3598(d) (tolling ends at the conclusion of the administrative or judicial matter).

³ 47 CFR § 73.3598(b) (specifying three particular circumstances, not including engineering changes, in

initial shutdown and Ms. Meredith's positive test are more than 30 days in the past and are no longer ongoing, and therefore tolling is not available.⁴ Second, PMCC has failed to show specifically how any governmental order involving restrictions on construction or travel affected its efforts to construct the Stations.⁵ Third, PMCC does not provide any evidence that it has attempted to construct the Stations. In order to receive more time, PMCC's request should have included documentation demonstrating the specific steps it had taken to commence construction and how COVID-19 had impacted those efforts.⁶ For example, PMCC could have provided (i) evidence that equipment was ordered on time but had been delayed due to shipment constraints or supply chain issues; (ii) correspondence from tower crews indicating that they were scheduled to install equipment but did not have the crew to send; (iii) invoices demonstrating expenditures to further construction; or (iv) leases for the tower site. PMCC has offered no such evidence or any similar evidence of an attempt to construct.

Accordingly, tolling is denied, and the expiration dates stand at April 20, 2021.

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

which tolling may be granted); *see also Texas Grace Communications*, Memorandum Opinion and Order, 16 FCC Rcd 19167, 19170-72, paras. 9-10 (2001) (when it extended the term of broadcast construction permits from eighteen months to three years and adopted the tolling rule, the Commission specifically excluded engineering modifications as a basis for allowing additional time to construct a station).

⁴ *See* 47 CFR §73.3598(c) (permittees must request tolling within 30 days of the tolling event). Based on this provision, we "look back" 30 days to determine if tolling is warranted if the tolling event is still ongoing. If the event has concluded, there is no encumbrance and tolling is not available.

⁵ In most jurisdictions, radio stations are considered essential services and were therefore excluded from COVID-19 restrictions.

⁶ *See* 47 CFR § 73.3598(d).