

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)	
)	
Request for Extension of Time to)	
Construct Digital Facilities)	File No. BEPCDT-20020301ADJ
WWAY-DT, Wilmington, North Carolina)	ID No. 12033
)	

MEMORANDUM OPINION AND ORDER

Adopted: August 22, 2002

Released: August 26, 2002

By the Chief, Media Bureau:

1. The Media Bureau (the "Bureau") has before it a petition filed by LibCo, Inc. ("LibCo") seeking reconsideration of the Bureau's June 3, 2002, letter denying its request for an extension of time to construct the digital facilities for WWAY-DT and admonishing LibCo for failing to meet the May 1, 2002, construction deadline for DTV facilities. For the reasons stated below, we deny the petition.

2. In its petition, LibCo argues that the Bureau erred in concluding that LibCo's showing contained no reasonable plan or projected date by which any DTV facility might be constructed or placed in operation. LibCo contends that it had specific objectives and plans to implement its DTV conversion, which it claims to have outlined and supported in its request for extension. Review of its petition and extension request casts doubt, however, on the cogency of those plans. LibCo admits that it has known since 1999 that its current tower would not support its DTV antenna without clearing the tower of transmitting equipment owned and operated by its tenant. Although LibCo does not give a specific date in its filings, it apparently knew that its original proposal to build a new "community tower," which would carry its antenna and those of other stations, would not come to fruition for up to two years. In its petition, LibCo states that it is now undertaking a multi-station solution that will involve reinforcing its existing tower, but it has not reached agreement with at least one of the potential tenants. Although LibCo does include a "Construction Report and Action Plan" in its petition, elsewhere in its petition it refers to its timeline as a "best guess." Requests for extensions of time to construct a facility cannot be grounded in guesswork, but must be supported by reasonable projections which rely on known facts. Based on the representations in LibCo's petition and its extension request, therefore, the Bureau's original conclusions were justified.

3. ACCORDINGLY, IT IS ORDERED, THAT the petition filed by LibCo, Inc. seeking reconsideration of the Bureau's June 3, 2002, letter denying its request for an extension of time to construct the digital facilities for WWAY-DT and admonishing LibCo for failing to meet the May 1, 2002, construction deadline for DTV facilities IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree
Chief, Media Bureau