



Federal Communications Commission  
Washington, D.C. 20554

October 31, 2006

DA 06-2233

Released: November 1, 2006

CMCG Puerto Rico License LLC  
Erwin G. Krasnow, Esq.  
Garvey Schubert Barer  
1000 Potomac Street, N.W., Fifth Floor  
Washington, DC 20007-3501

Re: WMEI(TV), Arecibo, Puerto Rico  
(Facility ID # 26676)  
BMPCT-20060614ABI

Dear Mr. Krasnow:

This is in regard to the Petition for Expedited Reconsideration and Supplemental Request for Tolling ("Reconsideration Petition") filed by CMCG Puerto Rico License LLC ("CMCG") on October 23, 2006, concerning the construction permit for Station WMEI(TV), Channel 60, Arecibo, Puerto Rico. By letter dated October 5, 2006, Commission staff advised CMCG that the WMEI construction permit had been automatically forfeited pursuant to the provisions of Section 35.3598(e) of the Commission's rules, 47 C.F.R. Section 73.3598(e), because CMCG failed to construct the facility as authorized before the permit expiration date of September 18, 2006.

**Reconsideration Petition.** In the Reconsideration Petition you ask for reinstatement of the WMEI construction permit, with an additional 30 days allowed for construction. You maintain that Acts of God, specifically devastating lightning strikes and unusually severe weather at the tower site, justify tolling of the construction deadline. Alternatively, you argue that a waiver of the deadline is, in any event, justified because of the rare and exceptional circumstances you set forth.

You state that unusually frequent and strong storm systems in the region produced extraordinary periods of lightning and severe weather. You indicate that lightning strikes at the WMEI transmitter site caused damage to the tower lighting system, the ignition of the sky lift machine used to move heavy materials around the work site, the electronics of the winch that does the lifting of materials and the antenna to the top of the tower, the electrical power system feeding

the site, and, possibly, the tower ground system.

**Discussion.** Section 73.3598(b)(ii) of the Commission's rules, 47 C.F.R. Section 73.3598(b)(ii), provides that the period for construction will be tolled when construction is prevented or delayed by certain causes not under the control of the permittee. These causes include Acts of God such as natural disasters. Moreover, in *1998 Biennial Review - Streamlining of Mass Media Applications, Rules and Processes*, 14 FCC Rcd 17525, 17541 (1999) *on reconsideration of* 13 FCC Rcd 23056 (1998), the Commission recognized that tolling might be warranted under other rare and exceptional circumstances beyond the permittee's control.

We believe that the circumstances cited by CMCG, resulting from unusually severe weather at the tower site, justify tolling of the construction period in the instant case for a period of 30 days. Specifically, lightning strikes causing serious damage to the tower and the work site are Acts of God. However, even if these events do not fit within the strict tolling criteria in Section 73.3598(b)(ii), they are certainly rare and exceptional circumstances that would warrant waiver of the strict tolling provisions of the rule, particularly considering the unique difficulties attendant to construction of a broadcast station on the island of Puerto Rico.

Accordingly, in view of the foregoing, the construction permit for WMEI(TV), Arecibo, Puerto Rico (Facility ID # 26676) (File No. BMPCT-19960415KE) IS REINSTATED, *nunc pro tunc*, and the construction permit expiration date IS MODIFIED to a date 30 days from the date of this letter.<sup>1</sup>

Sincerely,

Clay C. Pendarvis  
Associate Chief, Video Division  
Media Bureau

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<sup>1</sup> This is without prejudice to any enforcement action we may undertake regarding the accuracy of statements in WMEI's license application filed on September 18, 2006 (File No. BLCT-20060918AAO).