

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
June 14, 2002

In Reply Refer To:
1800B3-GDG

Eve J. Klindera, Esq.
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006

In re: WSCC(AM), Charleston, SC
Facility No. 73874
File No. BNP-20000414ABL

Dear Ms. Klindera:

This letter concerns the uncontested May 16, 2002 (as supplemented May 31, 2002) notification filed on behalf of Citicasters Licenses, Inc. (“Citicasters”) that the referenced construction permit be treated pursuant to the tolling provisions of 47 C.F.R. § 73.3598(b)(ii).¹ For the reason detailed below, we find that these matters are not of the type provided for in our tolling rules.

The referenced permit to modify the licensed facilities of WSCC(AM) was granted January 25, 2001, and requires that Citicasters complete construction and file an application for broadcast license no later than January 25, 2004. You indicate that Citicasters learned during negotiations for the station’s new tower site that legal issues remained regarding the landowners’ title to the land because title had passed by intestate succession. The landowner brought an action to quiet title, and the Court of Common Pleas of the Ninth Judicial Circuit of South Carolina resolved this matter on August 8, 2001.²

Our tolling rules recognize judicial actions “relating to any necessary local, state, or federal requirement for construction or operation of the station.” *See* 47 C.F.R.

¹This rule permits the tolling of construction permits within the initial three-year construction period based on any cause of action pending before any court of competent jurisdiction relating to any necessary local, state, or federal requirement for the construction or operation of the station, including any environmental requirement.

²Citicaster’s May 16, 2002 notification also sought tolling treatment in recognition of certain difficulties regarding the zoning process. The licensee, via both phone and e-mail from its communications counsel, has since withdrawn this portion of its initial request.

§ 73.3598(b)(ii). The private litigation to quiet title among heirs of a landowner, on which Citicasters bases its tolling request, does not relate to any such governmental requirement for construction.³

Accordingly, Citicasters May 16, 2002 request for tolling of the Commission's construction period rules, 47 C.F.R. § 73.3598(b), IS DENIED.

Sincerely,

Peter H. Doyle, Chief
Audio Division
Office of Broadcast License Policy
Media Bureau

³Requests for treatment pursuant to the Commission's tolling rules, 47 C.F.R. § 73.3598(c), generally must be filed within 30 days of the claimed event. Applicants failing to comply with this rule may have difficulty documenting the event and place themselves at risk of learning of a potential denial of tolling after their authorization already expired. We considered the litigation claim made here, however, because it was based on a well-documented Court decision brought to our attention well before permit expiration.