

Guenter Marksteiner  
WHDT-LD  
August 2022

Request for Limited Extension of Time to Submit Invoices to LPTV  
Broadcaster Reimbursement Fund

Guenter Marksteiner (“Licensee”), licensee of WHDT-LD, Boston, Massachusetts (Facility ID 59488) (“the Station”), pursuant to the Commission’s Public Notice, DA 22-817 (released August 4, 2022) at n.5, hereby requests an extension of the deadline to submit invoices for reimbursements related to the repack of the Station.<sup>1</sup>

As the Commission is aware, the Licensee suffered significant delays in equipment delivery necessary to complete the full power construction of the Station’s repacked facility, and those delays subsequently made coordination with a helicopter to lift the equipment to the Station’s rooftop site impossible given the early start to the wildfire season in the West and the tripling of the price due to fuel cost increases. The Licensee has leveraged the engineering expertise and the familiarity with the site of the Licensee personally and the vendors he has engaged and found a construction solution to obviate the need for a helicopter. The solution involves modifying an existing UHF antenna support structure at the site to hold the larger and heavier VHF antenna that the Station needs to use as a result of the repack and installing the recently received equipment on the modified structure. The Licensee has pending an application for additional time to complete the construction in File No. 0000195693 which more fully describes the delays and seeks additional time, until January 25, 2023, to complete the remaining construction tasks.

While also dealing with the difficult circumstances surrounding the buildout of the Station, the Licensee has dedicated considerable resources to submitting and resubmitting, as necessary, invoices related to its efforts to construct the Station’s repacked facilities to date, as well as to securing various estimates for work that remains outstanding. However, it is expected that construction work will continue past the September 6, 2022 deadline for the submission of invoices and that some additional invoices will be received.

Given the unusual circumstances, a short extension of time to submit invoices for reimbursement is justified. The Commission’s rules allow for a station’s construction permit deadline to be tolled under specific circumstances involving acts of God, delays due to administrative or judicial review of the permit’s grant, or court proceedings regarding local, state, or federal requirements affecting the construction, including zoning and environmental requirements.<sup>2</sup> In addition, stations may also be granted a waiver of the tolling rule to receive additional time to construct in the case where “rare or exceptional circumstances” not outlined above prevent construction.<sup>3</sup> The flexibility that these rules provide for and the policy aims they further would be undermined if the invoice submission date is not similarly extended. Given the considerable expenditure of capital involved in the Station’s construction, as well as the considerable resources needed to manage the invoice submission, invoice explanation and invoice resubmission processes, adherence to the September 6, 2022 invoice submission deadline diverts human resources needed in the buildout from buildout tasks to invoice management tasks as well as risks leaving expenditures necessary

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<sup>1</sup> To the extent necessary, a waiver is requested to permit filing of this request with fewer than 30 days remaining.

<sup>2</sup> 47 C.F.R. §73.3598(b).

<sup>3</sup> See, e.g., *1998 Regulatory Review- Streamlining of Mass Media Applications, Rules and Processes*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17536 (1999) at ¶ 42.

to the completion of the project uncompensated.

For these reasons, a short extension of time until February 17, 2023 to submit invoices related to the Station's buildout is respectfully requested.