

Amendment to 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 provides additional information to support its request for extension of the deadline to submit invoices for reimbursements related to the repack of the Station. The staff has requested additional information to support this request including a detailing of the work done to date, the work remaining to be done and evidence of the extraordinary circumstances necessitating the extension.

As the Licensee has detailed in its prior-filed and pending tolling requests, the Licensee was notified in late 2021 that certain of the equipment necessary to construct the Station’s full power CP facility would not be delivered in time due to global supply chain disruptions affecting various vendors. Chief among these is the Station’s top-mounted VHF antenna. As the Station is being reassigned from a UHF to a VHF channel as part of the repack, the Licensee could not secure another VHF antenna on such short notice and it could not repurpose the Station’s former UHF antenna to fit the need. These delays in equipment delivery necessary to complete the full power construction of the Station’s repacked facility 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.

Near the end of its tolling extension, the Licensee received notice from the antenna vendor that an essential structural component for its main antenna would not be deliverable from the UK until late in 2022. The Licensee was further advised that this delay would not be a factor since a helicopter crane could not be secured to install the antenna until the Spring of 2023 due to unusual fires on the West Coast in any event.

With no alternative to a helicopter crane being available, the Licensee leveraged his engineering knowledge to devise an alternate construction plan. The Licensee undertook extensive engineering studies to confirm the structural integrity necessary to implement the alternative plan, and hired outside engineering firms to review his proposal and enable the risk managers required by the landlord and insurance carriers to permit construction to proceed in 2022.

The Licensee believes that construction pursuant to its alternative plan can be completed by January 2023, and it has pending a request for tolling of its construction permit until then. In an abundance of caution, to assure receipt of final invoices for work performed in January 2023, the Licensee has requested an extension of time until February 2023 to submit remaining invoices.

The buildout alternative involves repurposing the support structure of the existing UHF antenna which is installed at the Station’s site to hold individual dipoles for the VHF antenna that the Station needs to use as a result of the repack. Ordinarily, the antenna manufacturer would assemble the radiating elements onto a custom support structure fabricated in the UK, test the system at its facility on the West Coast, and then ship the assembled antenna to the site where it would be lifted

into place by a helicopter crane. The existing UHF antenna would be removed by the helicopter crane at this time. The alternative plan revises the Station's contract with its antenna supplier by deleting the antenna support structure entirely, and revises testing, packing, and transportation of the items to be shipped. The plan changes the work of the tower crew from mounting an assembled antenna and support structure, to extensively modifying an existing UHF antenna mast with new appurtenances which enable hoisting and mounting individual VHF dipole radiators to it.

As previously described to the Commission in its tolling and STA requests, which are incorporated herein by reference, the Licensee has already completed many tasks involved with constructing the Station and, as a result, the Station has been operational since January 2022 pursuant to Special Temporary Authority utilizing a backup antenna. A summary of tasks and construction to date is provided below.

The Licensee coordinated and mobilized various teams of contractors necessary to the effort and undertook many pre-construction activities called for by the buildout, at one point having multiple engineers and contractors working on the building's rooftop at once. A supervising engineer, with various subcontractors, photographed and surveyed the building tower structure, and assembled extensive data which formed the basis of knowledge from which the Licensee was able to devise its alternative construction strategy.

The Licensee completed an RF radiation study commensurate with the operation of numerous FM radio station antennae on the site, to assure the safety of workers.

Guy wire tensioning was tested for its ability to satisfy code compliance with the proposed VHF antenna.

The Licensee secured a contractor to address FAA tower lighting changes caused by the addition of the Station's antenna to the tower.

The transmitter contractor flew to Boston to measure and photograph the building stairwells to assure that the transmitter could be disassembled and delivered via the building's utility elevator. The Station's electrical contractor installed new circuits in the transmitter room for electrical power. Transmitter room drawings were completed and approved for construction by the landlord.

An independent RF engineer was retained to complete the studio-transmitter-link.

The transmitter manufacturer completed RF compliance testing of the Station's low power backup VHF transmitter.

A backup antenna was installed on the tower below the height of the CP antenna aperture. The Licensee paid for special tower rigging to assure resumption of service by 2022. In January 2022, an RF engineer conducted field tests to verify reception and coverage. An application for Special Temporary Authority for the station to operate at variance to its CP was filed with the Commission, and STA operations commenced on time.

Since then, the Licensee has dedicated considerable resources to submitting invoices related to construction of the Station's repacked facility, and to securing various estimates for work that remains outstanding. The invoices that remain are for the Station's main antenna and transmitter, alterations to the transmitter room to route new transmission lines, modifications to the existing support mast by the tower crew, delivery and installation of the VHF antenna components. Thereafter, an application for license to cover will be prepared and filed, and the invoices for those

activities, including legal fees, will be submitted. All known vendor invoices and proposals have been submitted.

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. 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. 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 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.