

**Request for Special Temporary Authority and
Extension of Deadline to Submit Invoices for Reimbursement
from the TV Broadcaster Relocation Fund**

Pursuant to Sections 1.3 and 73.1635 of the rules of the Federal Communications Commission (“FCC” or “Commission”) and the procedures set forth in the *June 2022 Invoice Reminder PN*,¹ WLS Television, Inc.,² Fox Television Stations, LLC,³ and NBC Telemundo License LLC⁴ (collectively, the “Chicago Broadcasters”), respectfully request Special Temporary Authority (“STA”) and limited extension of the January 17, 2023 deadline to submit all invoices for reimbursement from the TV Broadcaster Relocation Fund (“Reimbursement Fund”).⁵ As explained herein, due to circumstances beyond their control (including delays in obtaining necessary steel components as a result of global supply chain failures, and multiple helicopter lift delays – all of which are outside of the control of the Chicago Broadcasters), the Chicago Broadcasters will not have incurred all repack-related expenses by January 17, 2023, and thus request that they be given until **April 17, 2023** to submit their invoices for reimbursement from the Reimbursement Fund.⁶

¹ See 47 C.F.R. § 1.3; 47 C.F.R. § 73.1635; *Incentive Auction Task Force and Media Bureau Remind Reimbursement Program Participants that the Third and Final Filing Deadline Approaches in 90 Days*, Public Notice, DA 22-619 at note 5 (rel. June 8, 2022) (“*June 2022 Invoice Submission Reminder PN*”).

² WLS Television, Inc. is the licensee of commercial television station WLS-TV, Channel 22, Facility ID No. 73226, Chicago, Illinois (“WLS”). WLS channel shares with WXFT, Facility ID No. 60539.

³ Fox Television Stations, LLC is the licensee of commercial television station WFLD, Channel 24, Facility ID No. 22211, Chicago, Illinois (“WFLD”). WFLD channel shares with WPWR-TV, Facility ID No. 48772.

⁴ NBC Telemundo License LLC is the licensee of commercial television station WMAQ-TV, Channel 33, Facility ID No. 47905 (“WMAQ” and, together with WLS and WFLD, the “Chicago Stations”). WMAQ channel shares with co-owned WSNS-TV, Facility ID No. 70119, Chicago, Illinois.

⁵ Concurrently herewith, the Chicago Stations are submitting a request for a seventh waiver of the tolling standard set forth at Section 73.3598(b) of the FCC’s rules as applied to the Chicago Stations’ post-auction construction permits (“Seventh Waiver Request”). The Seventh Waiver Request contains additional information regarding recent progress, delays and obstacles faced by the Chicago Stations in connection with the repack.

⁶ The Incentive Auction Task Force and Media Bureau established March 22, 2022 as the deadline by which repacked television stations assigned completion dates in Phases 6-10 must submit all remaining invoices and initiate close-out procedures. See *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, Public Notice, 35 FCC Rcd 11273 (rel. Oct. 7, 2020) (“*Invoice Filing Deadline PN*”). On March 21, 2022, the Media Bureau extended the invoice filing assignment deadlines for the Chicago Broadcasters from March 22 to September 6, 2022. See Letter to WLS Television, Inc. et al. from Barbara A. Kreisman, Chief, Video Division, Media Bureau, Federal Communications Commission (March 21, 2022). On August 31, 2022, the Media Bureau extended the invoice filing assignment deadlines for the Chicago Broadcasters from September 6, 2022 to January 17, 2023. See Letter to WLS Television, Inc. et al. from Barbara A. Kreisman, Chief, Video Division, Media Bureau, Federal Communications Commission (Aug. 31, 2022).

I. BACKGROUND – THE WILLIS TOWER REPACK PROJECT

The Chicago Stations broadcast from Willis Tower, a 1,450 foot tall tower (excluding its broadcast antennas) constructed in the early 1970s. Willis Tower is a densely populated multi-tenant communications platform that supports many full-power television stations (including the Chicago Stations), three Class A television stations and several FM radio facilities. Willis Tower is located in the heart of downtown Chicago and, as a result, various zoning and planning departments within the city of Chicago (“City”) must grant prior approval for work at the Willis Tower site. Additional support is required from the Chicago Police Department (“CPD”) to remove and install the Chicago Stations’ broadcast antennas and other related equipment by helicopter.

The Chicago Stations, along with several other broadcast stations located on Willis Tower, were assigned new channels as part of the broadcast incentive auction repacking process. The Chicago Stations timely ceased broadcasts on their respective pre-auction channels by the end of Phase 6. Since having vacated their pre-auction channels at that time, the Chicago Stations have been broadcasting on their post-auction channels with their auxiliary or interim facilities while work on their post-auction main facilities continues.

Given the unique engineering and safety considerations that accompany modification and installation of facilities on a skyscraper located in a densely populated area, all construction work related to the repack is being coordinated, managed and executed through Willis Tower (as the tower owner) and its engineering firm.⁷ Willis Tower has planned, and is implementing, a complex repacking project that involves multiple, interconnected phases involving, *inter alia*, (1) installation of an auxiliary antenna for WLS on the West Mast (“West Mast Auxiliary Antenna”), (2) installation of WLS’s post-auction main antenna (“WLS Main Antenna”) on the East Mast, and (3) installation of the post-auction main antennas WFLD and WMAQ (“WFLD/WMAQ Main Antennas”) on the West Mast.

The West Mast Auxiliary Antenna was installed in the fall of 2021, but the remaining two phases of construction are ongoing. Accordingly, the instant request for an extension of the

⁷ Willis Tower is coordinating, managing, and executing all of the planning, permitting, structural design and other work to complete the project, including work relating to installation of the required antennas and transmission lines and other tower-related work. As such, the Chicago Broadcasters are tenants that have little ability to control Willis Tower’s work to complete the repack project, which has been frustrated by continuous cancelations of helicopter lifts due to unsafe weather conditions and denials (including failures to issue) by local officials in Chicago of permits needed for helicopter lifts, and global supply chain failures. The project has been further complicated by the untimely and tragic death of the chief engineer/project manager at the end of 2021. Nonetheless, the Chicago Broadcasters are continuing to work cooperatively to ensure that Willis Tower understands the obligations under the FCC’s rules and procedures and the corresponding need to complete the repack in conformance with Commission deadlines.

invoice submission deadline is being filed to enable the Chicago Broadcasters to submit invoices for repack-related expenses incurred after January 17, 2023.⁸

II. THERE IS GOOD CAUSE TO EXTEND THE JANUARY 17 FINAL INVOICE SUBMISSION DEADLINE

Pursuant to Section 1.3 of its rules, the FCC may waive its rules “for good cause shown.”⁹ Specifically, a waiver is warranted where “particular facts would make strict compliance with the rule inconsistent with the public interest” and “special circumstances warrant a deviation from the general rule.”¹⁰ In evaluating a request for waiver, the Commission takes “into account considerations of hardship, equity, or more effective implementation of overall policy,”¹¹ as well as whether waiver would result in a “more effective implementation of overall policy” than enforcing the rule as written.¹²

When establishing the deadlines to submit invoices for reimbursement from the Reimbursement Fund, the Incentive Auction Task Force and Media Bureau (together, the “Bureau”) contemplated that, in some circumstances, strict enforcement of these deadlines would be contrary to the public interest. An entity seeking an extension of the final invoice deadline is required to demonstrate that “circumstances requiring the extension were outside of its control, such as local zoning or a force majeure event occurring proximate to the final submission deadline.”¹³ As explained above, due to rare and exceptional circumstances, the final post-auction facilities for the Chicago Stations are not yet fully constructed. Accordingly, the Chicago Broadcasters have not yet incurred all costs associated with the repack of their respective facilities. Thus, a limited extension of the invoice submission deadline – from January 17, 2023 to **April 17, 2023** – is warranted.

A. Since Receiving their Post-Auction Channel Assignments, the Chicago Broadcasters Have Worked Diligently with Willis Tower to Complete the Repack

As set forth above, and has been detailed extensively in their filings with the Commission requesting extensions of their post-auction construction permits, the repack project has been moving forward notwithstanding the complex nature of the post-auction transition for the broadcast stations located at Willis Tower.¹⁴ In support of the instant request for extension, Willis

⁸ The Chicago Broadcasters are in the process of submitting invoices received for costs incurred to date in connection with the repacking of the Chicago Stations, and will submit any remaining invoices they receive by January 17.

⁹ 47 C.F.R. § 1.3.

¹⁰ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), citing *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

¹¹ *WAIT Radio*, 418 F.2d at 1159.

¹² *Id.*; *Northeast Cellular*, 897 F.2d at 1166.

¹³ See *June 2022 Invoice Submission Reminder PN* at note 5.

¹⁴ See Applications of WLS Television, Inc., NBC Telemundo License, LLC, Fox Television Stations, LLC, LMS File Nos. 0000196983, 0000196988, and 0000196980 (filed Aug. 4, 2022). (extending the post-auction CPs for the Chicago Stations based upon a demonstration that special, rare and exceptional circumstances precluded construction of the Chicago Stations’ post-auction facilities)

Tower provided the Chicago Stations with an update on progress towards completion of the repack since September 2022.¹⁵ Based on these materials and ongoing discussions with representatives of Willis Tower, the Chicago Broadcasters highlight the following progress since the Bureau granted the most recent request to waive the tolling standard on September 1, 2022:

- Helicopter removal of WFLD’s channel 31 antenna in October 2022, and helicopter removal of the triple stack antenna in November 2022;
- Continued efforts to complete fabrication of the West Tower wedding cake and top plate assembly, despite steel shortages due to global supply chain issues;
- Completion of structural analyses of the East Mast and the West Mast, both of which are required in order to obtain certain permits and approvals required under local ordinances, subject to steel availability and the completion of peer review; and
- Working with City officials to facilitate the permitting and approval process, and obtain approval for future helicopter lifts, with backup dates. The Bureau staff’s July 19, 2022 letter

(“Sixth Waiver Request”); Letter from Barbara A. Kreisman, Chief, Media Bureau, FCC to the Chicago Stations, LMS File Nos. 0000196983, 0000196988, and 0000196980 (Sept. 1, 2022) (“Sixth Waiver Grant”) (authorizing Sixth Waiver Request); Applications of WLS Television, Inc., NBC Telemundo License, LLC, Fox Television Stations, LLC, LMS File Nos. 0000185060, 0000185065, and 0000185076 (filed Feb. 18, 2022). (extending the post-auction CPs for the Chicago Stations based upon a demonstration that special, rare and exceptional circumstances precluded construction of the Chicago Stations’ post- auction facilities) (“Fifth Waiver Request”); Letter from Barbara A. Kreisman, Chief, Media Bureau, FCC to the Chicago Stations, LMS File Nos. 0000185060, 0000185065, and 0000185076 (Mar. 23, 2022) (“Fifth Waiver Grant”) (authorizing Fifth Waiver Request); Applications of WLS Television, Inc., NBC Telemundo License, LLC, Fox Television Stations, LLC, LMS File Nos. 0000161777, 0000161509, and 0000161587 (filed Sept. 30, 2021) (extending the post-auction CPs for the Chicago Stations based upon a demonstration that special, rare and exceptional circumstances precluded construction of the Chicago Stations’ post- auction facilities) (“Fourth Waiver Request”); Letter from Barbara A. Kreisman, Chief, Media Bureau, FCC to the Chicago Stations, LMS File Nos. 0000161777, 0000161509, and 0000161587 (Oct. 7, 2021) (“Fourth Waiver Grant”) (authorizing Fourth Waiver Request); Applications of WLS Television, Inc., NBC Telemundo License, LLC, Fox Television Stations, LLC, LMS File Nos. 0000139978, 0000139959, and 0000139992 (filed Mar. 216, 2021) (extending the post-auction CPs for the Chicago Stations based upon a demonstration that special, rare and exceptional circumstances precluded construction of the Chicago Stations’ post- auction facilities) (“Third Waiver Request”); Letter from Barbara A. Kreisman, Chief, Media Bureau, FCC to the Chicago Stations, LMS File Nos. 0000139978, 0000139959, and 0000139992 (Apr. 9, 2021) (authorizing Third Waiver Request); Applications of WLS Television, Inc., NBC Telemundo License, LLC, Fox Television Stations, LLC, LMS File Nos. 0000120815, 0000120796, and 0000120787 (filed Aug. 26, 2020) (“Second Waiver Request”); Letter from Barbara A. Kreisman, Chief, Media Bureau, FCC to the Chicago Stations, LMS File Nos. 0000120815, 0000120796, and 0000120787 (Oct. 21, 2020) (authorizing Second Waiver Request); *See also*, Applications of WLS Television, Inc., NBC Telemundo License, LLC, Fox Television Stations, LLC, LMS File Nos. 0000108674, 0000108706, and 0000108713 (filed Mar. 23, 2020) (“First Waiver Request”); and Letter from Barbara A. Kreisman, Chief, Media Bureau, FCC to the Chicago Stations, LMS File Nos. 0000108674, 0000108706, and 0000108713 (Apr. 18, 2020) (authorizing First Waiver Request).

¹⁵ *See* Attachment A (materials supplied by Willis Tower).

to the City to advise the City of the July 3, 2023 statutory deadline has been instrumental in expediting the City's approval process. According to Willis Tower, since receiving the Bureau staff's letter, the City has been more cooperative and responsive in connection with the helicopter permitting process, but delays have continued. For example, as described below, the helicopter lift scheduled for December 11, 2022 was canceled because of supply chain issues and will need to be rescheduled.

B. Due to Circumstances Outside of the Chicago Broadcasters' Control, Construction of the Final Post-Auction Facilities for the Chicago Stations Is Not Yet Complete and Will Result in Additional Invoices After the January 17 Deadline

While the Chicago Broadcasters have been working with Willis Tower since 2017 to implement the repack, due to delays and obstacles outside of the Chicago Broadcasters' control, the final post-auction facilities have not yet been completed. The delays and obstacles faced historically have been well-documented.¹⁶ Additional delays and obstacles have continued throughout 2022, including the following:

- The company that Willis Tower is working with to fabricate the WFLD/WMAQ wedding cake antenna mount and top plate steel assembly has faced challenges procuring the material necessary to complete fabrication due to global supply chain issues. In addition, some of the purchased materials have failed to meet applicable specifications.¹⁷ On December 7, 2022, the wedding cake mount manufacturer, ROHN, advised Willis Tower that an extension is needed to provide the wedding cake mount due to: 1) the worldwide delay of rolled steel delivery; and 2) the need to procure specific material that fits the engineering specifications of the project. According to ROHN, they have been testing material for the last 6-8 months and are down to three raw parts: 4x4" angle, 3.5" solid round bar, and C6x13 channel. ROHN indicates that it is in the process of testing the solid round bar with a metallurgist to get the material approved. The C6x13 channel has been changed to plate so that ROHN can move forward with that material. ROHN sent another sample of the 4x4" angle to the metallurgist company for review on December 16, 2022, and indicated that the testing will take another 3 weeks minimum to obtain the results.
- There are at least eight helicopter lifts needed to complete the Willis Tower repack project, of which four have been completed. Because the helicopter lifts entail removal and installation of various equipment (e.g., antennas, antenna mounts), thereby impacting structural loads, it is generally necessary to perform the lifts in a particular sequence, such that if one lift is delayed, the entire sequence may be delayed. Willis Tower had scheduled the first of remaining lifts for July 17, 2022, but that lift was canceled due to adverse weather. The lift was rescheduled to August 28, 2022 but was again canceled and postponed until December 11, 2022.¹⁸ However, the lift was postponed once again because of supply chain issues,

¹⁶ See, e.g., First Waiver Request at 1-2; Second Waiver Request at 4-5; Fourth Waiver Request at 4-6; Fifth Waiver Request at 5.

¹⁷ Willis Tower also reports that the death of the chief engineer/project manager at the end of 2021 has led to delays as replacement personnel become familiar with the complex project.

¹⁸ Historically, helicopter lifts have occurred on Sunday mornings between 8:00 am and 11:00 am local time.

meaning that essential steel components were unavailable. These components are essential to securing the equipment that will be installed during the helicopter lift. Specifically, in the normal course the design would be finalized and then the necessary steel components would be ordered. In this case, some of the necessary steel parts were not available. Because other suitable parts were available, the design was re-engineered. However, for some of those alternative steel components, there is only one shape that works and if the steel is subpar it needs to go through a heating and cooling procedure to make it harder so that it can be used. Accordingly, the re-engineered design was necessitated by these supply chain issues, and the final components could not be delivered in time to obtain a permit from the City by December 11, 2022.¹⁹ In its updated materials in Attachment A, Willis Tower has confirmed that City officials are now promptly issuing permits needed for helicopter lifts, and Willis Towers has reserved helicopters for both scheduled and fallback dates beginning on the last Sunday in January (potentially for the WLS Main Antenna installation) and continuing through February 2023.²⁰

At the request of the Chicago Broadcasters, Willis Tower has been working to identify measures to expedite the timeline to complete the repack project, mitigate further delays, and develop contingency plans if such delays nonetheless occur. Attachment A hereto, provided by Willis Tower to the Chicago Broadcasters, sets forth a summary of these efforts.²¹

The above circumstances warrant an extension of the January 17 invoice submission deadline because the delays since August 2022 have been caused by, *inter alia*, the unavailability of steel due to global supply chain issues, and the cancelation or delay of several helicopter lifts due to the inability to obtain necessary City permits, which is outside of the control of the Chicago Broadcasters.²² In support of this request, and based on information provided by Willis Tower, it is currently anticipated that invoices will be available for submission as follows:

¹⁹ According to Willis Tower, its procedure is to request a tentative approval for a permit from the City, but does not request a final approval for a permit until it can confirm that the supply chain issues have been resolved.

²⁰ At least two of the remaining lifts require heavy lift helicopters. The company that Willis Tower had previously used for heavy lifts is no longer providing this service, but Willis Tower has contracted with a replacement vendor.

²¹ The implementation of the contingency plans, difficulties in obtaining materials due to widespread supply chain shortages impacting the marketplace, and other factors may increase costs from those estimated herein. The Chicago Broadcasters have asked Willis Tower to update them promptly with any changes to cost estimates so that this information can be provided to the Bureau in a timely manner.

²² See *June 2022 Invoice Submission PN* at note 5 (stating that a request for limited extension of the September 6 invoice deadline should include “evidence that circumstances requiring the extension were outside of its control, such as local zoning or a force majeure event occurring proximate to the final submission deadline.”).

Category of Work	Estimated Cost	Estimated Invoice Submission Date²³
Work performed in connection with the East Tower peer reviews	\$10,000	January 2023
Work performed to remove (i) East pole auxiliary antennas and (ii) West pole WFLD channel 31 auxiliary antenna	\$650,000	December 16, 2022
Work performed to install WLS's channel 22 antenna	\$250,000	March 2023
Installation of East Tower reinforcement	\$150,000	April 2023
Work relating to the fabrication and shipment of WFLD/WMAQ wedding cake antenna mount and top plate support	\$250,000	February 2023
Work performed in connection with the West Tower structural re-analysis and associated peer reviews	\$150,000	February 2023
Installation of wedding cake top plate support	\$250,000	February 2023
Installation of WMAQ wedding cake, WMAQ antenna, WFLD wedding cake, WFLD antenna damper, and WMAQ-WFLD testing	\$600,000	April 2023
Installation of West Tower reinforcement	\$500,000	May 2023 ²⁴
Installation of new channel horizontals	\$700,000	May 2023
Helicopter lift of top plate weldment and installation of new West Tower top plate stiffener assembly	\$300,000	May 2023

²³ Willis Tower has committed to providing the Chicago Broadcasters with invoices on a rolling basis. Assuming these invoices are supplied in a form likely to be accepted by Fund processors, it is possible that invoices for the work described in the chart may be available prior to the date listed.

²⁴ The Chicago Broadcasters acknowledge that the estimated timeline for certain reimbursement items listed herein extends beyond the current requested extension date of April 17, 2023. However, the Chicago Broadcasters have included these items in order to give the Commission a full view of outstanding expenses related to the incentive auction repacking process. The Chicago Broadcasters intend to work diligently and proactively to tighten these estimated timelines, and to work with the Commission expeditiously on final invoicing matters.

Category of Work	Estimated Cost	Estimated Invoice Submission Date ²³
Decommissioning and helicopter removal of East Tower auxiliary poles and arms	\$350,000	June 2023
Decommissioning and helicopter removal of West Tower auxiliary poles and arms	\$350,000	May-June 2023
Installation of custom radome mods	\$650,000	June 2023
RF shutdowns	\$300,000	June 2023

C. Grant of the Requested Relief is Consistent with Congress’s Intent that Broadcasters Be Reimbursed for Costs Reasonably Incurred to Relocate to Their Post-Auction Facilities

Grant of the requested extension is consistent with the statutory mandate that repacked broadcasters be reimbursed for costs reasonably incurred in connection with their relocation to new television channels as a result of the broadcast incentive auction.²⁵ While the Chicago Broadcasters successfully transitioned to their post-auction channels (thereby ensuring that the Chicago Stations could provide their viewers with uninterrupted over-the-air service), their final, post-transition facilities are still under construction. If the Chicago Stations are not permitted to seek reimbursement for these costs after January 17, they will be forced to pay for them out-of-pocket, which is contrary to Congress’s goal that broadcasters be fully compensated for repack-related expenses.

III. CONCLUSION

For the reasons stated herein, the Chicago Broadcasters respectfully request that the Bureau grant the instant request for a legal STA and extension as needed to shift the deadline to submit its invoices for reimbursement from the Reimbursement Fund from January 17, 2023 to **April 17, 2023**.

²⁵ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (requiring the FCC to reimburse broadcasters for costs reasonably incurred to transition to a new channel assignment); *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, FCC 14-50, at para. 596 (2014) (“The Spectrum Act requires the Commission to reimburse broadcast television licensees for costs “reasonably incurred” in relocating to new channels assigned in the repacking process”).

Attachment A
Materials Provided by Willis Tower

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