



Federal Communications Commission
Washington, D.C. 20554

May 5, 2023

West Virginia Educational Broadcasting Authority
Carl Antolini
600 Capitol Street
Charleston, WV 25301
bantolini@wvpublic.org
(via electronic mail)

Re: Request for Invoice Deadline Extension for
W30CO-D, Wheeling, West Virginia
Facility ID No. 167354
LMS File No. 0000214300

Dear Licensee,

On April 28, 2023, West Virginia Educational Broadcasting Authority (WVEBA or Licensee), licensee of W30CO-D, Wheeling, West Virginia (Station),¹ filed the above-captioned application requesting extension of the Station's current April 30, 2023, invoice filing deadline for the TV Broadcaster Relocation Fund (the Reimbursement Fund or Fund) to May 15, 2023. For the reasons discussed below, we grant the Request and extend the invoice filing deadline to May 15, 2023. We caution Licensee that we do not anticipate granting any additional extension and remind WVEBA that it must complete the Reimbursement Fund close-out process prior to July 3, 2023, when unobligated funds will be rescinded to the U.S. Treasury and no longer available for reimbursement. To facilitate Licensee's timely close-out, WVEBA should therefore prepare to swiftly initiate close-out procedures, process all close-out instructions received from Fund Administrator expeditiously, and, when W30CO-D submits invoices for reimbursement on or after the date of this letter, also submit proof for each invoice that it has paid that vendor. This will expedite the ultimate close-out process.

Background. Pursuant to the Commission's direction, the Incentive Auction Task Force and Media Bureau set deadlines for final invoice submission to the Reimbursement Fund using a phased assignment approach.² We noted, however, that if an entity faced circumstances beyond its control, we could consider a limited extension beyond the third and final invoice filing assignment deadline of September 6, 2022.³ An entity requesting such an extension was required to provide 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.⁴ We further stated that we would not grant extensions that do not provide the staff with sufficient processing time to complete close-out procedures

¹ The call sign associated with facility ID number 167354 is identified in LMS as W30CO-D. In its narrative attached to LMS File No. 0000214300, however, WVEBA refers to call sign "W17EF-D" with facility ID 167354. This letter shall refer to the LMS-designated call sign W30CO-D associated with that facility ID.

² See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6815-16, 6819, paras. 607, 616-17 (2014) (*Incentive Auction R&O*), subsequent history omitted; *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, Public Notice, 35 FCC Rcd 11273, 11277, paras. 10-11 (MB/IATF 2020) (*Invoice Filing Deadline PN*) (setting three filing deadlines for submission of all remaining repack invoices: October 8, 2021; March 22, 2022; and September 6, 2022).

³ See *Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13.

⁴ *Id.*

for all stations.⁵ On August 4, 2022, we issued a final reminder to Fund entities that any outstanding invoices must be filed by the September 6 deadline and that we did not anticipate further extensions of the invoice filing deadline, barring limited extensions requested by entities that are able to provide evidence that circumstances outside of their control, such as local zoning or a force majeure event occurring proximate to the final submission, would necessitate a limited deadline extension.⁶

The Station requested and received two prior extensions of the September 2022 invoice filing assignment deadline, the first of which was to December 15, 2022, and the second to April 30, 2023.⁷ Those extensions were based on WVEBA's representations that it had experienced a series of delays beyond its control, including the discovery of technical issues that required a new bidding process, staff turnover and shortages, and other emergency situations.⁸ Licensee also experienced difficulties obtaining background documentation from Nexstar, which owns the tower from which the Station was to operate. WVEBA states Nexstar never provided the requested information, so WVEBA conducted an abbreviated feasibility study without Nexstar's data.⁹ WVEBA learned on December 15, 2022, that the site had failed. As a result, WVEBA states it obtained approval in January 2023 to move the Station to a new tower but then learned in February that the Station needed to mitigate prohibited interference to another station. WVEBA states it then reconfigured the antenna that had already been purchased and switched it from an omnidirectional antenna to a directional antenna.¹⁰ In parallel, WVEBA states that a structural analysis of the new tower was completed and received a passing result on April 10, 2023.¹¹

WVEBA states that as of April 13, it was ready to proceed with the installation as soon as the reconfigured antenna was shipped. WVEBA states it had hoped retrofitting the antenna would take only a few weeks, but the process took longer than anticipated and was not completed until late April.¹² WVEBA reports that the antenna has now shipped, and WVEBA confirmed that a work crew is available to install the reconfigured antenna and will be on site to begin that work on May 1.¹³ WVEBA expects to complete the installation within a week but, given current forecasts for rain at the tower site during the first week of May, the schedule might slip by a few days.¹⁴ Accordingly, WVEBA is requesting a two-week extension to account for possible weather-related delays.

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to extend the Station's current invoice filing deadline of April 30, 2023, to May 15, 2023. Licensee has provided evidence that circumstances beyond its control justify an extension. We

⁵ *Id.*

⁶ *TV Broadcaster Relocation Fund Third and Final Invoice Filing Deadline Approaches In Thirty Days*, Public Notice, DA 22-817, n.5 (MB/IATF Aug. 4, 2022).

⁷ See Letters from Barbara A. Kreisman, Chief, Video Division, FCC Media Bureau, to WVEBA, LMS File Nos. 0000199231 and 0000205616 (Oct. 27, 2022 and Mar. 17, 2023, respectively).

⁸ See Request at Attach., 1-2.

⁹ See *id.* at 2.

¹⁰ See *id.* at 2-3.

¹¹ *Id.* at 2.

¹² *Id.* at 3.

¹³ *Id.*

¹⁴ *Id.*

also find that this final grant of Licensee’s request is not likely to negatively impact the staff’s ability to process the Station’s invoices or its ability to complete close-out procedures for all stations, particularly if WVEBA provides proof of payment for all invoices it submits as of the date of this letter. We therefore conclude that the public interest will be served by grant of the extension.

WVEBA should diligently pursue submission of all remaining invoices and any estimates as early as possible without waiting for the May 15, 2023, final invoice filing deadline, **and should submit proof of payment for each invoice that the Station submits on or after the date of this letter.** We remind WVEBA that pursuant to the Spectrum Act, the Stations are eligible for reimbursement of costs “reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other.”¹⁵ Additional expenses incurred, such as expenses resulting from changes in a station’s transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

We caution WVEBA that we do not anticipate allowing further extensions of the final May 15, 2023, invoice filing deadline. A station’s failure to complete any remaining construction in a timely manner and to make final submissions by the revised invoice filing deadline could preclude that station from receiving full reimbursement. Unobligated amounts in the Fund must be rescinded to Treasury and the Commission staff (with the support of the Fund Administrator) must have sufficient time to fully process all reimbursement requests and complete close-out procedures prior to July 3, 2023.¹⁶

In consideration of the above facts, WVEBA’s Request for extension of the invoice filing deadline for the Station **IS GRANTED**. The invoice filing deadline for W30CO-D, Wheeling, West Virginia, **IS EXTENDED through May 15, 2023**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Virginia Hiner, Esq. at vhiner@akingump.com (via email)

¹⁵ 47 U.S.C. § 1452(b)(4)(A)(i). *See also Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 (“The appropriate scope of ‘costs reasonably incurred’ necessarily will have to be decided on a case-by-case basis.”).

¹⁶ *See Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13.