



Federal Communications Commission
Washington, D.C. 20554

March 24, 2022

Fort Myers Broadcasting Company
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Sun Broadcasting, Inc.
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Re: Requests for Invoice Deadline
Extensions
WINK-TV, Ft. Myers, FL
Facility ID No. 22093
LMS File No. 0000186732

WXCW(TV), Naples, FL
Facility ID No. 61504
LMS File No. 0000186736

Dear Licensees,

On March 16, 2022, and as supplemented on March 22, Fort Myers Broadcasting Company, licensee of WINK-TV, Fort Myers, Florida; and Sun Broadcasting, Inc., licensee of WXCW(TV), Naples, Florida (Licensees and Stations, collectively) filed the above captioned requests (Requests) for extensions of the Commission's invoice filing deadlines for the TV Broadcaster Relocation Fund (the Reimbursement Fund or Fund) from the second invoice filing assignment deadline of March 22, 2022, to the third and final invoice filing assignment deadline of September 6, 2022.¹ For the reasons below, we grant Licensees' Requests and extend the dates of the Stations' invoice filing assignment deadline to September 6, 2022.

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 All repacked stations assigned to Phases 6 through 10 of the Transition

¹ The third and final invoice filing deadline was set for September 5, 2022. However, because Labor Day, a federal holiday, falls on Monday, September 5, 2022, the third and last invoice filing deadline is Tuesday, September 6, 2022. See *TV Broadcaster Relocation Fund Invoice Filing Deadline Approaches In Sixty Days*, Public Notice, DA 22-72, para. 4 (MB/IATF Jan. 21, 2022).

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: for eligible entities assigned repack transition completion dates in the first half of the

Scheduling Plan are required to submit all remaining invoices and supporting documentation using the Reimbursement Form, and initiate interim close-out procedures, no later than March 22, 2022. We stated that we did not anticipate a need to grant extensions because the deadline is more than a year after the July 13, 2020, statutory end of the transition period and more than a year after the announcement of the invoice filing assignment deadline. However, in the unlikely event that an entity faces circumstances beyond its control, we may consider a limited extension by means of shifting an entity with the second (March 22, 2022) invoice filing assignment deadline to the third and final (September 6, 2022) invoice filing assignment deadline.³ An entity requesting such a shift must 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 will not consider the availability of reimbursement or the status of specific reimbursement requests to be a mitigating factor in evaluating extension requests and we will not grant extensions that do not provide the staff with sufficient processing time to complete close-out procedures for all stations.⁵

Licensees request extension of the invoice filing assignment deadlines from the second (March 22, 2022) to the third and final (September 6, 2022) invoice filing assignment deadline for the Stations. The Stations have transitioned to their post-auction channels and are operating from interim facilities.⁶

Licensees state that a series of adjustments to the Stations' new tower were required due to changes in a state road-widening project, which in turn triggered the need for an environmental assessment and FAA clearance. Licensees state that these events delayed final construction of the new tower, which was completed on January 10, 2022. Licensees state they have been working diligently to complete the Stations' final facilities and that most of the Stations' six-inch transmission lines have been installed. Licensees note, however, that recent hazardous weather in March has prevented crews from installing the Stations' remaining equipment and state they need at least five days of uninterrupted clear weather to complete construction and sweep the transmission lines and antennas. As a result of these events that were beyond the control of the Licensees, the Stations have not yet incurred all expenses and will not receive final invoices until after the March 22, 2022 deadline. Accordingly, the Licensees request an extension of that deadline.

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to extend the Stations' invoice filing assignment deadlines from the second (March 22, 2022) to third and final (September 6, 2022) invoice filing assignment deadline. Licensees have demonstrated that circumstances beyond their control require the extensions. We also find that grant of Licensees' Requests are not likely to negatively impact Commission staff's ability to process the Stations' invoices or its ability to complete close-out procedures for all stations. We therefore conclude that the public interest will be served by grant of the extension. We strongly encourage the Stations to diligently pursue submission of all remaining invoices and initiate close-out procedures as early as possible without waiting for the third and final (September 6, 2022) invoice filing assignment deadline. We remind

39-month post-auction transition period, the deadline for submitting all remaining invoices is October 8, 2021; the deadline for entities assigned completion dates in the second half of the transition period is March 22, 2022; and the deadline for all other participants in the reimbursement program is September 6, 2022).

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

⁴ *Id.*

⁵ *Id.*

⁶ See LMS File Nos. 0000186732 and 0000186736, as supplemented.

Licenseses that, pursuant to the Spectrum Act, the Station is eligible for reimbursement for costs “reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other.”⁷ 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 the Stations that we do not anticipate allowing further extensions of the final September 6, 2022 invoice filing deadline. The Stations’ failure to complete any remaining construction in a timely manner and to make final submissions by the assigned invoice filing assignment deadlines could preclude the Stations 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, 2023.⁸ The Fund Administrator will initiate close out procedures for any entity that has failed to initiate interim close-out procedures by the September 6, 2022 invoice filing deadline. Any unused allocations made to that entity’s account will be returned to the Fund and made available for allocation to other program participants or rescinded to Treasury.

In consideration of the above facts, the requests for extensions of the invoice filing assignment deadlines filed by Fort Myers Broadcasting Company, and Sun Broadcasting, Inc., **ARE GRANTED**. The invoice filing assignment deadlines for WINK-TV, Fort Myers, Florida; and WXCW(TV), Naples, Florida, **ARE MODIFIED TO September 6, 2022**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Joseph A. Belisle III, Esq., at joe@belislelaw.com

⁷ 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.”).

⁸ *See Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13.