



Federal Communications Commission  
Washington, D.C. 20554

May 22, 2023

Fort Myers DTV, LLC  
Guenter Marksteiner  
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Palm City, FL 34990  
[marksteiner@sekur.com](mailto:marksteiner@sekur.com)  
(via electronic mail)

Re: Invoice Filing Deadline Extension Requests  
WHDT-LD, Boston, MA  
WZDT-LP, Naples, FL  
Facility ID Nos. 59488, 25539  
LMS File Nos. 0000199111, 0000199109

Dear Licensee,

On September 1, 2022, Fort Myers DTV, LLC (Licensee), licensee of stations WHDT-LD, Boston, Massachusetts (WHDT), and WZDT-LP, Naples, Florida, (WZDT) (collectively, Stations), filed the above captioned requests, as amended (Requests), to extend the Stations' September 6, 2022 invoice filing deadlines for the TV Broadcaster Relocation Fund (the Reimbursement Fund or Fund).<sup>1</sup> WHDT sought an extension of February 17, 2023, and WZDT sought an extension of November 10, 2022. Due to an administrative oversight, the Video Division of the Media Bureau did not act on these Requests until now. At this remove in time, we grant Licensee's Requests, as modified, and set a final invoice filing deadline for both Stations of June 12, 2023.

We caution Licensee that we do not anticipate granting any additional extension and remind the Stations that they must complete the Reimbursement Fund close-out process prior to July 3, 2023, when unobligated funds will be rescinded to the U.S. Treasury and no longer available for reimbursement.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, the Stations should therefore prepare to swiftly initiate close-out procedures, process all close-out instructions received from Fund Administrator expeditiously, and, when they submit invoices for reimbursement on or after the date of this letter, also submit proof for each invoice that the Stations have paid that respective vendor. This will expedite the 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.<sup>2</sup> We stated that we did not anticipate a need to grant extensions because the deadline was 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. We noted, however, that if an entity faced circumstances beyond its control we could consider a limited extension by means of

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<sup>1</sup> WHDT legal STA request LMS File No. 0000199111 (filed Sept. 1, 2022; amended Sept. 6, 2022) (WHDT Request); and WZDT legal STA request LMS File No. (filed Sept. 1, 2022; amended Sept. 6, 2022) (WZDT Request).

<sup>2</sup> 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 repack invoices of October 8, 2021; March 22, 2022; and September 6, 2022).

shifting an entity with the second invoice filing assignment deadline to the third and final invoice filing assignment deadline on September 6, 2022.<sup>3</sup> An entity requesting such a shift 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.<sup>4</sup> We further stated that we would not grant extensions that do not provide the staff with sufficient processing time to complete close-out procedures for all stations.<sup>5</sup>

*WHDT.* Station WHDT is currently operating on its displaced channel with temporary facilities.<sup>6</sup> The Station sought an extension of the September filing deadline until February 17, 2023, largely due to delays in shipping necessary equipment that resulted in the creation and implementation of an alternate plan. Specifically, Licensee states it was notified in late 2021 that certain equipment necessary to construct the Station's full-power facility would not be delivered in time due to global supply chain disruptions affecting various vendors, chief among them being a top-mounted VHF antenna.<sup>7</sup> The Station was reassigned from a UHF to a VHF channel but Licensee states it could not secure another VHF antenna on such short notice and could not repurpose the Station's former UHF antenna.<sup>8</sup> Licensee further notes that the equipment delivery delays complicated coordination of a helicopter to lift the equipment to the Station's rooftop site and remove the existing UHF antenna.<sup>9</sup> So Licensee states it devised an alternate plan that would have deleted the antenna support structure entirely, and revised testing, packing, and transportation of the items to be shipped, in order to complete construction by end of January 2023.<sup>10</sup>

In January, Licensee advised the Commission in an amended tolling waiver that delays associated with securing approvals for the alternate plan's costs delayed the start of construction due the cold weather setting into the Boston area through approximately March 2023.<sup>11</sup> As a result, Licensee states it has now reverted to its original buildout plan, from which it only deviated due to the delayed equipment and unavailability of the required helicopter.<sup>12</sup> Licensee now states it anticipates installing a conventional antenna installation in only a few weeks' time as soon as weather permits and has contracted with the helicopter to lift the mast/antenna assembly as soon as weather conditions permit. Licensee anticipates completing construction by the end of June.<sup>13</sup>

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

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> WHDT Request at amended Attach. at 2.

<sup>7</sup> *Id.* at 2-3.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> WHDT Tolling Waiver Request, LMS File No. 0000195693 (filed Aug. 19, 2022, as amended Jan. 25, 2023).

<sup>10</sup> *Id.* at amended Attach. at 1.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 2.

*WZDT.* Station WZDT is currently operating on its displacement channel with temporary facilities.<sup>14</sup> The Station had sought an extension of the September filing deadline to November 10, 2022, stating that it was close to completing construction and was just awaiting receipt of the final pieces of equipment necessary to install and operate the Station at full power: its full power antenna, transmission line and related equipment.<sup>15</sup> At the time Licensee filed its extension request, however, Hurricane Ian had not made landfall.

According to Licensee's tolling waiver request amended May 8, 2023, the Station's transmitter shelter and other facilities survived Hurricane Ian, but access to the tower site was restricted for a period of time.<sup>16</sup> Licensee reports that the Station has completed inspection and the repair work caused by the storm, and was given permission to restart construction on the tower.<sup>17</sup> License states is has contracted with a tower crew to meet the antenna equipment delivery when it arrives from the West Coast and unload it. Licensee now expects that the Station's antenna equipment will be on site the week of May 15-22, 2023, at which point the crew is expected to unload the antenna equipment and install it on the tower within approximately two weeks.<sup>18</sup>

*Discussion.* Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to extend the Stations' invoice filing assignment deadline from September 6, 2022. Because the requested deadline extensions have already passed, we are extending the Stations' final deadlines to June 12, 2023 based on Licensee's demonstration that circumstances beyond its control require the extensions. We also find that grant of Licensee's requests are not likely to negatively impact the 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.

Licensee should diligently pursue submission of all remaining invoices as soon as possible without waiting for the June 12, 2023, final invoice filing deadline, **and should submit proof of payment for each invoice that the Stations submit on or after the date of this letter.** We remind Licensee 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."<sup>19</sup> 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 Licensee that we do not anticipate allowing further extensions of the final June 12, 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

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<sup>14</sup> WZDT Request at amended Attach. at 1.

<sup>15</sup> *Id.*

<sup>16</sup> WZDT Tolling Waiver Request LMS File No. 0000194814 (filed ; as amended May 8, 2023).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> 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.").

time to fully process all reimbursement requests and complete close-out procedures prior to July 3, 2023.<sup>20</sup>

In consideration of the above facts, Fort Myers DTV, LLC's requests for extension of the invoice filing deadline **IS GRANTED** to the extent discussed herein. The final invoice filing deadlines for Stations WHDT-LD, Boston, Massachusetts, and WZDT-LP, Naples, Florida, **ARE MODIFIED TO June 12, 2023**.

Sincerely,

/s/

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc (via electronic mail): Lauren Flynn Lick, Esq., [LAUREN.LYNCH.FLICK@PILLSBURYLAW.COM](mailto:LAUREN.LYNCH.FLICK@PILLSBURYLAW.COM)

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<sup>20</sup> See *Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13.