



Federal Communications Commission
Washington, D.C. 20554

October 1, 2021

University of North Carolina
P.O. Box 14900
Research Triangle Park, NC 27709
fcc_notice@unctv.org
(via electronic mail)

Re: Request for Invoice Deadline
Extension
WUNF-TV, Asheville, NC
Facility ID No. 69300
LMS File No. 0000160445

Dear Licensee,

On September 27, 2021, University of North Carolina (Licensee), the licensee of WUNF-TV, Asheville, North Carolina (WUNF or Station), filed the above captioned request, as amended (Request) for extension of the Commission's invoice filing deadline for the TV Broadcaster Relocation Fund (the Reimbursement Fund or Fund) from the first invoice filing assignment deadline of October 8, 2021, to the second invoice filing assignment deadline of March 22, 2022. For the reasons below, we grant Licensee's Request and extend the date of the Station's invoice filing assignment deadline to March 22, 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.¹ All repacked stations assigned to Phases 1 through 5 of the Transition Scheduling Plan, and repacked stations that were granted permission to transition prior to the Phase 1 testing period, are required to submit all remaining invoices and supporting documentation using the Reimbursement Form, and initiate interim close-out procedures, no later than October 8, 2021. 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 first (October 8, 2021) invoice filing assignment deadline to the second (March 22, 2022) invoice filing assignment deadline.² 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.³ We will not consider the availability of reimbursement or the status of

¹ 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*), *aff'd*, *Nat'l Ass'n of Broadcasters v. FCC*, 789 F.3d 165 (D.C. Cir. 2015); *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 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 5, 2022).

² See *Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13.

³ *Id.*

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.⁴

Licensee requests an extension of the invoice filing assignment deadline from the first (October 8, 2021) to the second (March 22, 2022) invoice filing assignment deadline for the Station. The Station transitioned to its post-auction channel prior to September 11, 2019, and currently is operating from permanent facilities.⁵

Licensee states that the Station operates using a Distributed Transmission System (DTS). Although the Station completed its transition to its permanent post-auction channel facilities in December 2019, work remains to dismantle one of the Station's pre-auction channel DTS site facilities at the top of Mt. Pisgah, North Carolina. The only access to the mountaintop site is through a cable car that is maintained by the State of North Carolina. The cable car fell into disrepair several years ago and has been repaired, but North Carolina's Department of Labor has not yet cleared the car for use. Licensee maintains that it therefore remains impossible to safely or reasonably decommission the pre-auction channel facility and to remove the pre-transition antenna, and transmitters from the mountaintop and the vendor is unable to issue an invoice for these expenses. Because of these unusual and exceptional circumstances, Licensee argues that grant of its requested extension to March 22, 2022, of the deadline to submit the final WUNF repack-related invoices for reimbursement is warranted.

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to extend the Station's invoice filing assignment deadline from the first (October 8, 2021) to second (March 22, 2022) invoice filing assignment deadline. Licensee has demonstrated that circumstances beyond its control require the extension. We also find that 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. We therefore conclude that the public interest will be served by grant of the extension. We strongly encourage the Station to diligently pursue submission of all remaining invoices and initiate close-out procedures as early as possible without waiting for the second (March 22, 2022) invoice filing assignment deadline.

We remind the Licensee 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."⁶ 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. Furthermore, the Station's failure to complete any remaining construction in a timely manner and to make final submissions by the assigned invoice filing assignment deadline could preclude the Station from receiving full reimbursement because unobligated amounts in the Fund must be rescinded to Treasury by July 3, 2023.⁷

⁴ *Id.*

⁵ See LMS File No. 0000093577. WUNF was repacked from channel 33 to channel 20.

⁶ 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.").

⁷ See *Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13.

In consideration of the above facts, the University of North Carolina's request for extension of invoice filing assignment deadline **IS GRANTED**. The invoice filing assignment deadline for WUNF-TV, Asheville, North Carolina, **IS MODIFIED TO March 22, 2022**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Stephen Hartzell, Esq.