



Federal Communications Commission
Washington, D.C. 20554

September 29, 2022

Major Marketing Broadcasting of New York Inc.
Ravi Kapur
2383 Pruneridge Avenue
Suite 4
Santa Clara, CA 95050
FCC@chicago22.com
(via electronic mail)

Re: Request for Invoice Deadline Extension for
W41DO-D, New York, New York
Facility ID No. 60554
LMS File No. 0000199218

Dear Licensee,

On September 2, 2022, Major Marketing Broadcasting of New York Inc. (MMBNY or Licensee), licensee of W41DO-D, New York, NY (Station or W41DO), filed an application requesting extension of W41DO's invoice filing deadline¹ for the TV Broadcaster Relocation Fund (the Reimbursement Fund or Fund) from the third and final invoice filing assignment deadline of September 6, 2022, to a new invoice filing assignment deadline of December 31, 2022.² For the reasons discussed below, we grant the Request and extend the date of the Station's invoice filing assignment deadline to December 31, 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.³ All repacked low-power television and translator stations were directed to submit remaining invoices and supporting documentation using the Reimbursement Form, and initiate interim close-out procedures, no later than September 6, 2022.⁴ 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

¹ LMS File No. 0000199218 and Attach. (Request) (filed Sept. 2, 2022).

² See *TV Broadcaster Relocation Fund Invoice Filing Deadline Approaches In Sixty Days*, Public Notice, DA 22-72, para. 4 (MB/IATF Jan. 21, 2022).

³ 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 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).

⁴ See *TV Broadcaster Relocation Fund Invoice Filing Deadline Approaches In Sixty Days*, Public Notice, DA 22-72, para. 4 (MB/IATF Jan. 21, 2022).

extension.⁵ 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.⁶ 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.⁷ On August 4, 2022, we issued a final reminder to Fund entities that 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.⁸

Licensee contends that circumstances beyond its control warrant a brief extension of the September deadline. Specifically, Licensee states it acquired W41DO on July 1, 2021, and then the Station's channel-sharing arrangement terminated shortly thereafter, on August 30, 2021, after which the Station went silent.⁹ The Commission granted the Station's displacement construction permit (CP) on December 21, 2021, but Licensee states it was unable to construct new facilities on Bloomberg Tower, as authorized in the CP.¹⁰ Licensee states it took until August 2, 2022, to secure a new location and that it modified its CP to specify that it would build permanent facilities at the Empire State Building.¹¹ Licensee further states that, while its efforts to procure equipment and finalize its lease remain ongoing,¹² it constructed interim facilities at an alternate site (Trump Tower) and resumed operations on August 30, 2022.¹³ Licensee concludes that, barring any unforeseen circumstances, a short extension of the invoice submission deadline — from September 6, 2022 to December 31, 2022 — 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 September 6, 2022 to December 31, 2022. The Station has demonstrated that circumstances beyond its control justify the extension. We also find that grant of the Request is not likely to negatively impact the staff's ability to process the Station's invoices or 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 December 31, 2022 deadline. We remind the Station that, pursuant to the Spectrum Act, the Stations are eligible for reimbursement for costs "reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other."¹⁴ Additional expenses

⁵ See *Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13.

⁶ *Id.*

⁷ *Id.*

⁸ *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).

⁹ Request at 2.

¹⁰ *Id.*

¹¹ *Id.*, citing LMS File No. 0000196772 (granted August 3, 2022).

¹² Request at 4, citing LMS File No. 0000159472 (detailing site changes and complex lease negotiations).

¹³ Request at 2-3.

¹⁴ 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.").

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 Station that we do not anticipate allowing further extensions of the final December 31, 2022 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, 2023.¹⁵ The Fund Administrator will initiate close out procedures if the Station fails to initiate interim close-out procedures by the December 31, 2022 invoice filing deadline, and any unused allocations made to the Station's account will be returned to the Fund.

In consideration of the above facts, the request for extension of the invoice filing assignment deadline for Station W41DO-D **IS GRANTED**. The invoice filing assignment deadline for the Station **IS MODIFIED TO December 31, 2022**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Dennis P. Corbett, Esq., counsel (dcorbett@tlp.com)

¹⁵ See *Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13.