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Company, Inc.

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April 28, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20054

Re: MM Docket No. 87-268
WNBC, New York, NY
Request for Extension of Time

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Dear Ms. Salas:

National Broadcasting Company, Inc. ("NBC"), licensee of WNBC, New York, NY, respectfully requests a three-month extension of time to submit its application for a construction permit for DTV Channel 28 in New York City.

Section 73.624(e) of the FCC's rules requires a licensee to submit its application for a DTV construction permit on or before the halfway mark of its construction period. The deadline for construction of all network affiliated television stations in New York City is May 1, 1999.¹ Accordingly, WNBC's application for construction permit is due by May 1, 1998. However, as described in detail below, despite its diligent efforts to secure a site for its DTV antenna, NBC has been unable to reach agreement with the owner of its present antenna site, or to secure an acceptable alternative site. As a result, we are unable to complete an FCC Form 301 at this time.

WNBC is one of nine New York and New Jersey television stations that currently transmit their analog signals from the World Trade Center North Tower. All nine stations are members of the Television Broadcasters All Industry Committee ("TVAIC") which for 30 years has dealt with technical issues of mutual concern among New York broadcasters.

The World Trade Center is the highest site in the New York area and for that reason is uniquely suited for digital transmissions to achieve the broadest coverage and

¹ NBC previously committed to make every effort to construct the DTV facilities for WNBC by November 1, 1998. However, this commitment was subject to resolving the complicated tower location issue described herein. See April 2, 1997 letter to Commissioners from John H. Rohrbeck, President, NBC Television Stations. As the tower location issue is not yet resolved, construction of the WNBC DTV facilities will not be completed by November 1, 1998.

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best signal to viewers. Accordingly, approximately three years ago, the TVAIC began discussions with the owner of the World Trade Center – the Port Authority of NY & NJ (“Port Authority”) about installing DTV antennas at the World Trade Center. Because of the complexity of the project and the extended implementation schedule required to build a permanent facility atop this skyscraper, TVAIC pursued a two-phased approach: an interim 100 foot antenna mast for the North Tower from which broadcasters could operate their DTV facilities while the permanent 370 foot candelabra antenna mast was being constructed on the South Tower. The broadcasters would bear the entire cost of construction of both the temporary and permanent facilities, now estimated at \$4 million and \$35 million respectively, as well as part of the cost to upgrade the North Tower power plant.

The TVAIC has encountered major delays and frustration in its continuing effort to negotiate a lease with the Port Authority for the World Trade Center. During its initial meetings in 1996, the Port Authority was unwilling to make a commitment to make the site available because of a possible sale of the property. The TVAIC was not deterred, however, and continued to work towards negotiating a lease. On August 1, 1997, the TVAIC made a comprehensive multi-million dollar proposal to the Port Authority covering extension of the leases for analog transmission facilities on the North Tower, the right to build a temporary DTV antenna on the North Tower, and the right to build a new permanent antenna on the South Tower. After further delay of several months, the Port Authority finally indicated a willingness to negotiate *for the temporary tower* and signed an agreement to negotiate in good faith on November 1, 1997.

The Port Authority then hired an outside consultant to review the TVAIC proposal. More than three months passed before the Port Authority made its first proposal to the broadcasters. This proposal demanded exorbitant fees that bear no relationship to current marketplace rates. Specifically, broadcasters were asked to pay first-year rates for the temporary DTV tower that would be three times their current lease fees with compounded annual increases of 12%.

The TVAIC rejected this proposal and on March 10, submitted its own counterproposal. The Port Authority responded on March 26 with a new proposal for the temporary tower only. This new proposal reduced the rates for the first three years of the lease, but the rates for the fourth year would be four times the current analog rates. By the sixth year of the lease, the rates would be more than six times what the broadcasters are currently paying. Such exorbitant fees are not justifiable or acceptable.

NBC, along with the TVAIC, is continuing its efforts to reach an agreement with the Port Authority. In this regard, WNBC’s General Manager has discussed the matter with both the Governors of New York and New Jersey and has impressed upon each of them the need to resolve this issue reasonably and expeditiously.

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NBC's efforts to find a suitable location for its DTV facilities has not been limited to the World Trade Center. For the past two years, the TVAIC has also devoted significant efforts and funds to study alternative sites. These studies have demonstrated that building a new, stand-alone tower to accommodate all the broadcasters is not feasible because of FAA tower height restrictions due to the proximity of four major airports. Furthermore, the construction time for a stand-alone 2000 foot tower would be several years at an estimated cost of \$350 million.

NBC and the TVAIC have also been considering locating DTV facilities atop the Empire State Building. This location is less than ideal, as the building is not as tall as the World Trade Center and it is not certain that there is sufficient space to accommodate all the broadcasters. TVAIC is discussing with Dielectric Communications the engineering feasibility of locating all digital facilities on Empire. In addition, the broadcasters are reviewing a financial proposal from Empire which they recently received.

NBC, along with the TVAIC, is committed to continuing its aggressive efforts to resolve this tower situation as quickly as possible. We are prepared to sign a commercially reasonable lease and commence construction immediately thereafter. We are requesting a three-month extension of the application deadline, from May 1, 1998 to August 1, 1998, to allow NBC and the other broadcasters time to bring the current negotiations to a successful conclusion, or, if necessary, to make other DTV plans.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,


Diane Zipursky

cc: Chairman William E. Kennard
Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael Powell
Commissioner Gloria Tristani
Roy Stewart
Barbara Kreisman
Clay Pendarvis
Karen Kornbluh