



FOX TELEVISION STATIONS, INC.

5151 Wisconsin Avenue, NW
Washington, DC 20016

A Unit of Fox Television

Molly Pauker

Vice President, Corporate & Legal Affairs

phone: 202 895 3088

fax: 202 895 3222

e mail: mollyp@foxtv.com

January 26, 2006

MS. Nazifa Sawez
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 03-15

Dear Mr. Sawez:

Fox Television Stations, Inc. ("Fox"), licensee of television station WNYW-DT, New York, NY, File No. BLDT-19990826KF hereby requests that this late-filed request for a waiver of the July 1, 2005 "use-it-or-lose-it" deadline for full-power DTV operation adopted by the Commission at paragraph 78 of the *Second DTV Periodic Review Report and Order of the Commission's Rules and Policies Affecting the Conversion To Digital Television*, MB Docket No. 03-15, RM 9832, released September 7, 2004 (19 FCC Rcd 18,279), be accepted, and granted. Waiver is necessary because WNYW-DT certified that after the DTV transition it intends to operate at a site not yet in existence and therefore was not able to meet the July 1, 2005 deadline at that site, although the facility has been operating continuously from its present site since 1999. Because WNYW-DT was fully operational as of July 1, 2005, it simply did not occur to us that a waiver was necessary. Please accept my apology for this oversight.

In 1998 WNYW-DT was allotted DTV channel 44, with replication facilities based upon WNYW's World Trade Center ("World Trade") site. Fox initially applied to locate WNYW-DT at the Empire State Building ("Empire"), because the facility could not be accommodated at World Trade, due to technical constraints. WNYW-DT currently is licensed at 246 kW ERP at Empire (File No. BLCDDT-19990826KF) and holds a Construction Permit to maximize power to 990 kW (File No. BMPCDDT-19990402KI).

Since the World Trade Center was destroyed in 2001, a number of New York DTV stations have temporarily relocated to Empire. This has proved advantageous from an interference standpoint for both WNYW-DT and WABC-DT, because they currently operate on adjacent channels, 44 and 45. As you no doubt are aware, WABC-DT currently is seeking to use its analog allotment, channel 7, for DTV after the transition. If this occurs, there will be no need to collocate the facilities; on the other hand, if it does not occur, it will continue to be advantageous, in terms of both stations' coverage potential, to collocate them.

Also since the 9/11 disaster, WNYW has participated with other New York television stations in the ongoing effort to find a common site that can provide the advantages that World Trade provided in terms of coverage. To that end, and because it would provide WNYW-DT with the greatest coverage potential, in 2004 WNYW-DT certified that it intends return to its allotted replication facilities (i.e., based upon its NTSC World Trade site) after the DTV

transition) (File No. BCERCT-20041104AHX). The Commission has not approved this election to date.

The July 1, 2005 "use-it-or-lose" deadline passed, and, obviously, WNYW-DT was not able to relocate to the Freedom Tower site by that date and will not be able to do so until some unknown time in the future. However, because WNYW-DT is operating at full power at the Empire site, the need for a waiver of the "use-it-or-lose" deadline simply did not occur to us at the time. Therefore, Fox respectfully requests that the Commission grant this late-filed waiver request and continue to protect the contours of WNYW-DT's allotted replication facilities, consistent with its Form 381 certification; otherwise, it is highly likely WNYW-DT will not be able to move there at such later date as the Freedom Tower site becomes available, due to potential out-of-market interference issues. This protection will be all-the-more important from the standpoint of coverage of the New York market if WABC-DT remains on channel 45 and moves to the Freedom Tower site.

Respectfully submitted,

A handwritten signature in black ink that reads "Molly Pauker". The signature is written in a cursive, flowing style.

Molly Pauker