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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: MB Docket No. 05-317
WABC-TV, New York, New York, Facility ID No. 174
TELEVISION STATION SECTION 339(a)(2)(D)(vii) WAIVER REQUEST

Dear Ms. Dortch:

American Broadcasting Companies, Inc. (“ABC”), the licensee of WABC-TV and permittee of WABC-DT, New York, New York, Facility ID No. 174, by its attorneys, hereby requests a further six-month waiver of the July 15, 2007 digital signal testing implementation date (“Testing Deadline”) to prevent satellite subscribers from conducting a digital signal strength test of WABC-DT for purposes of obtaining a distant network signal. The instant extension request is sought pursuant to Section 339(a)(2)(D) of the Communications Act (“Section 339”), as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 (“SHVERA”), and actions by the Federal Communications Commission (“FCC”).¹

In February 2007, ABC requested that the FCC waive the Testing Deadline as it applies to WABC-DT because WABC-DT’s digital signal coverage was limited due to force majeure, namely, the September 11, 2001 terrorist attacks.² The FCC’s Media Bureau granted ABC’s request and extended the digital signal testing implementation date for WABC-DT to January 15, 2008, concluding that the “terrorist attack in 2001 clearly constitutes force majeure and justifies the grant of a six-month digital

¹ See, e.g., 47 U.S.C. § 339(a)(2)(D), as amended by Section 204 of SHVERA; Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004, *Order*, MB Docket 05-317, DA 07-3201 (rel. Jul. 13, 2007) (“*First Waiver Order*”); Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004, *Order*, MB Docket 05-317, DA 08-111 (rel. Jan. 16, 2008) (“*Second Waiver Order*”).

² See Letter to Ms. Marlene H. Dortch, Secretary, FCC, from Tom W. Davidson, Esq. re WABC-TV, New York, New York, Facility ID No. 174, MB Docket 05-317, (filed Feb. 15, 2007) (“*Waiver Request*”).

Ms. Marlene H. Dortch
April 15, 2008
Page 2

testing waiver for WABC-TV.”³ In January 2008, the Media Bureau reiterated this conclusion and granted a further six-month extension of the Testing Deadline for WABC, until June 15, 2008.⁴

Section 339 provides that a station may obtain an extension of a temporary waiver of satellite subscriber digital signal testing if “the station’s digital signal coverage is limited due to the unremediable presence of one or more” statutory criteria, including a force majeure event.⁵ ABC requests a further six-month waiver of digital signal testing on the basis of force majeure because ABC has not yet been able to construct permanent facilities to replace the WABC-DT facilities that were destroyed in the September 11, 2001 terrorist attacks. Indeed, WABC-DT’s signal continues to be hampered by the circumstances surrounding the 9/11 terrorist attacks on the World Trade Center.

As explained in ABC’s *Waiver Request*, WABC-DT built full-power DTV facilities at the World Trade Center and applied for a license to cover these facilities in July 2001. While this license to cover application was pending, the September 11, 2001 terrorist attacks destroyed WABC-DT’s facilities. After studying different locations from which it could restore service, ABC applied for and obtained special temporary authorizations (“STAs”) for auxiliary DTV facilities at two New York sites—the 4 Times Square Building and the Empire State Building (“ESB”). ABC later constructed auxiliary DTV facilities at both of these sites. ABC also filed an application to license the auxiliary facilities at ESB. ABC plans to construct more permanent replacement facilities, likely at one of its auxiliary sites or at the World Trade Center site (commonly referred to as the Freedom Tower). Accordingly, a further six-month waiver of satellite subscriber digital signal testing is warranted.

Please do not hesitate to contact the undersigned with any questions regarding this matter.

Sincerely,

/s/ Tom W. Davidson
Tom W. Davidson, Esq.

³ *Waiver Order*, at ¶ 12.

⁴ *See Second Waiver Order*, at ¶ 8.

⁵ 47 U.S.C. § 339(a)(2)(D)(viii).