Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Universal Broadcasting of New York, Inc.	)	NAL/Account No.: MB-201941410008
Application for Special Temporary Authority	)	FRN: 0008304032
Station WTHE(AM), Mineola, New York	)	Facility ID No. 68957
	)	File No. BLSTA-20190211AAT
	)	
Universal Broadcasting of New York, Inc.	)	
(Assignor)	)	
	)	
and	)	
	)	
Cantico Nuevo Ministry, Inc.	)	
(Assignee)	)	
	)	
Application for Consent to Assignment of License	)	File No. BAL-20190207AAE
Station WTHE(AM), Mineola, New York	)	

MEMORANDUM OPINION AND ORDER

Adopted: November 6, 2019 **Released: November 7, 2019**

By the Chief, Media Bureau:

I. INTRODUCTION

1. We have before us an application (Application) for consent to assignment of the license of WTHE(AM), Mineola, New York (Station) from Universal Broadcasting of New York, Inc. (Universal) to Cantico Nuevo Ministry, Inc. (Assignee). Also before us is a Petition to Deny the Application filed by WIN Radio Broadcasting Corporation (WIN) on March 11, 2019 (Petition), an Opposition filed by Universal on March 26, 2019 (Opposition), and a Reply filed by WIN on April 10, 2019 (Reply).[1] For the reasons discussed below, we grant the Petition in part and otherwise deny the Petition, and adopt the attached Consent Decree, which resolves compliance issues raised during our review of the Application and pleadings. As set forth in the Consent Decree, we will grant the Application so long as Universal fully and timely pays the civil penalty required by the Consent Decree, and there are no issues other than those resolved by the Consent Decree that would preclude grant of the

[1] The Petition also opposes the captioned application for special temporary authority (STA) for the Station to remain silent. However, such an application is not subject to petitions to deny. *See* 47 U.S.C. § 309(c)(2)(G); *K Licensee, Inc.*, Letter Order, 23 FCC Rcd 7824 (MB 2008). Accordingly, this portion of the Petition will be treated as an informal objection which does not require separate analysis because WIN presented the same argument against both applications. As for the portion of the Petition directed to the Application, we find that WIN has standing to file the Petition as a competitor of the Station. *See* Petition at 1-2 and Reply at 1-2; *Eastern Airwaves, LLC*, Letter Order, 32 FCC Rcd 10105, 10109-10 (MB 2017).

Application.[2]

II. BACKGROUND

2. The Station went silent on January 25, 2018 due to the loss of its transmitter site. By letter dated February 16, 2018, the Bureau granted the Station a silent authority STA until August 16, 2018 and warned Universal that the Station's license was at risk of expiration pursuant to section 312(g) of the Communications Act of 1934, as amended (Act) if the Station failed to resume operation by 12:01 a.m. on January 26, 2019.[3]

3. Due to a lapse in government funding, the Commission suspended most operations, including those affecting the Station, on January 3, 2019.[4] Universal intended to resume Station operations in January, prior to the 12-month deadline of 12:01 a.m. on January 26, 2019 pursuant to section 312(g) of the Act, but the shutdown prevented Universal from obtaining Commission approval of an STA for such a resumption. On January 15, 2019, Universal (a) filed an STA application for low-power operation with a long-wire dipole antenna, (b) filed a resumption of operations notice with the Commission, stating that the Station had resumed operation with an emergency antenna, as described in the STA application, and (c) sent an email to a Media Bureau (Bureau) staff member requesting authority to continue operation with an emergency antenna pursuant to section 73.1680 of the Commission's rules (Rules).[5]

4. The Commission resumed normal operations on January 26, 2019.[6] By letter dated February 1, 2019, the Bureau granted the STA application.[7] On February 5, 2019, Universal stopped the Station's operation due to municipal regulatory action and shortly thereafter filed an STA application for silent authority.[8] On February 7, 2019, Universal filed the Application seeking Commission approval of a sale of the Station.

5. On March 11, 2019,WIN filed the Petition, alleging that the Station did not resume operation by January 26, 2019 with authorized facilities, the license thus expired pursuant to section 312(g) of the Act, and therefore the Application should be dismissed because there is no Station license to assign.[9] In its Opposition, Universal argues that the Bureau implicitly extended or reinstated the Station's

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[2] Consent Decree at paras. 12-15.

[3] *Letter from Lisa Scanlan, Audio Division, Media Bureau, to Richard A. Helmick*, Letter Order (Feb. 16, 2018), referencing BLSTA-20180131AFL and citing 47 U.S.C. §312(g), which provides that "if a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness").

[4] *See Impact of Potential Lapse in Funding on Commission Operations*, Public Notice, DA 19-10 (FCC Bureaus/Offices, Jan. 2, 2019) (Partial Closure Notice).

[5] Opposition, Attach. B-D.

[6] *See Revisions to Filing and Other Deadlines Following Resumption of Normal Commission Operations*, Public Notice, DA 19-26 (FCC Bureaus/Offices, Jan. 29, 2019).

[7] *See* BSTA-20190115AAR and Opposition, Attach. E (STA Grant).

[8] *See* note 1 *supra*.

[9] WIN also suggests that Universal's original explanation for going silent, that it was evicted from its transmitter site, was "less than candid, bordering on untruthful" because the Station's transmitter site "was sold at auction by the local taxing authority, for failure to pay accumulated property taxes." Petition at 3. We find no meaningful difference in those explanations in the context of our silent authority determinations, nor can we discern any motive for Universal to deceive us on this issue. Accordingly, we reject WIN's claim.

license as a matter of "equity and fairness"[10] in the STA Grant because the Station's low-power operation qualified for STA approval and the only reason it was not approved prior to 12:01 a.m. on January 26, 2019 was the government shutdown, which was beyond Universal's control.[11] Universal also notes that WIN actively interfered with Universal's efforts to resume Station operation by entering into an exclusive lease of the Station's transmitter site with the new site owner on August 15, 2019. In its Reply, WIN argues that the lease is not relevant, noting that Universal lacked the required transmission equipment at the site with which to resume licensed operations.[12]

III. DISCUSSION

A. The Station's Unauthorized Resumption Did Not Prevent License Expiration.

6. We agree with WIN's analysis of precedent holding that a licensee's resumption of service with unauthorized facilities does not save a station's license from automatic expiration pursuant to section 312(g).[13] Universal's resumption of Station operations on January 15, 2019 with a self-declared "emergency" antenna, in the absence of any actual emergency within the scope of section 73.1680, violated section 301 of the Act and section 73.189 of the Rules.[14] In *WJBW*, the Commission specifically addressed and rejected this type of attempt to circumvent section 312(g).[15]

7. Further, we do not accept Universal's argument that the STA Grant implicitly reinstated or extended the Station's license as a matter of equity and fairness under section 312(g). Although Universal appropriately explained the section 312(g) expiration issue in its STA request on January 15, 2019, the STA Grant did not mention section 312(g) at all and our internal database records for the Station do not reflect any analysis or determination relating to section 312(g). The Commission has made it clear that a case-by-case analysis is required to determine whether or not to reinstate or extend a station's license under section 312(g).[16] Accordingly, we find it is necessary to address and resolve the section 312(g) issue here.

B. License Reinstatement Is Appropriate Due to Unique Circumstances Beyond Universal's Control.

8. In adopting rules to implement section 312(g), the Commission stressed that licensees at risk of automatic expiration should allow sufficient time for Commission review and post-authorization construction when filing an application for facilities intended to return a silent station to the air. Similarly, the Bureau has warned that it is the responsibility of the licensee, not the agency, to timely and properly resume operations. Although the agency will do its best to assist, its limited staff resources prevent action on applications filed without sufficient lead time, especially if the application contains

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[10] *See* note 3 *supra*, quoting section 312(g).

[11] Opposition at 3 (explaining that the section 312(g) deadline of January 26, 2019 was specifically described in the STA request) and Attach. D, Exh. 16 ("Extraordinary Circumstances" heading in the STA request's narrative exhibit, followed by an explanation that the Station faces license expiration if it does not "resume broadcasting by January 26, 2019").

[12] Reply at 2. WIN also argues that the Partial Closure Notice explained a procedure to contact the FCC's Operations Center for an emergency STA necessary to protect life and property, but Universal apparently did not follow such a procedure. *Id.* at 3. This claim is irrelevant because Universal would not have received relief under this procedure had it attempted to do so. The Partial Closure Notice was referring to matters of public safety and security, not to a licensee's interest in preserving its license.

[13] *See* Petition at 6-7, citing *Eagle Broad. Co. v. FCC*, 563 F.3d 543 (D.C. Cir. 2009), and *WJBW, LLC*, Memorandum Opinion and Order, 32 FCC Rcd 2301 (2017) (*WJBW*).

[14] *See* Consent Decree.

[15] *WJBW*, 32 FCC Rcd at 2303-4, para. 7.

[16] *Id.*, 32 FCC Rcd at 2301 n.6.

deficiencies or the applicant fails to alert the staff of the need for expedited consideration. The Commission has consistently declined to exercise its section 312(g) discretion when station silence is the result of a licensee's own inaction and exercise of business judgement.[17]

9. On the other hand, the Commission has exercised its statutory discretion to extend or reinstate a license when the failure to timely resume broadcasts was for a compelling reason beyond the licensee's control.[18] We find that this case presents such a situation due to a combination of two particular circumstances beyond Universal's control—the government shutdown and WIN's lease of the Station's licensed transmitter site.

10. During the 23-day government shutdown ending on January 26, 2019, no radio broadcast STA applications were approved.[19] Due to the shutdown, Bureau personnel could not review or act on STA applications or email communications relating to the Station. Once the shutdown ended, the Bureau faced a backlog of applications because the CDBS licensing system remained available to the public during the shutdown. On February 1, 2019, the fifth day of Bureau operations after the shutdown ended, the Bureau issued the STA Grant approving the Station's January 15 STA application. We find it is appropriate to treat the shutdown as a compelling factor beyond Universal's control because the STA application clearly would have been approved in time to resume operations within the section 312(g) 12-month deadline if not for the shutdown.

11. WIN's exclusive lease of the Station's licensed transmitter site on August 15, 2019 is a second factor that we regard as a circumstance beyond Universal's control. Here, the parties differ in their factual analysis. WIN argues that Universal lacked the necessary transmission equipment at the site to resume licensed Station operations before the section 312(g) deadline applied.[20] Given those facts, WIN regards the lease as irrelevant. Universal, on the other hand, claims that the Station's "operation with the long-wire antenna would not have been necessary but for WIN Radio's actions."[21] Even accepting WIN's factual claim as true, we do not agree with the conclusion that the lease is irrelevant. Finding an appropriate site for AM station operation, even low-power STA operation, is difficult in a densely-populated environment such as Mineola, New York (Nassau County).[22] Had the licensed site been available in the latter part of 2018, Universal conceivably could have purchased equipment to resume licensed operation, but in any case would not have had difficulty resuming operation from that site with low-power STA facilities. For this reason, we regard WIN's lease of the Station's licensed transmitter site as a complicating factor beyond Universal's control that supports relief under the "equity and fairness" provision of section 312(g).

12. Based on this combination of unique factors beyond Universal's control, we find this case to be analogous to the *Martin* and *Chapman* cases, which WIN never addressed in its pleadings, and are

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[17] *Id.*, 32 FCC Rcd at 2304-05, para. 9.

[18] *Id.*, 32 FCC Rcd at 2301 n.6 (citing *V.I. Stereo Commc'n Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 14259 (2006) (destruction of towers in hurricane and damage to rebuilt tower in subsequent hurricane), *Harry Martin, Esq.*, Letter Order, 23 FCC Rcd 15012 (MB 2008) (*Martin*) (licensee completed all steps to resume broadcasts but remained silent to promote air safety due to Federal Aviation Administration error for which licensee was not responsible), and *Mark Chapman, Court-Appointed Agent*, Letter Order, 22 FCC Rcd 6578 (MB 2007) (*Chapman*) (silence to comply with court order)).

[19] A small number of such applications were approved on January 3, 2019, when the agency was fully open for the morning.

[20] Petition at 4 and Reply at 2.

[21] Opposition at 3.

[22] We note that municipal authorities, perhaps acting on information provided by WIN, required the Station's operation pursuant to the STA Grant to end on February 5, 2019 because those operations were taking place on residential property. *See* Opposition at 4, Reply at 2 and BLSTA-20190211AAT.

distinguishable from *WJBW*. Accordingly, we conclude that this is an appropriate case for reinstatement of the Station's license as a matter of equity and fairness pursuant to section 312(g). We reach this conclusion fully aware that Universal's actions involved violations of the Act and our Rules. As an exercise of our enforcement discretion, we are addressing those violations by imposing appropriate monetary sanctions on Universal pursuant to the Consent Decree. As stated above, we will approve the Application if the conditions set forth in the Consent Decree are satisfied.

C. Consent Decree

13. As part of this Order, we are adopting a Consent Decree entered into by the Bureau and Universal. The Consent Decree resolves issues related to Universal's unauthorized resumption and its violations of section 301 of the Act and sections 73.189 and 73.1680 of the Rules. As part of the Consent Decree, Universal will pay a civil penalty to the United States Treasury of five thousand dollars ($5,000).

14. We conclude that nothing in the record before us creates a substantial or material question of fact whether Universal or the Assignee possesses the basic qualifications to be a Commission licensee. After reviewing the terms of the Consent Decree, we find the public interest would be served by its approval and by terminating the Bureau's investigation of Universal's violations of the Act and Rules, subject to the terms of the Consent Decree. We note that, given our conclusion that the Station's license expired and was not reinstated until adoption of this order,[23] as well as Universal's acknowledgment that it resumed operation without Commission authority, we grant the WIN Petition in part. However, we otherwise deny the Petition.

IV. ORDERING CLAUSES

15. IT IS ORDERED that the petition to deny filed by WIN Radio Broadcasting Corporation on March 11, 2019, IS GRANTED IN PART, AND OTHERWISE DENIED.

16. IT IS FURTHER ORDERED that the license of Station WTHE(AM) is reinstated, and will automatically expire as a matter of law if broadcast operations do not resume by 12:01 a.m., February 6, 2020.[24]

17. IT IS FURTHER ORDERED that, pursuant to section 4(i) of the Communications Act of 1934, as amended, and by the authority delegated by sections 0.61 and 0.283 of the Commission's rules, the Consent Decree attached hereto IS ADOPTED.

18. IT IS FURTHER ORDERED that the investigation by the Media Bureau of the matters noted above IS TERMINATED.

19. IT IS FURTHER ORDERED that copies of this Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Universal Broadcasting of New York, Inc., 260 East Second Street, Mineola, NY 11501; counsel for Universal Broadcasting of New York, Inc., James A. Koerner, Esq. Koerner and Olender, P.C., 7020 Richard Drive, Bethesda, MD 20817; and counsel for WIN Radio Broadcasting Corporation, J. Geoffrey Bentley, Esq., Bentley Law Office, 2700 Copper Creek Road, Oak Hill, VA 20171.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey
Chief, Media Bureau

[23] The Station's operation from February 1 to February 5, 2019 was an authorized STA operation, and therefore we will treat February 5, 2019 as the starting point for any future section 312(g) analysis.

[24] *See* 47 U.S.C.§312(g).

CONSENT DECREE

I. INTRODUCTION

1. This Consent Decree is entered into by and between the Media Bureau of the Federal Communications Commission and Universal Broadcasting of New York, Inc., by their respective authorized representatives, for the purpose of resolving certain issues that have arisen in the Media Bureau's review of the pending application for consent to assignment of license of Station WTHE(AM), Mineola, New York.

II. DEFINITIONS

2. For purposes of this Consent Decree, the following definitions shall apply:

(a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §151 *et. seq.*;

(b) "Adopting Order" means the order of the Bureau adopting this Consent Decree;

(c) "Application" means the pending application filed on February 7, 2019 for consent to assignment of the Station's license (File No. BAL-20190207AAE);

(d) "Bureau" means the Media Bureau of the Federal Communications Commission;

(e) "Civil Penalty" means the payment the Licensee has agreed to pay to the United States Treasury;

(f) "Commission" or "FCC" means the Federal Communications Commission;

(g) "Effective Date" means the date on which the Bureau releases the Adopting Order;

(h) "Execution Date" means the date on which this Consent Decree is executed by the last of the Parties to do so;

(i) "Investigation" means the Bureau's investigation of issues presented in the Petition;

(j) "Licensee" means Universal Broadcasting of New York, Inc.;

(k) "Petition" means the Petition to Deny filed by WIN Radio Broadcasting Corporation on March 11, 2019;

(l) "Parties" means Universal Broadcasting of New York, Inc. and the Bureau;

(m) "Rules" means the Commission's rules, found in Title 47 of the Code of Federal Regulations;

(n) "STA" means special temporary authority pursuant to section 73.1635 of the Rules;

(o) "Station" means WTHE(AM), Mineola, New York (Facility ID No. 68957); and

(p) "Violations" means the violations of section 301 of the Act and sections 73.189 and 73.1740 of the Rules, stipulated in paragraph 12 of this Consent Decree.

III. BACKGROUND

3. Section 301 of the Act requires that no person use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license. Section 73.189 of the Rules specifies requirements an AM station must satisfy prior to effecting changes in its power level or antenna system, unless the station uses an emergency antenna pursuant to section 73.1680 of the Rules or obtains STA pursuant to section 73.1635 of the Rules. Section 312(g) of the Act provides that if a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable

law changes, or for any other reason to promote equity and fairness.

4. The Station went silent on January 25, 2018. By letter dated February 16, 2018, the Bureau granted the Station a silent authority STA until August 16, 2018 and warned the Licensee that the Station's license was at risk of expiration pursuant to section 312(g) of the Act if the Station failed to resume operation by 12:01 a.m. on January 26, 2019. *See* BLSTA-20180131AFL. The Licensee failed to seek an extension of the silent authority STA, as required by section 73.1740 of the Rules, for the period from August 16, 2018 to February 1, 2019, when the Bureau authorized the Station's resumption of operations.

5. Due to a lapse in government funding, the Commission suspended most operations, including those affecting the Station, on January 3, 2019. The Licensee intended to resume Station operations in January, prior to the 12-month deadline of 12:01 a.m. on January 26, 2019 pursuant to section 312(g) of the Act, but the shutdown prevented the Licensee from obtaining Commission approval of an STA for such a resumption. On January 15, 2019, the Licensee (a) filed an STA application for low-power operation with a long-wire dipole antenna, (b) filed a resumption of operations notice with the Commission, stating that the Station had resumed operation with an emergency antenna, as described in the STA application, and (c) sent an email to a Bureau staff member requesting authority to continue operation with an emergency antenna pursuant to Section 73.1680 of the Rules.

6. The Commission resumed normal operations on January 26, 2019. By letter dated February 1, 2019, the Bureau granted the STA application. *See* BSTA-20190115AAR. On February 5, 2019, the Licensee stopped the Station's operation due to municipal regulatory action and shortly thereafter filed an STA application for silent authority. On February 7, 2019, the Licensee filed the Application seeking Commission approval of a sale of the Station. On March 11, 2019, the Petition was filed, alleging that the Station did not resume operation by January 26, 2019 with authorized facilities and that the license therefore expired pursuant to section 312(g) of the Act.

7. Based on its understanding that the Station's license will be reinstated or extended in the Adopting Order pursuant to section 312(g) of the Act and the Application will be granted if the terms and conditions set forth in this Consent Decree are satisfied, the Licensee agrees to stipulate that it committed the Violations.

IV. AGREEMENT

8. **Adopting Order**. The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

9. **Jurisdiction**. The Licensee agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree. The Licensee and the Bureau further agree to be legally bound by the terms and conditions of this Consent Decree.

10. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Licensee agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent that the Licensee fails to satisfy any condition or Rule, in the absence of Commission alteration of the condition or Rule, it will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, revocation of the relief, designation of the matter for hearing, letters of admonishment and/or forfeitures. Any violation of the Adopting Order or the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to enforcement of a Commission order.

11. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to

terminate the Investigation, and dismiss the Petition in part and deny it in all other respects. In consideration for the termination of the Investigation, the Licensee agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the Violations in any action against the Licensee, provided that the Licensee satisfies all of its obligations under this Consent Decree. In the event that the Licensee fails to satisfy any of its obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to each Violation, and/or the violation of this Consent Decree.

12. **Admission of Liability.** The Licensee hereby stipulates that (a) its operation of the Station from January 15-31, 2019 violated section 301 of the Act and section 73.189 of the Rules, and (b) its failure to seek or obtain an extension of the Station's silent authority STA from August 16, 2018 to January 15, 2019 violated section 73.1740 of the Rules.

13. **Civil Penalty.** The Licensee agrees to pay the Civil Penalty to the United States Treasury in the amount of Five Thousand Dollars ($5,000), within thirty (30) calendar days after the Effective Date. The Licensee acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" as defined in Section 3701(b)(1) of the Debt Collection Improvement Act of 1996.[1]

14. **Payment.** The Licensee shall send electronic notification of payment to Victoria McCauley at Victoria.McCauley@fcc.gov and Karen Workeman at Karen.Workeman@fcc.gov on the date payment of the Civil Penalty is made. Payment shall be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),[2] or by wire transfer. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:[3]

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at (202) 418-2843 or emailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).[4] For additional detail and wire transfer instructions, go to https://www.fcc.gov/licensing-databases/fees/wire-transfer.
- Payment by credit card must be made by using the Commission's Fee Filer website at https://apps.fcc.gov/FeeFiler/login.cfm. To pay by credit card, log-in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu, and select the bill number associated with the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and then choose the "Pay by Credit Card" option. Please note that there is a $24,999.99-dollar limitation on credit card transactions.
- Payment by ACH must be made by using the Commission's Fee Filer website at https://apps.fcc.gov/FeeFiler/login.cfm. To pay by ACH, log in using the FRN captioned

[1] Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

[2] Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

[3] For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

[4] Instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu and then select the bill number associated to the NAL Account – the bill number is the NAL Account number with the first two digits excluded – and choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

15. **Qualifications; Agreement to Grant.** The Bureau finds that its Investigation raises no substantial and material fact as to whether the Licensee possesses the basic qualifications, including character, to hold a Commission license. Accordingly, the Bureau agrees to grant the Application, after the Effective Date provided that the following conditions have been met: (1) the Licensee has fully and timely satisfied its obligation to make the Civil Penalty payment referenced in paragraph 10 of this Consent Decree; and (2) there are no issues other than the Violations that would preclude grant of the Application.

16. **Waivers.** As of the Effective Date, the Licensee waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Adopting Order, provided the Consent Decree is adopted without change, addition or modification. If either Party (or the United States on behalf of the Commission), brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither the Licensee nor the Commission will contest the validity of the Consent Decree or Adopting Order, and the Licensee will waive any statutory right to a *trial de novo*. The Licensee further agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. Section 504 and 47 CFR Section 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

17. **Severability.** The Parties agree that if a court of competent jurisdiction renders any of the provisions of this Consent Decree invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

18. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it will become null and void and may not be used in any manner in any legal proceeding.

19. **Subsequent Rule or Order.** The Parties agree that if any provision of this Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Licensee does not expressly consent), such provision will be superseded by such Commission Rule or Order.

20. **Successors and Assigns.** The Consent Decree will be binding on Licensee's successors-in-interest and assigns. Licensee agrees that any future application to assign or transfer control of the Station will include a statement executed by an authorized representative of the proposed assignee or transferee consenting to assumption of the responsibilities and duties of Licensee set forth in this Consent Decree.

21. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between Licensee and the Bureau concerning the Violations.

22. **Modifications.** This Consent Decree cannot be modified or amended without the advance written consent of both Parties.

23. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

24. **Authorized Representative.** Each Party represents and warrants to the other Party that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

25. **Counterparts.** This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

By: Michelle M. Carey
Michelle M. Carey
Chief, Media Bureau

Date: 11/6/19

UNIVERSAL BROADCASTING OF NEW YORK, INC.

By: _____

Date: 11/5/19