

WNTV(TV) – Request for Extension of Invoice Filing Deadline

South Carolina Educational Television Commission (“SCETV”), licensee of noncommercial educational PBS member station WNTV(TV), Greenville, South Carolina (“WNTV”), respectfully requests an extension of the deadline to submit invoices and related documentation to the Commission’s repack administrator for reimbursement associated with the Station’s Post-Incentive Auction repack facilities. As set forth herein, SCETV needs additional time to submit invoices because WNTV’s permanent repack facilities are still being constructed and SCETV will incur expenses after the current March 22, 2022 deadline. Therefore, SCETV requests an extension until September 6, 2022 – the next invoice filing deadline.

Background

As part of the Commission’s Broadcast Television Spectrum Incentive Auction in 2017 (“the Repack”), WNTV was assigned to transition from Channel 9 to Channel 8 in Phase 10 of the Repack. WNTV’s transition plan calls for, among other things, replacement of the station’s transmitter and construction of a new tower for the station’s facilities.

A structural study conducted early in the repack process determined that WNTV’s existing tower, built in the 1980s, was inadequate to meet the applicable TIA-222-G building standard. In fact, the engineering firm conducting the study recommended that the tower be decommissioned and torn down. Upon learning this, SCETV decided to look into purchasing or leasing land adjacent to the existing tower in order to construct a new tower in Paris Mountain State Park for WNTV’s permanent post-Repack facilities.¹ SCETV entered into discussions to purchase or lease the property in the summer of 2017, but its efforts ran into numerous internal and external delays, from state government processes to staff turnover at SCETV to COVID-19 delays.

SCETV resolved the significant real estate issues in 2020. Since then, SCETV has been working to complete the design, permitting, and construction of the new tower, but ran into unexpected zoning delays and issues with state approvals and with the local authority, given that the tower site is in a state park with historical status. Recognizing that it would need additional time due to circumstances beyond its control, SCETV requested and received authorizations to extend the deadlines for constructing its permanent Repack facility.²

To date, SCETV has negotiated a special easement for the land on which the tower will be located with the State of South Carolina (landowner) and Duke Energy (easement holder), received zoning approval from the local authority (the Greenville County Zoning Commission), and completed the ASR process. Construction of the new tower has begun: the foundation has been excavated and the rebar frame has been built and is currently awaiting inspection.

¹ WNTV has ceased operation on its pre-auction channel and is operating on its post-auction channel with temporary facilities.

² See, e.g. LMS file numbers 0000113886, 0000129848, 0000150893, and 0000177617.

Additional Time is Needed to File Final Invoices

Construction of WNTV's new tower is expected to be completed in June 2022, with the permanent repack facilities going on air in the same month. The tower construction company expects concrete for the tower's foundation to be poured on or about the week of March 7, 2022, contingent on the rebar passing inspection. Once poured, the concrete must cure for 28 days before tower erection can commence. Tower erection is expected to occur on or about April 14, 2022 to May 4, 2022. Antenna installation is slated for the second week of June 2022. Because the tower site sits atop a mountain, inclement weather may cause delays.

Given this projected timeline, some of WNTV's repack expenses must be incurred after the March 22, 2022 deadline. SCETV will not receive its final batch of invoices and related documentation from outside contractors, which SCETV intends to submit to the repack administrator for reimbursement, until after the March 22, 2022 deadline and likely not until work is completed in June, barring further delays.

Under these circumstances, extension of the invoice filing deadline is warranted. When establishing the deadlines to submit invoices for reimbursement from the Reimbursement Fund, the Incentive Auction Task Force and Media Bureau understood that there could be circumstances where strict enforcement would be contrary to the public interest. Therefore, the Bureau noted that it would consider extensions where the "circumstances requiring the extension were outside of [a station's] control, such as local zoning."³

SCETV has been unable to complete WNTV's permanent repack facilities due to rare and exceptional circumstances beyond its control. WNTV was repacked onto a new channel and the WNTV tower could not be used for WNTV's planned repack facility. WNTV was required by FCC rules and by state and local regulations to undertake the various steps described herein prior to constructing a new tower. As the FCC is aware, the local permitting process and the state procurement process can be very time consuming, particularly for a state entity.

In 2013, the FCC commissioned a report to better understand the costs and challenges associated with the involuntary broadcaster channel changes. This report, known as the "Widely Report" identified potential bottlenecks, including zoning and permitting at tower locations with sensitive environmental, scenic, or historical sites. It is fair to characterize WNTV's repack tower site on Paris Mountain as one of those "sensitive" locations. Moreover, the Widely Report also included a section on Noncommercial Stations (PBS stations) noting the unique challenges faced by noncommercial broadcasters, including state procurement processes and the potential need for state legislative approvals. Thus, the very issues that have delayed the WNTV repack tower project were identified at the very beginning of the FCC's repack process.

Further complicating matters, SCETV had all ten (10) of its ten (10) TV station transmission sites assigned to new TV channels and repacked, which has been a massive undertaking for a state public broadcaster serving the entire State of South Carolina. SCETV also pivoted during the COVID-19 pandemic to focus on K-12 education in the State of South

³ Invoice Filing Deadlines for TV Broadcaster Relocation Fund, Public Notice, 35 FCC Red 11273 at para. 13 (rel. Oct. 7, 2020).

Carolina and using its statewide TV network for datacasting to students without broadband, which fully occupied SCETV's engineering and other staff over the course of many months.⁴

Grant of this request would serve the public interest as it would allow SCETV, a state government entity engaged in noncommercial educational broadcasting, to be fully reimbursed for all of the costs it has reasonably incurred with the Repack (as envisioned by Congress in the language of the statute). No entity would suffer any harm as a result of the grant of the requested relief.

Conclusion

As set forth above, SCETV has worked diligently for many years to complete WNTV's Repack facility. After overcoming real estate and zoning obstacles and beginning construction, the facility is expected to be completed within the next several months. However, SCETV needs additional time to complete construction and gather and submit its final batch of invoices and related documentation. Therefore, SCETV respectfully requests that its invoice submission deadline be extended until September 6, 2022.

⁴ See <https://www.sctv.org/about/community-services/education-services> and <https://www.sctv.org/stories/2020/datacasting-offers-learning-delivery-options-students-without-broadband>