

Request for Special Temporary Authority and Further Extension of Deadline for Submitting Invoices for Reimbursement to the TV Broadcaster Relocation Fund

RNN National, LLC (“RNN”), licensee of television station KCNS(TV), San Francisco, California (FCC Facility ID No. 71586) (the “Station”), pursuant to Sections 1.3 and 73.1635 of the Commission’s rules, respectfully requests Special Temporary Authority (“STA”) and a further extension of the Commission’s rules as necessary to allow RNN an extension of the Station’s current invoice upload deadline, May 31 2023, to submit invoices for reimbursement to the TV Broadcaster Relocation Fund (“Reimbursement Fund”). RNN requests that the Station be given until August 31, 2023, to submit invoices. RNN is not requesting a further extension of the May 31, 2023 deadline to submit all cost estimates.

RNN cannot meet the May 31 2023 deadline to submit invoices because, due to circumstances beyond its control, the tower work related to the Station’s post-auction permanent facilities is still not complete. The Station is a non-owner tenant on Sutro Tower in San Francisco and, as the Bureau is aware, the local permitting process required for the completion of tower work related to the post-auction repack has just concluded and the tower work will continue for several more years. Accordingly, for the reasons discussed below, there is good cause for grant of RNN’s STA and extension request, and grant will serve the public interest.

Background

On January 21, 2022, the Incentive Auction Task Force and the Media Bureau released a Public Notice reminding all full power and Class A television stations assigned transition completion dates in phases 6 – 10 of the Transition Scheduling Plan that they must submit all remaining invoices for reimbursement from the Reimbursement Fund by March 22, 2022.¹ The

¹ See *TV Broadcaster Relocation Fund Filing Deadline Approaches in Sixty Days*, Public Notice,

notice outlined a procedure for requesting a limited extension of the invoice upload deadlines.² Specifically, if a station “faces circumstances beyond its control, however, we will consider a limited extension by means of shifting to the third, and last, invoice filing assignment An entity requesting such a shift will have to provide evidence that circumstances requiring the extension were outside of its control, such as local zoning or a force majeure event occurring proximate to the final submission deadline.”³ RNN applied for, and was granted, an extension of the deadline for the Station due to circumstances beyond its control, first to September 6, 2022, then to January 17, 2023, then to April 30, 2023 and most recently to May 31 2023.⁴

The Station was assigned to Phase 8 of the Transition Scheduling Plan. While the Station moved to its post-auction channel and post-auction facilities on time, the local permitting process has just concluded and work on Sutro Tower is ongoing.⁵ RNN’s principals and advisors have been in regular contact with the principal and counsel for Sutro Tower, Inc. (“STI”) and

DA 22-72 (IATF/MB Jan. 21, 2022). *See also Incentive Auction Task Force and Media Bureau Remind Reimbursement Program Participants that the Third and Final Filing Deadline Approaches in 90 Days*, Public Notice, DA 22-619 (IATF/MB June 8, 2022) at fn. 5 (Discussing how a station requesting a further extension of the September 6 invoice upload deadline must similarly “provide evidence that circumstances requiring the extension were outside of its control, such as local zoning or a force majeure event occurring proximate to the final submission deadline.”)

² *Id.* at n.4.

³ *Id.* at ¶ 2.

⁴ *See* FCC File No. 0000185064 (request for legal STA and extension of the March 22, 2022 invoice upload deadline for the Station as granted on March 21, 2022); FCC File No. 0000196963 (request for legal STA and extension of the September 6, 2022 invoice upload deadline for the Station as granted on August 31, 2022); FCC File No. 0000205016 (request for extension of legal STA and extension of the January 17, 2023 invoice upload deadline for the Station as granted on December 20, 2022); and FCC File No. 0000214243 (request for extension of legal STA and extension of the April 30, 2023 invoice upload deadline for the Station as granted on May 2, 2023).

⁵ Specifically, the final construction work on the tower must be completed and then the tower must be painted.

have pressed them to accelerate the local zoning process and construction schedule. As a non-owner tenant on the tower, RNN has no control over the construction schedule or the efforts by STI to obtain the necessary permits and zoning approvals from the City and County of San Francisco. Indeed, RNN notes that the local zoning authorities have only just approved the issuance of the final permit necessary to complete work on the tower, as the hearing for the final permit took place on May 25, 2023.

In addition to those efforts, RNN has been diligently pressing STI for the information required to submit the Station's expense documentation for reimbursement by the current May 31, 2023 deadline. RNN has submitted for reimbursement all invoices for the Station that are available as the filing of this request. RNN will submit all remaining Station invoices promptly upon RNN's receipt of those invoices.

There is Good Cause for an STA and Waiver

Under Section 1.3 of the Commission's rules, the Commission may waive its rules for "good cause shown."⁶ This standard requires grant of a waiver when (a) the particular facts make strict compliance inconsistent with the public interest, (b) special circumstances warrant a deviation from the general rule, and (c) such deviation will serve the public interest.⁷ In evaluating waiver requests, the Commission considers hardship, equity, or whether a waiver will result in "more effective implementation of overall policy" than enforcing its rule as written.⁸

RNN respectfully submits that a grant of the request to shift the Station's deadline to submit invoices for reimbursement from the Reimbursement Fund to August 31, 2023, would be

⁶ 47 C.F.R. § 1.3.

⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁸ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

in the public interest. A further extension of the reimbursement deadline will allow the Station to submit invoices paid after the current deadline and receive payment for legitimate expenses directly caused by the Station's post-auction channel change. In contrast, retaining the May 31 2023 deadline could force RNN to incur a significant amount of repack-related expenses itself, which is not in the public interest.

For the reasons stated herein, RNN respectfully requests that the Commission grant its request for a legal STA and waiver as needed to shift the Station's invoice upload deadline from May 31 2023 to August 31, 2023.