



Federal Communications Commission
Washington, D.C. 20554

June 9, 2023

Fox Television Stations, LLC
Ann West Bobeck, Esq.
101 Constitution Avenue NW
Suite 200 West
Washington, DC 20001
ann.bobek@fox.com
(via electronic mail)

Re: Request for Invoice Deadline Extension
KTVU(TV), Oakland, CA
Facility ID No. 35703
LMS File No. 0000215787

KGO Television, Inc.
John W. Zucker, Esq.
77 West 66th Street, 16th Floor
New York, NY 10023
john.w.zucker@abc.com
(via electronic mail)

Re: Request for Invoice Deadline Extension
KGO-TV, San Francisco, CA
Facility ID No. 34470
LMS File No. 0000215806

San Francisco Television Station KBCW Inc.
Daniel G. Ryson
2020 M Street NW - Licensing Department
Washington, DC 20036
dryson@cbs.com
(via electronic mail)

Re: Request for Invoice Deadline Extension
KBCW(TV), San Francisco, CA
Facility ID No. 69619
LMS File No. 0000215788

RNN National, LLC
Christian French
800 Westchester Avenue
Suite 640
Rye Brook , NY 10573
cfrench@rnntv.com
(via electronic mail)

Re: Request for Invoice Deadline Extension
KCNS(TV), San Francisco, CA
Facility ID No. 71586
LMS File No. 0000215794

Rural California Broadcasting Corporation
Darren LaShelle
5850 Labath Avenue
Rohnert Park, CA 94928
Darren_LaShelle@norcalpublicmedia.org
(via electronic mail)

Re: Request for Invoice Deadline Extension
KPJK(TV), San Mateo, CA
Facility ID No. 58912
LMS File No. 0000215803

Dear Licensees,

On May 31, 2023, Fox Television Station LLC, licensee of KTVU, Oakland, California (KTVU); San Francisco Television Station KCBW Inc., licensee of KCBW, San Francisco, California (KCBW); and KGO Television, Inc., licensee of KGO-TV, San Francisco, California (KGO) (collectively the Sutro Broadcasters), filed the above-captioned requests¹ for extension of the Commission's invoice filing

¹ See, e.g., LMS File No. 0000215787 and Attach. (KTVU request) (Sutro Tower Stations – Reimbursement Invoice Submission Extension Request).

deadline for the TV Broadcaster Relocation Fund (the Reimbursement Fund or Fund) from the their current invoice filing deadline of May 31, 2023, to August 31, 2023. Two other stations also filed extension requests on May 31, 2023: RNN National LLC, licensee of KCNS(TV), San Francisco, California, and Rural California Broadcasting Corporation, licensee of KPJK(TV), San Mateo, California (Stations),² both of which reference the Sutro Broadcasters' requests in support of the stations' requests to extend their May 31, 2023, deadline to August 31, 2023. For the reasons below, we grant the Sutro Broadcasters' and the Stations' requests (collectively, Requests) and extend the date of their invoice filing deadlines to August 31, 2023.

Background. Pursuant to Commission direction, the Incentive Auction Task Force and Media Bureau set deadlines for final invoice submission to the Reimbursement Fund using a phased assignment approach.³ All repacked stations assigned to Phases 6 through 10 of the Transition Scheduling Plan were required to submit all remaining invoices and supporting documentation, and initiate interim close-out procedures, no later than March 22, 2022. We stated we did not anticipate a need to grant extensions because the deadline was more than a year after the July 13, 2020, statutory end of the transition period, and more than a year after the announcement of the invoice filing assignment deadline. We noted, however, that if an entity faced circumstances beyond its control we could consider a limited extension by means of shifting an entity with the second invoice filing assignment deadline to the third and final invoice filing assignment deadline on September 6, 2022.⁴ An entity requesting such a shift was required 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.⁵ We further stated we would not grant extensions that do not provide the staff with sufficient processing time to complete close-out procedures for all stations.⁶ On August 4, 2022, we issued a final reminder to Fund entities that any outstanding invoices must be filed by the September 6 deadline and that we did not anticipate further extensions of the invoice filing deadline, barring limited extensions requested by entities that are able to provide evidence that circumstances outside of their control, such as local zoning or a force majeure event occurring proximate to the final submission, would necessitate a limited deadline extension.⁷

The Sutro Broadcasters and Stations requested and received extensions of both the March and September 2022 invoice filing assignment deadlines, which were further extended to April 30, 2023, and May 31, 2023.⁸ The Sutro Broadcasters and the Stations, which have transitioned to and are operating

² See, e.g., LMS File No. 0000215803 and Attach. (KPJK request).

³ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6815-16, 6819, paras. 607, 616-17 (2014) (*Incentive Auction R&O*), subsequent history omitted; *Invoice Filing Deadlines for TV Broadcaster Relocation Fund*, Public Notice, 35 FCC Rcd 11273, 11277, paras. 10-11 (MB/IATF 2020) (*Invoice Filing Deadline PN*) (setting three filing deadlines for submission of all remaining repack invoices: October 8, 2021; March 22, 2022; and September 6, 2022).

⁴ See *Invoice Filing Deadline PN*, 35 FCC Rcd at 11277-78, para 13.

⁵ *Id.*

⁶ *Id.*

⁷ *TV Broadcaster Relocation Fund Third and Final Invoice Filing Deadline Approaches In Thirty Days*, Public Notice, DA 22-817, n.5 (MB/IATF Aug. 4, 2022).

⁸ See, e.g., Letters from Barbara A. Kreisman, Chief, Video Division, FCC Media Bureau, to KGO Television, Inc., et al., LMS File No. 0000185003 (Mar. 21, 2022) (extending the invoice filing assignment deadlines for the Sutro Broadcasters from March 22 to September 6, 2022); LMS File No. 0000196868 (Aug. 31, 2022) (granting requests to extend the invoice filing assignment deadlines for the Sutro Broadcasters from September 2022 to January 17, 2023); LMS File No. 0000205004 (Dec. 20, 2022) (granting requests to extend the January 17, 2023, deadline to

from their post-auction channels, state that they will incur repack-related expenses after the May 31, 2023, invoice filing deadline because Sutro Tower (Tower), the tower from which the stations broadcast and which is owned by Sutro Tower, Inc. (STI), only very recently received City approval for the cladding elimination and related projects necessary to complete the Tower's structural upgrade.⁹ Sutro Broadcasters and the Stations therefore state that despite their diligent efforts to obtain the necessary permits and consents before now, they will incur expenses after May 31, 2023, due to circumstances beyond their control.

As noted in their extension requests, the Tower is located in a residential area of San Francisco and must comply with local zoning, land use, and permitting laws and regulations. The Sutro Broadcasters state that the primary reason they have been unable to make all of the required structural improvements, and thus complete the repack process, is due to the fact that, despite the efforts of STI (working on behalf of Tower tenants such as the Sutro Broadcasters and Stations), the City has only recently approved the application to implement required improvements related to the cladding elimination.

The Sutro Broadcasters, along with STI, sought authority from the City in 2017 to replace the broadcast antennas used by the repacked Stations and remove the architectural cladding existing on the vertical legs of the Tower to reduce weight and lessen wind loading in compliance with local wind and seismic standards. Discussions with the City, local politicians, and neighborhood stakeholders over the course of two years did not generate all of the requisite approvals, but the City accepted a modified repack application that bifurcated the required work into two parts which enabled the Sutro Broadcasters and Stations to meet their deadlines for transitioning to their post-auction channels while they continued to seek approvals for remaining work, including work necessitated as a result of the cladding removal required as part of the installation of new antennas and other equipment.

The Sutro Broadcasters state that despite their best efforts, the City did not approve until May 25, 2023, the cladding elimination structural improvements.¹⁰ Since the last extension, the Sutro Broadcasters and Stations report that, as of May 31, 2023, they have submitted all estimates for their stations' remaining work.¹¹ The Sutro Broadcasters and the Stations note, however, that there are "still costs to be incurred in connection with the permitting process, as well as the approved mitigation measures to reduce the visual impact, including but not limited to repainting of the tower to its original aviation orange and white color scheme. These costs will be incurred, and invoices will be issued, on a rolling basis as the process proceeds."¹² The Sutro Broadcasters and Stations state that some invoices relating to the Cladding Elimination Application will not be rendered until after the current May 31, 2023 deadline. They seek approval to extend the invoice filing deadline to August 31, 2023.

Discussion. Upon review of the facts and circumstances presented, we find that sufficient circumstances exist to extend the Sutro Broadcasters' and Stations' invoice filing deadlines from the current May 31, 2023, deadline to August 31, 2023. The Sutro Broadcasters and Stations have

April 30, 2023); and LMS File No. 0000214229 (May 2, 2023) (granting requests to extend the April 30, 2023, deadline to May 31, 2023).

⁹ See, e.g., LMS File No. 0000215787, Attach. at 4.

¹⁰ *Id.*

¹¹ See, e.g., the KTVU and KPJK requests (LMS File Nos. 0000215787 and 0000215803, respectively).

¹² LMS File No. 0000215787, Attach. at 4.

demonstrated that circumstances beyond their control require the extension. We also find that granting the Requests is not likely to negatively impact the staff's ability to process the Sutro Broadcasters' and Stations' invoices or complete close-out procedures for all stations. We therefore conclude that the public interest will be served by grant of the extension. We strongly encourage the Sutro Broadcasters and Stations to pursue diligently submission of all remaining invoices as early as possible, without waiting for the invoice filing deadline of August 31, 2023. We remind the Sutro Broadcasters and the Stations that, pursuant to the Spectrum Act, the stations are eligible for reimbursement for costs "reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other."¹³ Additional expenses incurred, such as expenses resulting from changes in a station's transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

A station's failure to timely submit any pending invoices by the filing deadline, could preclude that station from receiving full reimbursement.

In consideration of the above facts, the requests for extension of invoice filing deadlines of Fox Television Station LLC; KGO Television, Inc.; San Francisco Television Station KCBW Inc.; RNN National, LLC; and Rural California Broadcasting Corporation **ARE GRANTED**. The deadline for filing invoices pending as of May 31, 2023, for KTVU, Oakland, California; KGO-TV, San Francisco, California; KCBW, San Francisco, California; KCNS, San Francisco, California; and KPJK, Mateo, California, **IS MODIFIED TO August 31, 2023**.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Susan Fox, The Walt Disney Company, at Susan.Fox@disney.com
Martha E. Heller, VP, Paramount Global, at martha.heller@viacomcbs.com
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¹³ 47 U.S.C. § 1452(b)(4)(A)(i). *See also Incentive Auction R&O*, 29 FCC Rcd at 6821, para. 622 ("The appropriate scope of 'costs reasonably incurred' necessarily will have to be decided on a case-by-case basis.").