

## **KPJK Request for Extension of Invoice Filing Deadline**

Rural California Broadcasting Corporation (“RCBC”), licensee of noncommercial educational television station KPJK, San Mateo, California (the “Station”), 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. RCBC requests an extension until September 6, 2022 – the next filing deadline. As described herein, due to circumstances beyond RCBC’s control, including complicated and lengthy local zoning, land use, and permitting processes involving its multi-tenant tower landlord, RCBC will not have incurred all repack related expenses by March 22, 2022.

### **Background**

As part of the Commission’s Broadcast Television Spectrum Incentive Auction in 2017 (the “Repack”), RCBC was notified that KPJK was involuntarily reassigned to a new channel. The Station broadcasts from Sutro Tower (the “Tower”) in San Francisco, California. The Tower is a multi-tenant communications tower that houses multiple antennas for full power television and FM radio stations, as well as other communications entities.<sup>1</sup> The Tower is owned and operated by Sutro Tower, Inc. (“STI”); STI is owned by four major San Francisco television broadcasters (some of which were subject to the Repack). RCBC is a non-owner tenant of the Tower.

The Tower is subject to local building and zoning laws which can be quite burdensome, particularly because the Tower is in a residential area and, since its construction in 1973, the Tower has been “a prominent feature of the city skyline and a landmark for city residents and visitors.”<sup>2</sup> STI is responsible for zoning and planning work for the Tower, including the city and county approval processes for the Repack.

As explained in the submissions of other television stations on the Tower (including several of the owners of STI),<sup>3</sup> in July 2019, after years of organizational and preparatory communications with the San Francisco Department of Building Inspection, the San Francisco Planning Department, local politicians, and neighborhood stakeholders, STI secured the required city and county approval to conduct the work necessary to achieve the first hurdle of the Commission’s repack requirements for their tenants: changing to the new assigned television channels and ceasing operation on the old channels. However, zoning and land use approval was contingent on certain conditions, including temporary removal of architectural cladding<sup>4</sup> from

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<sup>1</sup> *About the Tower*, Sutro Tower Official Website (last visited Feb. 24, 2022), available at <https://www.sutrotower.com/about>; *Broadcast Stations*, Sutro Tower Official Website (last visited Feb. 24, 2022), available at <https://www.sutrotower.com/stations>.

<sup>2</sup> *Sutro Tower*, Wikipedia (last visited Feb. 24, 2022), available at [https://en.wikipedia.org/wiki/Sutro\\_Tower](https://en.wikipedia.org/wiki/Sutro_Tower).

<sup>3</sup> See, e.g. LMS file numbers 0000185002 and 0000185003.

<sup>4</sup> The cladding is a series of “siding panels” that cover the open truss structure. *For Our Neighbors*, Sutro Tower Official Website (last visited Feb. 24, 2022), available at <https://www.sutrotower.com/for-our-neighbors>.

the Tower's three legs. The City and County of San Francisco required STI to submit further documentation regarding the final disposition of the cladding.

### **Additional Time is Needed to Submit Invoices**

Due to the required state and local permitting processes, STI has informed RCBC that it needs additional time to complete further environmental reviews, permitting, and public hearings on its plan for permanent disposition of the cladding. These reviews include preparation of an Environmental Impact Report, as required by the California Environmental Quality Act. As referenced above, STI's commercial tenants with an ownership interest in the Tower recently filed similar requests for additional time to file repack reimbursement invoices that includes a more detailed explanation of the work on the Tower that STI still needs approval to perform and that remains to be completed. The pertinent facts regarding STI and the remaining work, as set forth in the requests in LMS file numbers 0000185002 and 0000185003, are incorporated herein by reference. The remaining work will cause RCBC to incur additional repack expenses after the March 22, 2022 deadline.

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."<sup>5</sup> Despite the significant progress that has been made, RCBC's tower landlord, STI, needs additional time to complete the local zoning and permitting processes. Therefore, RCBC needs additional time to submit related invoices (that it will not have received by March 22, 2022) due to rare and exceptional circumstances beyond RCBC's control, namely the continuing local zoning and permitting process undertaken by STI and the final disposition of the cladding as requested by STI.

Grant of this request would serve the public interest as it would allow RCBC, a nonprofit local community organization 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**

RCBC respectfully requests that the Commission extend the repack reimbursement invoice submission deadline to September 6, 2022 for the Station's Post-Incentive Auction facility. As set forth above, RCBC's landlord, STI, has been working diligently to acquire

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<sup>5</sup> Invoice Filing Deadlines for TV Broadcaster Relocation Fund, Public Notice, 35 FCC Rcd 11273 at para. 13 (rel. Oct. 7, 2020).

required zoning and land use approval for final disposition and completion of the cladding project through the complicated state and local processes. RCBC needs additional time to submit invoices for expenses incurred after March 22, 2022.