

**Request for Limited Extension of Deadline for KRDK-TV to Submit Invoices for Reimbursement from the TV Broadcaster Reimbursement Fund**

Parker Broadcasting of Dakota License, LLC (“Parker”), licensee of full power digital television broadcast station KRDK-TV, Valley City, North Dakota (Facility ID 49134) (the “Station” or “KRDK”), hereby seeks a limited extension, to and including September 6, 2022, of its current March 22, 2022 deadline to submit all remaining invoices for reimbursement from the TV Broadcaster Relocation Fund (“Fund”).<sup>1</sup>

By its Public Notice, *TV Broadcaster Relocation Fund Invoice Filing Deadline Approaches in Sixty Days*, DA 22-72 (rel. Jan. 21, 2022) (“Notice”), the Incentive Auction Task Force and Media Bureau (“Bureau”) reminded certain television broadcasters, those repacked to different channels as a collateral consequence of the Commission’s Incentive Auction, of the March 22, 2022 deadline for full power and Class A stations assigned to Phases 6-10 of the repack. The Notice (at n. 6) also made clear that, in appropriate circumstances, the Commission would entertain requests for a limited extension of a station’s deadline from the second to the third deadline.<sup>2</sup> As shown below, KRDK’s request to shift to the final submission deadline is due to circumstances outside of its control occurring proximate to the final submission deadline.

KRDK has previously chronicled for the FCC multiple facts demonstrating that the Station repack is a project of unusually broad scope and complexity and hereby incorporates by

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<sup>1</sup> The Station was previously granted an extension of its October 8, 2021 filing deadline due to various circumstances outside of its control as detailed in LMS File No. 0000158818 (amended Oct. 1, 2021) (“First Extension Request”).

<sup>2</sup> Parker also respectfully requests a waiver of the Legal STA filing fee in LMS. *See TV Broadcaster Relocation Fund Filing Deadline Approaches in Sixty Days*, Public Notice, DA 22-72, fn 6 (rel. Jan. 21, 2022) (“Notice”).

reference that information into the instant request.<sup>3</sup> Parker has taken – and continues to take – its repack-related obligations seriously and, despite complex and unique challenges, has made substantial efforts to finalize its transition and timely submit reimbursement invoices to the Commission.<sup>4</sup> Since the October 2021 First Extension Request, Parker has been working diligently to make efficient use of its extension and to account for and finalize all outstanding steps to project completion.<sup>5</sup>

This extension request follows Parker’s extensive efforts during the period after grant of its First Extension Request to find a competent and reliable tower company able and available to undertake certain necessary repack work as identified in the First Extension Request.<sup>6</sup> Specifically, Parker has worked to secure the services of a competent tower company in immediate position to provide the necessary rigging, equipment, tooling, labor and oversight to perform a complete plumb & tension of the 2,060’ Guyed Tower (eight levels of guy wires). This proved unusually difficult due to extraordinary factors previously identified by Parker, some “hard-wired” such as the harsh weather and resulting short construction season in the Fargo, North Dakota, and others that remain unique in 2022 – the effect of the COVID-19 pandemic on everything from the equipment supply chain to the availability of skilled personnel, as well as the historic demand for competent tower crews associated with the repack.

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<sup>3</sup> See First Extension Request.

<sup>4</sup> The Station’s online LMS filings confirm Parker’s consistent diligence throughout this complicated process. That is, that record shows that to date Parker has filed 60 Form 399s relating to the KRDK repack, three in 2017, seven in 2018, 19 in 2019, 13 in 2020, 14 in 2021, and four in 2022.

<sup>5</sup> Indeed, since the First Extension Request filing, Parker has submitted six FCC Form 399 reimbursement requests.

<sup>6</sup> Parker cited this outstanding need and discussed the unique complexities associated with it in detail in its supplemental attachment to its First Extension Request.

As Parker has explained, the tower at issue lays claim to being one of the tallest, if not the tallest, broadcast towers in the United States. It measures 2,060 feet above ground. As is commonly recognized, tall towers (i.e., those more than 500 feet above ground (much less 2,000 feet)) make for more difficult, complicated, and risky installations.<sup>7</sup> That has been the case for KRDK.

This project's complexity has been apparent from various factors previously reported to the Commission, including the sharply weather-truncated construction season in the Fargo, North Dakota area.<sup>8</sup> It is also the case that, due to the Station's small staff (essentially Mom and Pop, with no in-house engineers), satisfying the many demands of this project has proven particularly challenging for Parker, one of the country's very few minority-owned broadcasters, and one that provides an important independent voice in the Fargo-Valley City DMA.

Another rare, exceptional, and complicating circumstance that persists to this day is the COVID-19 pandemic. This international public health crisis directly and negatively impacted multiple aspects of this project and the television industry more generally. Those impacts include curtailing travel options of principals and crew, further compressing their schedules, already crowded due to the national Incentive Auction-related repack, and adding cascading layers of complication and delay to the ability of workers to safely perform the work required by a project like the Station's move to Channel 24 on a 2,000+ foot AGL tower. Parker recognizes

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<sup>7</sup> In its tower equipment and rigging costs section, FCC Form 399 recognizes towers above 500' AGL as "tall." See also American Tower's *Broadcast Buzz*, Jan. 2019 Edition, at ¶ 8 ("on-tower work requires special skill sets, particularly construction on tall broadcast towers."), available at <https://www.americantower.com/us/news-and-events/broadcast-buzz/January-2019.html>. See also *Confessions of a Tall Tower Worker*, Radio World, Aug. 15, 2017, available at <https://www.radioworld.com/miscellaneous/confessions-of-a-talltower-worker> (tall tower job skills are very much in demand due to the broadcast spectrum repack).

<sup>8</sup> Request for Modification and Waiver of Phase Assignment, filed Oct. 22, 2018, LMS File No. 0000063031 ("*Phase Assignment Waiver*").

that the Commission has acknowledged the “fluid and challenging situation caused by the novel coronavirus (COVID-19)” in universally postponing, sua sponte, certain filing deadlines of broadcasters.<sup>9</sup> COVID-19 continues to disrupt and dislocate various post-construction processes, including the need to coordinate multiple aspects of the reimbursement process with multiple companies and individuals.

Parker can now report that its persistence in seeking a qualified company to perform the necessary tower work has borne fruit -- Parker has executed a Statement of Work with a company as of today, March 22, 2022. While Parker has received and is today submitting to the FCC its quote for this work, the project will be ongoing and subject to change from initial estimates – particularly due to the complexity associated with this tall tower and location. Parker now needs to move forward flexibly with this company, with additional time to seek further reimbursements from the Commission for this repack-related project.

The facts and circumstances presented herein amply justify grant of this requested limited extension. Parker has acted with diligence throughout this process, over multiple years, in a good faith effort to meet repack deadlines in a manner consistent with this project’s complexity and risk. The Station’s record encompasses many of the factors relevant to Commission analogous consideration of extension requests – including the complexities associated with tall towers, tower crew unavailability, and complicating weather conditions.<sup>10</sup>

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<sup>9</sup> See, e.g., *Media Bureau Announces Extension of Time for Broadcasters to File Children’s Programming Reports and Quarterly Issues/Programs Lists*, Public Notice, DA 20-353 (rel. Mar. 27, 2020).

<sup>10</sup> See, e.g., *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, DA 18-884 (rel. Aug. 27, 2018) at ¶ 12 (citing the following as three of five illustrative circumstances relevant to showings justifying construction permit extensions: “weather related delays,” “delays in construction due to the unavailability of...a tower crew,” and “unusual technical challenges.”).

The public interest will clearly be served, and not suffer, by grant of this request.<sup>11</sup> For all of the foregoing reasons, Commission grant of a limited extension to September 6, 2022 of the deadline for Parker to submit KRDK repack-related invoices for Fund reimbursement is amply justified. Such relief is respectfully requested.

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All of these circumstances are present here, and constitute essential components of Parker's showing of rare and exceptional circumstances.

<sup>11</sup> Parker notes that the FCC may grant a waiver for good cause shown. 47 C.F.R. § 1.3. A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166. Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166. This request satisfies these various waiver standards.