

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 January 17, 2023. 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 September 6, 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.¹ 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.”² 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),³ 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 cladding⁴ from the Tower’s three legs. The City and County of San Francisco required STI to submit further

¹ *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>.

² *Sutro Tower*, Wikipedia (last visited Feb. 24, 2022), available at https://en.wikipedia.org/wiki/Sutro_Tower.

³ See, e.g. LMS file numbers 0000185002 and 0000185003.

⁴ 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>.

documentation regarding the final disposition of the cladding. Due to those delays, the Commission granted RCBC's request to extend KPJK's March 22, 2022 invoice submission deadline until September 6, 2022.⁵

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. STI's commercial tenants with an ownership interest in the Tower recently filed similar requests for additional time to file repack reimbursement invoices for 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 0000196844 and 0000196868, are incorporated herein by reference.

As described in greater detail in those filings, since the grant of the previous extension requests, STI has worked diligently to obtain the necessary approvals, but the San Francisco Planning Commission has postponed the public hearing multiple times. The hearing is currently scheduled for August 25, 2022, where the Planning Commission will consider all of the outstanding cladding matters. Assuming that a plan forward is approved on August 25, additional permitting costs, including preparation of an environmental impact assessment (as required by the California Environmental Quality Act), will be incurred through Spring 2023, and work is not expected to be completed until Summer 2023. Therefore, the remaining work will cause RCBC to incur additional repack expenses after the September 6, 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."⁶ 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 September 6, 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

⁵ See LMS File Number 0000185299.

⁶ Invoice Filing Deadlines for TV Broadcaster Relocation Fund, Public Notice, 35 FCC Rcd 11273 at para. 13 (rel. Oct. 7, 2020).

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 January 17, 2023 for the Station’s Post-Incentive Auction facility. As set forth above, RCBC’s landlord, STI, has been working diligently to acquire 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 September 6, 2022.