

**Request for Special Temporary Authority and Further Extension of Deadline to
Submit 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, January 17, 2023, to submit invoices for reimbursement to the TV Broadcaster Relocation Fund (“Reimbursement Fund”). RNN requests that the Station be given until April 30, 2023, to submit its invoices.

RNN cannot meet the January 17, 2023 deadline 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 is ongoing.¹ 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

¹ See, e.g., FCC File No. 0000205044 (request for extension of the January 17, 2023 invoice upload deadline filed by the network owners of Sutro Tower detailing how the hearings for the various outstanding permits have been delayed multiple times and how those delays have pushed work previously scheduled for 2022 into 2023).

remaining invoices for reimbursement from the Reimbursement Fund by March 22, 2022.² The notice outlined a procedure for requesting a limited extension of the invoice upload deadlines.³ 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.”⁴ 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 and then to January 17, 2023.⁵

The Station was assigned to Phase 8 of the Transition Scheduling Plan. The Station was and is a tenant on Sutro Tower. While the Station moved to its post-auction channel and post-auction facilities on time, the local permitting process and construction work on Sutro Tower is ongoing. RNN’s principals and advisors have been in regular contact with Sutro Tower, Inc. (“STI”) and have pressed STI to accelerate the local zoning process. As a non-owner tenant on the tower, RNN has no control over the local approval process or construction schedule, the

² See *TV Broadcaster Relocation Fund Filing Deadline Approaches in Sixty Days*, Public Notice, 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.”)

³ *Id.* at n.4.

⁴ *Id.* at ¶ 2.

⁵ 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).

efforts by STI to obtain the necessary permits and zoning approvals from the City and County of San Francisco or, most significantly, the protracted processes before the City and County. Despite RNN's best efforts, the local zoning authorities still have not issued the necessary permits and zoning approvals to complete work on the tower.

In addition to those efforts, RNN has been diligently working to submit the Station's final expense documentation for reimbursement by the current January 17, 2023 deadline. In fact, RNN has submitted for reimbursement all available invoices for the Station and the only additional expenses RNN anticipates for the Station are expenses related to the work on Sutro Tower. RNN plans to continue to submit all remaining Station invoices promptly so that only the invoices for the tower work and related expenses will be outstanding.

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 all remaining invoices for reimbursement from the Reimbursement Fund to April 30, 2023, would be in the public interest. A further extension of the reimbursement deadline will

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).

allow the Station to submit invoices paid after the current January deadline and receive payment for legitimate expenses directly caused by the Station's post-auction channel change. In contrast, retaining the January 17, 2023 deadline could force RNN to incur a significant amount of repack-related expenses itself, which is not in the public interest. Further, RNN's request for a limited extension of the invoice submission deadline for the Station will not undermine the Commission's overall efforts to complete processing of reimbursement requests prior to the July 3, 2023 deadline.⁹ As discussed above, all invoices that RNN has received to date for the Station have been submitted and RNN plans to swiftly submit all remaining invoices shortly after they are received.

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 deadline assignment from January 17, 2023 to April 30, 2023 to submit its final expense documentation for reimbursement.

⁹ Because all invoices specific to the Station's facilities have been submitted, and only shared tower expenses remain, RNN would be amenable to closing out the Station's FCC Form 399 before April 30, 2023 and going through the FCC Fund Administrator's close-out process for the Station if (1) doing so would assist the Commission in wrapping up the Reimbursement Fund program by the July 3, 2023 deadline and (2) RNN would be permitted to reopen the Station's Form 399 when additional tower-related invoices are received (both from STI and from RNN's outside advisors).