

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 all 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 August 31, 2024.

As described herein and in the recently filed requests of the other Sutro Broadcasters, due to circumstances beyond RCBC’s control involving complicated and lengthy local zoning, land use, and permitting processes affecting its multi-tenant tower landlord, RCBC will not have incurred all repack related expenses by August 31, 2023. All of RCBC’s invoices related to KPJK’s repack antenna facilities have been submitted to the FCC; only the remaining tower work invoices from the tower landlord (related to local permitting, tower improvements required by the local authorities, and tower repainting) and invoices for related project management and legal work still need to be submitted.

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 STI’s owners),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

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 205004, 204997, and 205012.

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.⁴ However, the Sutro Tower project required several more proceedings before the San Francisco Planning Commission, the complicated history of which can be found in publicly available documents on the Planning Department website.⁵ The result is that RCBC has been unable to close out its Repack account, as there are still invoices forthcoming from STI, as well as invoices for related project management and legal work, that RCBC will need to submit for reimbursement. Due to these delays, the Commission has granted RCBC's requests to extend the deadline for KPJK's invoice submissions including, most recently, extending KPJK's May 31, 2023 invoice submission deadline to August 31, 2023.⁶ Unfortunately, RCBC now must seek yet another extension due to circumstances beyond its control as an STI tenant.

Additional Time is Needed to Submit Invoices

STI has informed RCBC that it needs additional time to complete tasks associated with the City and County of San Francisco's permitting process. Notably, on May 25, 2023, the San Francisco Planning Commission authorized permanent removal of the tower's vertical cladding and repainting of the tower. However, the Planning Commission imposed new "Conditions of Approval" which will add additional time and expense.⁷ STI does not expect to complete this work, and to provide all associated invoices to the Sutro tenants, until late 2024 at the earliest.

On May 30, 2023, STI provided final cost estimates to RCBC for the remaining repack work, including the remaining permitting work and tower work (such as repainting) and the costs of implementing the new "Conditions of Approval." STI's other repack tenants, including the Sutro Broadcasters that own STI, have filed similar requests for additional time to file repack reimbursement invoices. The pertinent facts regarding the remaining work, as set forth in LMS file number 219544, are incorporated by reference.

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."⁸ Despite the progress that has been made, RCBC's tower landlord, STI, needs additional time to implement the outcome of its local

⁴ San Francisco Planning Department, Sutro Tower Spectrum Repacking Project Addendum, Case No. 2007.0206ENV-4, July 5, 2019. Available at <https://sfplanning.org/environmental-review-documents>.

⁵ See <https://sfplanning.org/>.

⁶ See LMS File Number 215803.

⁷ See San Francisco Planning Department, *Mandatory Discretionary Review Analysis* (May 25, 2023), https://citypln-m-extnl.sfgov.org/Commissions/CPC/5_25_2023/Commission%20Packet/2019-000499DRM.pdf.

⁸ Invoice Filing Deadlines for TV Broadcaster Relocation Fund, Public Notice, 35 FCC Rcd 11273 at para. 13 (rel. Oct. 7, 2020).

zoning and permitting processes, including the new “Conditions of Approval” and recently authorized tower repainting. Therefore, RCBC (STI’s tenant) needs additional time to submit related invoices due to rare and exceptional circumstances beyond RCBC’s control.

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 KPJK’s repack reimbursement invoice submission deadline to August 31, 2024 for the Station’s Post-Incentive Auction facility. As set forth above, RCBC’s landlord, STI, has not yet invoiced RCBC for all expenses related to the local permitting process, including the new “Conditions of Approval” and recently authorized tower repainting. RCBC needs additional time to submit STI’s invoices and related project management and legal invoices.