

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Improving Public Safety Communications in the) WT Docket No. 02-55
800 MHz Band.)
)
Request for Waiver by the State of Washington)

ORDER

Adopted: May 13, 2016

Released: May 13, 2016

By the Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. On April 5, 2016, the State of Washington (Washington) filed a request for waiver of the deadline for completion of 800 MHz rebanding seeking an extension of time until December 31, 2016 to complete rebanding of its 800 MHz public safety communications system. On April 18, 2016, Sprint Corporation (Sprint) filed the Sprint Request to Condition Waiver, in which it requested the Public Safety and Homeland Security Bureau (Bureau) to condition the requested waiver on Washington filing weekly progress reports on its rebanding efforts, using a reporting template developed by Sprint. On April 28, 2016, Washington filed the Opposition of the State of Washington opposing the imposition of conditions on the requested waiver. On May 3, 2016 Sprint filed the Sprint Reply to Opposition. For the reasons set out below, we grant the waiver request, with conditions, dismiss the Sprint Request to Condition Waiver on procedural grounds, dismiss the Opposition of the State of Washington and the Sprint Reply to Opposition as moot, and require Washington to file detailed progress reports every two weeks, beginning May 23, 2016, with the Bureau, the 800 MHz Transition Administrator and Sprint.

II. PROCEDURAL MATTERS

2. Section 1.45 of the Commission's rules¹ provides that oppositions to any motion, petition, or request must be filed within 10 days of the filing date of the underlying pleading.¹ Washington filed its waiver request on April 5, 2016 causing oppositions to be due no later than April 15, 2016. Sprint's April 18, 2016 filing was thus untimely by a day.² In its opposition, Sprint acknowledges that the filing is untimely, and asks for a waiver or leave to file its opposition. While Sprint requests that the Bureau accept its late-filed opposition, it does not explain why the filing was tardy. Washington points out that precedent establishes that such late filed pleadings without an explanation and not submitted together with a separate request for leave to late file are subject to dismissal.³ Washington is correct and for that reason, we are dismissing the Sprint Request to Condition Waiver. The dismissal of the Sprint pleading renders the Opposition of the State of Washington and the Sprint Reply to Opposition moot and thus, we also

¹ 47 CFR § 1.45.

² In 2016, April 16 and 17 fell on a weekend.

³ Opposition of the State of Washington, *citing Improving Pub. Safety Communications in the 800 MHz Band*, Order, 29 FCC Rcd 3745 (PSHSB 2014).

dismiss those pleadings.

III. DISCUSSION

3. We grant Washington's request and grant it a waiver until December 31, 2016 to complete the rebanding of its 800 MHz communications system. Notwithstanding the dismissal of the Sprint and Washington pleadings, as a condition of the waiver we are requiring Washington to submit detailed progress reports every two weeks beginning May 23, 2016 to the Bureau, the 800 MHz Transition Administrator and Sprint.⁴ We do so because the Washington rebanding is well behind schedule and we would have imposed such a condition even had the parties' pleadings not been filed. Washington must file the reports by email in the PSHSB800 mailbox with a copy to the undersigned. Washington need not follow the report format suggested by Sprint but shall identify, in the reports, in addition to progress made, any events that are interfering with the timely completion of rebanding. While we are granting Washington until December 31, 2016 to complete rebanding, we urge Washington and Sprint to cooperate in finding ways to complete rebanding prior to that date, including Sprint providing such reasonable funding as may be necessary to accelerate the process.

IV. ORDERING CLAUSES

4. Accordingly, IT IS ORDERED, that the waiver request filed by the State of Washington on April 5, 2016 IS GRANTED;

5. IT IS FURTHER ORDERED that the State of Washington shall file detailed progress reports on its rebanding project as specified herein;

6. IT IS FURTHER ORDERED that the Sprint Request to Condition Waiver, filed April 18, 2016 IS DISMISSED as untimely filed;

7. IT IS FURTHER ORDERED that the Opposition of the State of Washington, filed April 28, 2016 and the Sprint Reply to Opposition filed May 3, 2016 ARE DISMISSED as moot.

8. This action is taken under delegated authority pursuant to Sections 0.191(a) and 0.392 of the Commission's Rules, 47 C.F.R. §§ 0.191(a), 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Deputy Chief – Policy and Licensing Division
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⁴ Washington may discontinue submitting these reports when it has completed rebanding.