

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

In the Matter of)	
)	
Improving Public Safety Communications in the 800 MHz Band)	WT Docket No. 02-55
)	
Requests for Interim Waiver of the June 26, 2008 Rebanding Deadline – Wave 2 Public Safety Regions)	

ORDER

Adopted: June 17, 2008

Released: June 17, 2008

By the Associate Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this order, by delegated authority, we act on multiple requests by 800 MHz public safety licensees in Wave 2¹ for interim waiver of the June 26, 2008 deadline to allow the completion of rebanding planning, negotiation of Frequency Reconfiguration Agreements (FRAs), and the submission of final proposed rebanding schedules to the Commission.² We grant these interim requests to the extent set forth below, conditioned on each licensee, if necessary, filing a supplemental waiver request by the date specified for the licensee in Appendix A of this order that includes a proposed implementation timetable.³

II. BACKGROUND

2. In the *800 MHz Report and Order* and subsequent orders in this proceeding, the Commission ordered the rebanding of the 800 MHz band to resolve interference between commercial and

¹ Wave 2 includes the following NPSAC Regions: Region 4 (Arkansas), Region 12 (Idaho), Region 15 (Iowa), Region 16 (Kansas), Region 17 (Kentucky), Region 22 (Minnesota), Region 24 (Missouri), Region 25 (Montana), Region 26 (Nebraska), Region 32 (North Dakota), Region 34 (Oklahoma), Region 38 (South Dakota), Region 39 (Tennessee), Region 40 (Dallas/Central & Northeast Texas), Region 44 (West Virginia), Region 46 (Wyoming), Region 49 (Austin/Central Texas), Region 51 (Houston/East Texas), and Region 52 (Lubbock/Texas Panhandle). A list of all NPSAC regions and their corresponding geographic areas can be found at <http://www.fcc.gov/Bureaus/Wireless/Orders/1998/fcc98191.txt>.

² Waiver requests by Wave 2 licensees who have completed FRA negotiations and submitted proposed rebanding schedules will be addressed in a separate order. We also hold in abeyance the interim requests of the Houston Police Department and Houston Public Works Department, pending resolution of a related cost dispute involving these licensees that is currently pending before the Bureau.

³ On May 1, 2008, Sprint Nextel Corporation (Sprint) filed a request for waiver to remain temporarily on Channel 1-120 channels that are designated for assignment to NPSAC licensees that receive waivers of the June 26, 2008 deadline. Request for Waiver by Sprint Nextel Corporation, filed May 1, 2008. We will address Sprint's waiver request separately.

public safety systems in the band.⁴ These orders mandate that 800 MHz licensees in non-border areas must complete their rebanding by June 26, 2008.⁵ However, the Commission has also established a waiver process for licensees that are unable to complete rebanding by the deadline, and has delegated authority to the Public Safety and Homeland Security Bureau (PSHSB) to act on such waiver requests.⁶

3. On January 17, 2008, the Commission released a *Public Notice* that established procedures and provided guidance for submission of requests to waive the deadline.⁷ The Commission recommended that licensees seeking waivers provide the Commission with a proposed timetable for completion of rebanding. However, the Commission also recognized that some licensees might be unable to propose a timetable because they had not yet negotiated their FRAs with Sprint. The Commission stated that such licensees should file interim waiver requests stating “when the licensee anticipates having an FRA and filing a final waiver request that will include a proposed timetable.”⁸ The Commission set March 17, 2008 as the deadline for licensees in Wave 2 to submit either an interim or a final request.⁹

III. DISCUSSION

4. The Commission has stated that requests for waiver of the June 26, 2008 deadline “will be subject to a high level of scrutiny. Licensees will be expected to demonstrate that they have worked diligently and in good faith to complete rebanding expeditiously, and that the amount of additional time requested is no more than is reasonably necessary to complete the rebanding process.”¹⁰ We have reviewed each of the Wave 2 interim waiver requests in accordance with this standard.

5. We first address those licensees in Wave 2 that seek interim waivers to complete planning, negotiate their FRAs, and provide the Commission with their proposed timetables on or before July 18, 2008.¹¹ After review of these requests, we find that each of these licensees has demonstrated a sufficient level of diligence and good faith warranting grant of the requested interim waiver. Moreover, we find that the limited amount of time that each licensee seeks is no more than is reasonably necessary to complete the planning and negotiation process and submit a comprehensive waiver request with a proposed timetable. We therefore grant these interim requests, conditioned on each licensee filing a

⁴ See *Improving Public Safety Communications in the 800 MHz Band*, WT Docket 02-55, *Report and Order*, *Fifth Report and Order*, *Fourth Memorandum Opinion and Order*, and *Order*, 19 FCC Rcd 14969 (2004) (*800 MHz Report and Order*); *Supplemental Order and Order on Reconsideration*, 19 FCC Rcd 25120 (2004) (*800 MHz Supplemental Order*); *Memorandum Opinion and Order*, 20 FCC Rcd 16015 (2005); *Second Memorandum Opinion and Order*, 22 FCC Rcd 10467 (2007); *Third Memorandum Opinion and Order*, 22 FCC Rcd 17209 (2007) (*800 MHz 3rd MO&O*). The *800 MHz 3rd MO&O* was recently affirmed by the U.S. Court of Appeals. *Sprint Nextel Corp. v. FCC*, 524 F.3d 253 (D.C. Cir. 2008).

⁵ *800 MHz Report and Order*, 19 FCC Rcd at 15130 ¶ 347. “Non-border” licensees are Wave 1-3 licensees and those Wave 4 licensees that have received rebanding frequency assignments from the 800 MHz Transition Administrator (TA). Licensees that have not received frequency assignments from the TA due to their proximity to the U.S. - Canada or U.S. - Mexico border are not subject to the June 26, 2008 deadline. The Bureau has established a separate rebanding timeline for the Canadian border region, *Improving Public Safety Communications in the 800 MHz Band*, *Second Report and Order*, WT Docket 02-55, 23 FCC Rcd 7605 (PSHSB 2008), and will establish a rebanding timeline for the Mexican border region at a later date.

⁶ *800 MHz 3rd MO&O*, 22 FCC Rcd at 17223 ¶ 48.

⁷ Federal Communications Commission Provides Guidance for Submission of Requests for Waiver of June 26, 2008 Deadline for Completion of 800 MHz Rebanding, *Public Notice*, 23 FCC Rcd 664 (2008) (*Waiver Guidance Notice*).

⁸ *Id.* at 666.

⁹ *Id.* at 665.

¹⁰ FCC Announces Supplemental Procedures and Provides Guidance for Completion of 800 MHz Rebanding, *Public Notice*, 22 FCC Rcd 17227, 17232 (2007).

¹¹ See Appendix A.

supplemental waiver request by the interim date specified in Appendix A that includes a proposed implementation timetable as set out in the *Waiver Guidance Notice*.¹² The timetable should include proposed milestone dates for completion of (1) retuning, reflashing, and/or replacement of subscriber equipment (subscriber equipment deployment); (2) retuning of base stations to the licensee's new channel assignments and commencement of system operations on the new channels (system "cutover"); and (3) additional post-cutover system modifications (e.g., disposal or return of temporary or legacy equipment, removal of pre-rebanding channels from subscriber units).¹³ Upon filing of a timely waiver request that meets these criteria, the interim relief granted by this order will extend until the Bureau acts on the request.

6. Johnson City, Tennessee requests an interim extension until July 18, 2008,¹⁴ which is the subject of opposing comments filed by Sprint.¹⁵ Initially, Johnson City requested a waiver until April 17, 2008 to complete negotiations and execute its FRA with Sprint.¹⁶ In a supplemental filing, however, Johnson City stated that late in the negotiation process, it received an alternative cost proposal for an upgraded system from a competing vendor.¹⁷ Johnson City asserted that city policy required it to review the second vendor's proposal and to seek public comment, and therefore, requested a second extension until June 6, 2008.¹⁸ Subsequently, Johnson City requested an additional extension until July 18, 2008 to enable the city council to decide whether to proceed with rebanding as originally planned or to upgrade its system (which would be paid for partially by the City and partially by Sprint).¹⁹ On June 12, 2008, Sprint filed comments objecting to Johnson City's late decision to consider an upgrade when it had previously approved an FRA to reband the system.²⁰ Sprint contends that Johnson City's recent change of course is untimely, inconsistent with TA rebanding guidelines, and will lead to unnecessary expense and delay.²¹ After considering Johnson City's request and Sprint's comments, we grant Johnson City an interim waiver until July 18, 2008 to submit its proposed rebanding timetable, but we expressly reserve for later consideration the issues raised by Sprint in its comments.

7. A number of Wave 2 licensees have requested interim waiver dates that are now past, but have not subsequently filed a proposed timetable or any other supplemental filings.²² As specified in

¹² See *Waiver Guidance Notice*, 23 FCC Rcd at 665-666. We recommend that licensees use the template form developed by the TA to submit their supplemental waiver requests and supporting timetable information. The template is available at www.800ta.org/content/documents/rebanding_deadline_extension_process.asp.

¹³ In some cases, NPSPAC licensees will continue to operate and support operations on the five nationwide mutual aid channels in the old NPSPAC band after they have completed their own system cutovers to the new NPSPAC band, and will maintain the old mutual aid channels until rebanding by all NPSPAC licensees in a region is complete. In such cases, we clarify that a licensee submitting a proposed timetable should specify dates relating to the rebanding of the licensee's own system (e.g., the licensee's own system cutover date), but is not required to specify a date for the rebanding of the five mutual aid channels.

¹⁴ Johnson City Request for Extension of Mediation and Interim Waiver (filed June 2, 2008) at 2 (Johnson Request).

¹⁵ Nextel Communications, Inc. Comments on Johnson City's Request for Extension of Mediation and Interim Waiver (filed June 12, 2008) (Sprint Comments).

¹⁶ Johnson City Initial Request for Waiver at 2 (filed March 17, 2008).

¹⁷ Johnson City Erratum and Supplemental Request for Interim Waiver at 2 (filed April 17, 2008).

¹⁸ *Id.*

¹⁹ Johnson Request at 2.

²⁰ Sprint Comments at 2-4.

²¹ *Id.* at 5-8.

²² See Appendix A. These licensees are: Little Rock, Arkansas (Region 4); Cedar Rapids, Iowa (Region 15); Paducah, Kentucky; Bowling Green, Kentucky (Region 17); Kansas City, Missouri (Region 24); Norman, Oklahoma (Region 34); Clarksville, Tennessee, Goodlettsville, Tennessee; Knox County Schools, Tennessee; Metro Nashville Airport Authority; Nashville & Davidson County, Tennessee; Sullivan County, Tennessee (Region 39);

Appendix A, we require each of these licensees to file a supplemental waiver request to the Bureau with a proposed timetable meeting the *Waiver Guidance Notice* criteria within 30 days of the release of this order.

8. We apply a higher level of scrutiny to those licensees in Wave 2 that failed to specify interim dates or requested dates beyond July 18, 2008 to complete their planning, FRA negotiations, and submit a waiver request to the Commission with a proposed timetable.²³ We recognize that there are a variety of factors that may justify longer planning and negotiation periods for these licensees, including system size and complexity, coordination of planning issues with other licensees, and prior delays in the rebanding process outside the licensee's control. However, while we understand that the planning and FRA negotiation process can be complex and time-consuming, it is also important to the continued progress of rebanding in Wave 2 that these licensees expedite their efforts to develop proposed timetables for rebanding their systems. We also believe that by July 18, 2008, all of these licensees should be sufficiently far along with their planning to be able to provide projected milestone dates for completion of the major steps in the rebanding process.

9. We therefore grant interim relief to each of these licensees, conditioned on the licensee submitting a supplemental waiver request by July 18, 2008 that includes a proposed rebanding timetable as set out in the *Waiver Guidance Notice*.²⁴ As discussed above, the timetable should include proposed milestone dates for completion of subscriber equipment deployment, system cutover, and post-cutover system modifications.²⁵ The timetable should also include the amount of additional time that the licensee estimates is reasonably required to complete planning and negotiate its FRA. Upon filing of a timely supplemental waiver request that meets these criteria, the interim relief granted by this order will extend until the Bureau acts on the request.

IV. ORDERING CLAUSES

10. Accordingly, pursuant to the authority of Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392; Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925, IT IS ORDERED that the

Dallas/Fort Worth Airport, Texas, Fort Worth, Texas; Irving, Texas (Region 40); Copperas Cove, Texas; Waco, Texas (Region 49); Conroe, Texas, Montgomery County, Texas; Port Neches, Texas (Region 51); Lubbock, Texas; and Wichita Falls, Texas (Region 52).

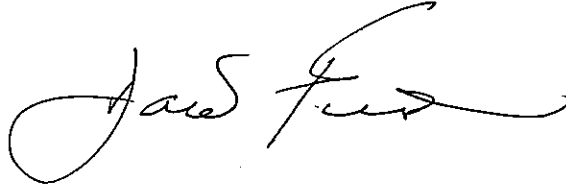
²³ See Appendix A. These licensees are: State of Arkansas (Region 4); Ellis County, Kansas; Ellsworth County, Kansas; Haysville, Kansas; Hutchinson-Reno County Emergency Communications, Kansas; Johnson County, Kansas; State of Kansas; Lake Quivira, Kansas; Lincoln County, Kansas; Overland Park, Kansas, Russell County, Kansas; Sedgwick County, Kansas; Sumner County, Kansas (Region 16); Hennepin County, Minnesota (Region 22); Board of Police Commissioners, Saint Louis Metropolitan Police Department, Missouri (Region 24); Bixby, Oklahoma; Jenks, Oklahoma; State of Oklahoma (Region 34); Bartlett City, Tennessee; Oak Ridge, Tennessee; Obion County, Tennessee; Shelby County & Memphis, Tennessee; Smyrna, Tennessee; State of Tennessee (EMA); (Region 39); Garland, Texas (Region 40); Bastrop County, Texas; Blanco County, Texas; and Llano County, Texas (Region 49); and Houston Independent School District (Region 51).

²⁴ See *Waiver Guidance Notice*, 23 FCC Rcd at 665-666. Licensees may amend their waiver requests after July 18, 2008 to revise their proposed milestone dates should such revision be warranted based on subsequent developments (e.g., scheduling information resulting from a subsequently negotiated FRA or a subsequent TA-sponsored Implementation Planning Session).

²⁵ See ¶ 5, *supra*.

requests for interim waiver of the June 26, 2008 deadline submitted by the licensees listed in Appendix A of this order are GRANTED to the extent described herein.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "David L. Furth". The signature is fluid and cursive, with a large initial "D" and "F".

David L. Furth
Associate Bureau Chief
Public Safety and Homeland Security Bureau

APPENDIX A

Region 4 (Arkansas)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
State of Arkansas	WQBY875	March 17, 2008	August 29, 2008	July 18, 2008
Little Rock, AR ²⁶	WNZK461	April 28, 2008	May 26, 2008	30 days from release of this Order

Region 15 (Iowa)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Cedar Rapids, IA	WPKM593 WPKU921	April 16, 2008	May 9, 2008	30 days from release of this Order

Region 16 (Kansas)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Ellis County, KS	WPLS231	March 17, 2008	November 5, 2008	July 18, 2008
Ellsworth County, KS	WPMB271	March 17, 2008	November 5, 2008	July 18, 2008
Haysville, KS	WPWX275	March 17, 2008	November 5, 2008	July 18, 2008
Hutchinson-Reno County Emergency Communications	WQDG571	March 17, 2008	November 5, 2008	July 18, 2008
Johnson County, KS	WNSS508 WPIX532	March 17, 2008	November 5, 2008	July 18, 2008
State of Kansas	KNNV863	March 17, 2008	November 5, 2008	July 18, 2008
Lake Quivira, KS	WPRF959	March 17, 2008	November 5, 2008	July 18, 2008
Lincoln County, KS	WPNP938	March 17, 2008	November 5, 2008	July 18, 2008
Overland Park, KS	WPCI220	March 17, 2008 (amended request filed May 22, 2008)	August 31, 2008	July 18, 2008

²⁶ On March 3, 2008 Little Rock, Arkansas separately requested an extension of its March 6, 2008 planning deadline by an unspecified date. We dismiss this request without prejudice.

Russell County, KS	WPWV814 WPXD533	March 17, 2008	November 5, 2008	July 18, 2008
Sedgwick County, KS	WNLE919 WNXS828	March 17, 2008	November 5, 2008	July 18, 2008
Sumner County, KS	WPTW851	March 17, 2008	November 5, 2008	July 18, 2008

Region 17 (Kentucky)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Paducah, KY	WPMA442	April 4, 2008 (amended request filed April 30, 2008)	May 31, 2008	30 days from release of this Order
Bowling Green, KY	WPIU624	March 17, 2008 (amended request filed April 30, 2008)	May 20, 2008	30 days from release of this Order
McCracken County, KY	WQGN992	April 7, 2008 (amended request filed April 30, 2008; June 10, 2008)	June 30, 2008	June 30, 2008

Region 22 (Minnesota)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Hennepin County, MN	WPKH277	February 29, 2008	September 29, 2008	July 18, 2008

Region 24 (Missouri)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Kansas City, MO	WPMP439 WPRJ502 KNJU810 WPMJ627	March 17, 2008	April 16, 2008	30 days from release of this Order

Board of Police Commissioners, Saint Louis Metropolitan Police Department	KNJH492	March 17, 2008	July 31, 2008	July 18, 2008
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Region 26 (Nebraska)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Sarpy County, NE	WPYQ729 WPIK850	May 5, 2008	June 20, 2008	June 20, 2008

Region 34 (Oklahoma)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Bixby, OK	WPSG568	March 17, 2008	April 30, 2009	July 18, 2008
Jenks, OK	WQAV657	March 17, 2008	April 30, 2009	July 18, 2008
Norman, OK	WQEK752	March 17, 2008	April 30, 2008	30 days from release of this Order
State of Oklahoma ²⁷	KNBU457	March 17, 2008	July 25, 2008	July 18, 2008
Tulsa, OK	KNJH431 WQDN672 WPSS639 WQC1900	March 14, 2008	June 30, 2008	June 30, 2008

Region 39 (Tennessee)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Bartlett City, TN	No call sign	April 23, 2008	August 4, 2008	July 18, 2008
Clarksville, TN	WPVS868 WPVW236 WPVW225	March 17, 2008	April 15, 2008	30 days from release of this Order
Goodlettsville, TN	WPUD247	March 13, 2008	April 30, 2008	30 days from release of this Order
Johnson City, TN	WNNS431	March 17, 2008	July 18, 2008	July 18, 2008

²⁷ The State of Oklahoma separately requested an extension of time to complete planning by March 31, 2008. We dismiss this request as moot.

	WQDY957	(amended request filed April 17, 2008; June 2, 2008)		
Knox County Schools	WPST793	March 14, 2008	May 25, 2008	30 days from release of this Order
Metro Nashville Airport Authority	WQGM311	April 16, 2008	May 30, 2008	30 days from release of this Order
Nashville and Davidson County, TN	WPGJ688	March 14, 2008 (amended request filed April 15, 2008)	May 15, 2008	30 days from release of this Order
Oak Ridge, TN ²⁸	WQAA260	March 17, 2008	No date	July 18, 2008
Obion County, TN	WPNS505 WQCW614 WQDB735	April 15, 2008	November 15, 2008	July 18, 2008
Shelby County and Memphis, TN	WPAJ881 WPJT584 WPLS340 WQDB320 WPLR948 WQCZ418	March 17, 2008 (amended request filed June 10, 2008)	September 12, 2008	July 18, 2008
Sullivan County, TN	WPPH365 WPRG482	March 12, 2008 (amended request filed May 5, 2008)	May 19, 2008	30 days from release of this Order
Smyrna, TN	WQCL929	March 17, 2008	July 31, 2008	July 18, 2008
State of Tennessee (EMA)	WPPW562, <i>et al</i>	March 14, 2008	September 30, 2008	July 18, 2008

Region 40 (Dallas/Central & Northeast Texas)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Dallas/Ft. Worth Airport	WNWI404	March 17, 2008	May 9, 2008	30 days from release of this Order
Fort Worth, TX	WNXE704	March 14, 2008	June 1, 2008	30 days from release of this Order
Garland, TX	WNXE768	March 13, 2008	July 30, 2008	July 18, 2008
Irving, TX ²⁹	WQCJ480	March 14, 2008	May 31, 2008	30 days from release of this Order

²⁸ Oak Ridge, Tennessee separately requested an extension of time to complete planning by an unspecified date. We dismiss this request without prejudice.

Region 49 (Austin/Central Texas)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Bastrop County, TX	WPPZ330	March 17, 2008	No date	July 18, 2008
Blanco County, TX	WQGB437	March 17, 2008	No date	July 18, 2008
Copperas Cove, TX	WQAH913	March 17, 2008	May 31, 2008	30 days from release of this Order
Llano County, TX	WQGA635	March 17, 2008	No date	July 18, 2008
Waco, TX ³⁰	WNSW338	March 17, 2008	May 8, 2008	30 days from release of this Order
Williamson County, TX	WPIR949	March 17, 2008 (amended request filed June 10, 2008)	June 30, 2008	June 30, 2008

Region 51 (Houston/East Texas)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Conroe, TX ³¹	WPJV202	March 17, 2008	May 26, 2008	30 days from release of this Order
Houston Independent School District	WPTN982	March 13, 2008 (amended request filed June 10, 2008)	December 31, 2008	July 18, 2008
Montgomery County, TX	WPJV202	March 17, 2008	May 26, 2008	30 days from release of this Order
Port Neches, TX	WNVF965	March 17, 2008	May 31, 2008	30 days from release of this Order

²⁹ Irving, Texas separately requested an extension of time to complete planning by March 31, 2008. We dismiss this request as moot.

³⁰ On May 7, 2008 Waco, Texas requested an extension of its interim waiver request by an unspecified date. We dismiss this request without prejudice.

³¹ Montgomery County, Texas and Conroe, Texas jointly requested an extension of time to complete planning by April 18, 2008. We dismiss this request as moot.

Region 52 (Lubbock/Texas Panhandle)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Lubbock, TX	WPFW709	March 17, 2008	May 31, 2008	30 days from release of this Order
Wichita Falls, TX	WQCT964	March 17, 2008	May 31, 2008	30 days from release of this Order