



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES THAT THE 30-MONTH TRANSITION PERIOD FOR 800 MHZ BAND RECONFIGURATION IN REGIONS ALONG THE U.S.-MEXICO BORDER WILL COMMENCE ON AUGUST 23, 2013

Bureau Approves U.S. – Mexico Border Reconfiguration Timetable Submitted by the 800 MHz Transition Administrator and Establishes Application Freeze Dates

WT Docket No. 02-55

By this Public Notice, the Public Safety and Homeland Security Bureau (Bureau) announces that the 30-month transition period for reconfiguration of 800 MHz licensees along the U.S.-Mexico border will begin on August 23, 2013, and will end on February 23, 2016.

Fifth R&O in WT Docket 02-55

On April 1, 2013, the Bureau released the *Fifth Report and Order (Fifth R&O)* in WT Docket 02-55, which adopts a reconfigured channel plan for the 800 MHz band in the National Public Safety Planning Advisory Committee (NPSPAC) Regions along the U.S.-Mexico border.¹ The *Fifth R&O* also established a 30-month transition period for licensees to complete rebanding in these regions.² The *Fifth R&O* provided that the 30-month period would begin 60 days after the effective date of the order.³ The order became effective on June 24, 2013, establishing August 23, 2013 as the start date for the transition period.⁴

Reconfiguration Timetable Approved

On August 6, 2013, the 800 MHz Transition Administrator (TA) filed a timetable for band reconfiguration as directed by the Bureau in the *Fifth R&O*.⁵ The Reconfiguration Timetable establishes a single stage for licensees to plan, submit a cost estimate to Sprint, and negotiate a Frequency

¹ See Improving Public Safety Communications in the 800 MHz Band, New 800 MHz Band Plan for U.S. – Mexico Sharing Zone, WT Docket 02-55, *Fifth Report and Order*, 28 FCC Rcd 4085 (PSHSB 2013) (*Fifth R&O*). The NPSPAC Regions bordering Mexico are listed in Appendix I.

² *Id.* at 4102 ¶ 53. The *Fifth R&O* also provided that the Bureau will evaluate the progress of band reconfiguration as of the 18th month of the transition period to determine whether additional time is needed based upon circumstances beyond licensees' control. *Id.* at 4102 ¶ 54.

³ *Fifth R&O*, 28 FCC Rcd 4102 ¶ 53.

⁴ See 78 FR 23855 (April 23, 2013).

⁵ *Id.* at 4102 ¶ 55.

Reconfiguration Agreement (FRA).⁶ The TA submits that a single stage approach is optimal because "public safety licensees that hold both NPSPAC and non-NPSPAC licenses will benefit from conducting their planning and the reconfiguration of those frequencies as a single coordinated project."⁷ By this Public Notice, the Bureau approves the Reconfiguration Timetable as filed. Key dates specified in the Reconfiguration Timetable are listed in Appendix II.

Affected Licensees

The dates listed in the Reconfiguration Timetable apply to all 800 MHz licensees in Wave 4 regions along the U.S. – Mexico border that have not previously received replacement channel proposals from the TA because they are subject to the U.S. – Mexico border band plan. All affected licensees must comply with these deadlines. The TA currently is providing replacement channel proposals to these licensees.

Licensee and Vendor Responsibilities

We remind licensees of their obligation to retain only reconfiguration vendors that are qualified and competent to perform reconfiguration tasks on the schedule set out in the Reconfiguration Timetable. Vendor failure will not excuse untimely completion of rebanding. Licensees and vendors must promptly respond to TA communications and requests for information throughout the reconfiguration process. Furthermore, any statement made to the TA by a licensee's agents, counsel, or representative on behalf of a licensee is held to the same requirements of truth and candor as statements made to the Commission.⁸

System Upgrades

A licensee seeking a system upgrade (whereby the licensee upgrades its system, Sprint pays the licensee the lesser of the amount that it otherwise would have paid for rebanding to comparable facilities or the cost of the upgrade, and the licensee pays the additional cost of the upgraded system from its own funds) should notify the TA and Sprint, in writing, no later than the due date for submission of the licensee's cost estimate.⁹ The notice must describe the nature of the proposed upgrade, the cost, the source of committed funds, and the proposed implementation schedule. Upgrades that would materially delay completion of rebanding in the Mexico border area will be disapproved.

Change Notices

We remind Licensees of the Commission's guidance on Change Notices.¹⁰ Change Notices are appropriate only when a licensee is faced with unforeseeable changes in cost, scope, or schedule that occur during implementation or in the case of an emergency. Costs incurred by a licensee in excess of those authorized in an FRA are at the licensee's risk until a Change Notice is submitted and approved. A licensee may not use the Change Notice process to recover costs that were reasonably foreseeable during

⁶ See 800 MHz Transition Administrator, LLC, "Reconfiguration Timetable for the Reconfiguration of the 800 MHz Band in the Sharing Zone and Affected NPSPAC Regions Along the U.S.-Mexico Border," WT Docket No. 02-55 (filed Aug. 6, 2013) at 11.

⁷ *Id.*

⁸ See Clarklift of San Jose, Inc. and Moore Material Handling Group, *Order on Reconsideration*, 15 FCC Rcd. 4616 (WTB 2000) (corporations are bound by the statements and declarations made by its agents within the scope of their employment and with the actual or apparent authority of the corporation).

⁹ See *Fifth R&O*, 28 FCC Rcd 4105 ¶ 63.

¹⁰ See FCC Announces Supplemental Procedures and Provides Guidance for Completion of 800 MHz Rebanding, WT Docket 02-55, *Public Notice*, 22 FCC Rcd 17227, 17229.

FRA negotiations but were not raised in negotiations or that were considered and rejected. Finally, costs sought in a Change Notice must meet the Commission's minimum necessary cost standard.¹¹

Licensee Status Reporting and Monitoring Replacement Frequencies

Licensees and vendors must cooperate with the TA and respond to TA requests for information with regard to licensee reconfiguration efforts and implementation schedules. Licensees must attend an Implementation Planning Session (IPS), if offered, in their region. Note also that licensees in the Sharing Zone may need to monitor their replacement frequencies prior to infrastructure retuning to ensure there is no harmful interference from users that have not properly cleared on the replacement frequencies. Sprint, working in conjunction with the TA and the FCC, will notify licensees when their replacement frequencies in the Sharing Zone in the U.S. have been reported as clear and ready for their use. Monitoring ahead of this notification is not advised as licensees may detect signals from licensees, both in Mexico and the U.S., that are still in the process of reconfiguring and erroneously report them as interference. Licensees should include monitoring expenses in their cost estimates if necessary.

Closing Process

Licensees must retain cost support documentation and records for 24 months after the closing of a Planning Funding Agreement (PFA) or 18 months after the closing of an FRA, or for such longer period as may be required by the licensee's established record retention policy or applicable laws. More detailed information regarding required cost support documentation and record retention requirements may be found in the Actual Cost Reconciliation Fact Sheet on the TA's website at http://www.800ta.org/content/resources/ACR_Fact_Sheet.pdf. Also, Licensees must return to Sprint or its designee equipment that was replaced during reconfiguration. If a licensee does not return the replaced equipment, it may be responsible for, among other things, paying the value of the replacement equipment provided to the licensee.

Application Freeze

In the *800 MHz Report and Order*, the Commission froze the acceptance of new 800 MHz applications during the planning and negotiation periods for each region subject to rebanding.¹² In the Canada border area, the Bureau extended the freeze through the implementation period in order to avoid potential licensing conflicts which could delay band reconfiguration.¹³ We adopt a similar approach for the Mexico border area. Consequently, until February 24, 2016, we will not accept 800 MHz applications in the NPSPAC regions listed in Appendix I. This freeze also applies to those stations located within seventy miles of the borders of the NPSPAC Regions listed in the Appendix I.

The freeze applies only to applications for new facilities or modification applications that involve a change of frequency or expand a station's existing coverage area. Applications that do not affect frequency or coverage (*e.g.*, administrative updates, assignments/transfers, and renewal-only applications) are not subject to the freeze.

¹¹ The term "minimum necessary" cost refers to the minimum cost necessary to accomplish rebanding in a reasonable, prudent and timely manner. *See* Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Memorandum Opinion and Order*, 22 FCC Rcd 9818, 9820 ¶ 6 (2007).

¹² Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Report and Order*, 19 FCC Rcd 14969, 15078 ¶ 204 (2004).

¹³ *See* Public Safety and Homeland Security Bureau Reinstates 800 MHz Application Freeze for Wave 4 Border Area NPSPAC and Non-NPSPAC Licensees Along the U.S.-Canada Border, *Public Notice*, 25 FCC Rcd 11049 (PSSB 2010).

Licenses on pre-rebanding channels proposing to expand coverage or add a new channel during the freeze may seek Special Temporary Authorization (STA) based upon an appropriate showing of public interest need as described in the Bureau's December 2006 *STA Guidance PN*.¹⁴ Furthermore, licenses on post-rebanding channels proposing to expand coverage or add a new channel during the freeze may apply for permanent authorization provided they include a request for waiver of the freeze with their application.

In either case, licenses must include a concurrence letter from the TA with their STA or waiver request and application. Licenses may request a concurrence letter from the TA by emailing an electronic copy of their draft application to the TA at: AppReview@800TA.org.

Further Information

For further information, contact: Brian Marengo, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-0838 or Brian.Marengo@fcc.gov.

Action by the Deputy Chief, Public Safety and Homeland Security Bureau.

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¹⁴ See Public Safety and Homeland Security Bureau Provides Guidance for Public Safety Licensees With Regard to License Application and Special Temporary Authorization Procedures and Payment of Frequency Relocation Costs for Public Safety Facilities Added During 800 MHz Band Reconfiguration, *Public Notice*, 21 FCC Rcd 14658 (PSHSB 2006).

Appendix I
NPSPAC Regions Bordering Mexico

NPSPAC Region	Description of Region ¹⁵
3	Arizona
5	Southern California
29	New Mexico
50	West and Central Texas (Midland Area)
53	Southern Texas (San Antonio Area)

¹⁵ Regions that are only a portion of a state or states are defined by counties. A list of the counties in each of these regions can be accessed at <http://www.fcc.gov/Bureaus/Wireless/Orders/1998/fcc98191.txt>.

Appendix II
Reconfiguration Timetable – Key Dates

Milestone	Date
Commencement of 30-month transition period for reconfiguration	August 23, 2013
Requests for Planning Funding (RPFs) due	August 23, 2013
Change Notices due for licensees that already have a Planning Funding Agreement (PFA) and need to amend it to complete planning	August 23, 2013
Start of planning period for licensees without a PFA	August 23, 2013
Expansion Band Elections due	November 20, 2013
Guard Band Elections due	November 20, 2013
Cost Estimates due for licensees without a PFA	Based upon number of subscriber units
• Licensees with 5,000 subscriber units or less	November 20, 2013
• Licensees with 5,001 to 10,000 subscriber units	December 2, 2013
• Licensees with more than 10,000 subscriber units	December 10, 2013
Cost Estimates due for licensees with a PFA or PFA Amendment	90 to 110 days from TA approval of PFA or PFA Amendment
• Licensees with 5,000 subscriber units or less	90 days
• Licensees with 5,001 to 10,000 subscriber units	100 days
• Licensees with more than 10,000 subscriber units	110 days
Completion of implementation by licensees	February 23, 2016
End of 30-month transition period	February 23, 2016