

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

In the Matter of
State of California
and
Nextel Communications, Inc.
Docket No. 02-55
Mediation No. TAM-45022
TA Mediator John C. Henry

ORDER

Adopted: November 27, 2013

Released: November 27, 2013

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

I. INTRODUCTION

1. Under consideration is the Recommended Resolution and Request for Waiver (RR), filed November 14, 2013 by the Transition Administrator (TA) Mediator on behalf of the State of California (California) and Nextel Communications, Inc., (Sprint)1 regarding the adoption of an 800 MHz Planning Funding Agreement (PFA) by California and Sprint. California timely submitted a request for planning funding (RFPF) on August 23, 2013 and the TA Mediator, after review of the RFPF, issued a Notice of Commencement of Negotiations between California and Sprint on September 3, 2013. Mediation was instituted and the mediation period expired on November 4, 2013. At the end of the mediation period, the parties had not yet executed a PFA.

II. DISCUSSION

2. In the normal course, if a dispute has not been resolved by the close of the mediation period, the TA Mediator submits a recommended resolution to the Public Safety and Homeland Security Bureau which conducts a de novo review of the record and decides the disputed issues.2 However, the TA Mediator may instead recommend to the Bureau that parties "be given additional time to allow further negotiations under mediation."3 In the instant case, the TA Mediator recommends that the Commission grant the parties additional time for negotiation under the TA Mediator's auspices.4 The TA Mediator has attached to the RR, a Schedule to Complete PFA, which schedule calls for Sprint to file a PFA with the TA by December 16, 2013.

1 For purposes of uniformity in 800 MHz band reconfiguration orders, we refer to Sprint subsidiaries such as Nextel Communications, Inc. as their parent company, Sprint.

2 See 47 C.F.R. § 90.677(d)(2).

3 Wireless Telecommunications Bureau Announces Procedures for De Novo Review in the 800 MHz Public Safety Proceeding, Public Notice, 21 FCC Rcd 758, 759 (2006).

4 RR at 4.

III. DECISION

3. Section 1.46 of the Commission's rules provides "It is the policy of the Commission that extensions of time shall not be routinely granted."⁵ The import of that rule is especially relevant to 800 MHz rebanding where delay in rebanding by one licensee can cause a "domino effect" delay in the rebanding efforts of other licensees that have met the Commission's 800 MHz band reconfiguration deadlines, with a consequent delay of the overall program. We therefore afford a high degree of scrutiny to the reasons licensees advance for extensions of time.⁶

4. In the instant matter, the TA Mediator requests only a modest extension of time for the parties to conclude and file a PFA for a large and complex 800 MHz system. It does not appear that granting a brief extension of time will adversely affect the ability of California to timely reconfigure its system. We are, therefore, granting the requested extension.

IV. ORDERING CLAUSES

5. Accordingly **IT IS ORDERED** that the Recommended Resolution and Request for Waiver filed by the 800 MHz Transition Administrator Mediator on November 14, 2013, **IS GRANTED**.

6. **IT IS FURTHER ORDERED** that Sprint and the State of California **SHALL CONCLUDE** a Planning Funding Agreement and submit it to the 800 MHz Transition Administrator no later than December 16, 2013.

7. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Deputy Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

⁵ 47 C.F.R. § 1.46.

⁶ See Regents of the University of California, WT Docket 02-55, *Order*, DA 13-2234, (PSHSB rel. Nov. 21, 2013).