

**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
)	

ORDER

Adopted: March 6, 2014

Released: March 6, 2014

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

I. INTRODUCTION

1. On April 1, 2013, the Public Safety and Homeland Security Bureau (Bureau), on delegated authority, adopted a reconfigured channel plan for the 800 MHz band along the U.S.-Mexico border (*800 MHz Fifth Report and Order*).¹ On August 16, 2013, the Bureau released a *Public Notice* establishing a schedule for completion of rebanding in the U.S.-Mexico border region.² That *Public Notice* directed licensees without Planning Funding Agreements (PFAs) to submit cost estimates to Sprint Corporation. (Sprint) by November 20, 2013 or shortly thereafter.³ On December 24, 2013, the Bureau addressed requests for extension of the November 20, 2012 deadline for U.S.-Mexico border area licensees to submit cost estimates.⁴ In the instant *Order*, we address further requests for extension of time to submit cost estimates filed by licensees with or without PFAs. We also address various requests for extension of time to complete negotiation of Frequency Reconfiguration Agreements (FRAs) necessary for the completion of rebanding in the U.S.-Mexico border regions.

II. DISCUSSION

2. Section 1.46 of the Commission’s rules provides “[i]t 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

¹ 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) (*800 MHz Fifth Report and Order*).

² 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, *Public Notice*, 28 FCC Rcd 12990 (PSHSB 2013) (*Public Notice*).

³ *Public Notice* at Appendix II Reconfiguration Timetable Key Dates.

⁴ Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 28 FCC Rcd 17085 (PSHSB 2013).

⁵ 47 C.F.R. § 1.46.

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. Accordingly, as discussed in greater detail below, we grant extensions at this time only to licensees that have shown that grant of the request will not unreasonably delay rebanding, and we hold in abeyance requests from licensees that do not yet justify an extension.

3. *Licensees Requesting Extension to Complete Cost Estimates on or Before June 1, 2014.* We first address extension requests of those border licensees listed in Appendix A that propose to complete their cost estimates on or before June 1, 2014.⁶ After reviewing these requests, we find that each of these licensees has made substantial progress toward completing cost estimates and has demonstrated a level of diligence and good faith sufficient to warrant the requested extension. We therefore are granting the requested extensions, with the caveat to the licensee that, upon submission of the cost estimates, the licensee must diligently pursue the negotiation process with Sprint and timely conclude an FRA. We advise licensees that any request for additional time must detail the licensee's progress to date and propose milestone dates for each cost estimate step that has not yet been completed.

4. *Licensees Requesting Extension to Complete Cost Estimates After June 1, 2014.* With respect to the U.S.-Mexico licensees listed in Appendix B that have filed requests for extension to complete their cost estimates after June 1, 2014, we grant a partial extension until June 1, 2014, to either complete their cost estimate or submit a further request seeking additional time.⁷ Any further request for additional time must detail the licensee's progress to date and propose milestone dates for each cost estimate step that has not yet been completed.

5. *Joint Requests for Additional Time to Complete Negotiations with Sprint.* Several licensees and Sprint jointly have requested additional time to negotiate or mediate the proposed terms and estimated costs necessary for reaching an FRA. The parties have worked diligently towards agreement and have narrowed the scope of outstanding issues. Once these pending issues are resolved, the parties will be in a position to execute an FRA and begin rebanding. After reviewing these requests, we find that the Parties have demonstrated diligence and good faith sufficient to warrant the requested extensions.⁸

6. *Transition Administrator Requests for Waiver in Connection with FRA disputes.* The 800 MHz Transition Administrator, LLC (TA) mediator has submitted several recommended resolutions and requests for waiver in connection with the resolution of disputes between an incumbent 800 MHz licensee and Sprint regarding the adoption of a FRA. The Parties have not yet submitted an FRA to the TA by the deadline specified in the *800 MHz Fifth Report and Order*.⁹ The Parties, however, have reported that they have resolved all disputed issues and are in pre-contract agreement and have submitted a schedule for execution of the FRA. The TA mediator recommends that the Commission grant the Parties additional time to complete the negotiation of the FRA under mediation, subject to the requirement that the TA provide the Commission with a report every two weeks regarding the status of the negotiation process. For good cause shown, we grant the requested waivers and we extend the date on which the Parties must submit an executed FRA to the TA as specified in Appendix D.¹⁰ The Parties shall file a status report on

⁶ Appendix A.

⁷ Appendix B.

⁸ Appendix C.

⁹ *800 MHz Fifth Report and Order*, 28 FCC Rcd at 4104 ¶ 62.

¹⁰ Appendix D.

their negotiations with the TA every two weeks until the FRA has been executed and submitted. The status report may be filed electronically: TAMediation@squiresanders.com.

III. CONCLUSION AND ORDERING CLAUSES

7. We note that failure to comply with the requirements of this *Order* may result in further action by the Commission, including consideration of whether a licensee's rebanding efforts demonstrate the "utmost good faith" that the Commission's rules demand.¹¹

8. Accordingly, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 0.191, 0.392, 1.925 and 1.946 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392, 1.925, 1.946, IT IS ORDERED that the requests for extension submitted by the licensees listed in Appendix A, Appendix B, Appendix C of this order and the requests for waiver submitted by the 800 MHz Transition Administrator in Appendix D are GRANTED OR GRANTED IN PART, to the extent discussed herein.

FEDERAL COMMUNICATIONS COMMISSION

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¹¹ 47 C.F.R. § 90.677.

Appendix A**Appendix A – Licensees Requesting Extensions to Complete Cost Estimates on or Before June 1, 2014.**

Relief Granted: Extension to Complete Cost Estimate on or Before the Date Requested (indicated in parentheses).

Region 3 (Arizona)

Arizona Public Service Company (Mar. 21, 2014)
City of Tucson (Apr. 21, 2014)
City of Mesa (Mar. 21, 2014)
City of Phoenix (Mar. 21, 2014)
City of Yuma (Apr. 11, 2014)
Gila River Indian Community (May 5, 2014)
Henry Zappia (May 30, 2014)

Region 5 (Southern California)

City of Los Angeles (Apr. 7, 2014)
Coachella Valley Water District (Mar. 31, 2014)
Eastern Riverside County Interoperable Communications Authority (ERICA) (May 16, 2014)
San Diego Gas and Electric Company (May 9, 2014)
San Diego Metropolitan Transit System (March 14, 2014)

Region 50 (Texas - El Paso Area)

City of El Paso (Mar. 31, 2014)

Region 53 (Southern Texas - San Antonio Area)

American Electric Power Service Company (Mar. 29, 2014)
City of Brownsville (May 11, 2014)
City of Harlingen (May 2, 2014)
City of Laredo (Apr. 21, 2014)
City of McAllen (May 26, 2014)
City of Rio Grande City (Mar. 14, 2014)
County of Cameron (May. 31, 2014)
County of Hidalgo (May 19, 2014)
Lower Rio Grande Valley Development Council (Apr. 7, 2014)

Appendix B**Appendix B – Licensees Requesting Extensions to Complete Cost Estimates After June 1, 2014.**

Relief Granted: Extension to Complete Cost Estimate on or Before June 1, 2014

Region 3 (Arizona)

Tucson Electric Power

Region 5 (Southern California)

City of San Diego
Southern California Edison Company

Region 53 (Southern Texas - San Antonio Area)

Weslaco Independent School District

Appendix C**Appendix C – Joint Requests for Additional Time to Negotiate Costs with Sprint Corp.****Relief Granted: Extension to Complete Negotiations on or Before the Date Requested (indicated in parentheses).****Region 3 (Arizona)**

Action Communications, Inc. (Feb. 28, 2014)

Caterpillar of Delaware, Inc. (Mar. 13, 2014)

Central Arizona Water Conservation District (Mar. 10, 2014)

CPC Arizona Holdings, Inc. (Feb. 28, 2014)

Northern Arizona University and City of Flagstaff (Mar. 18, 2014)

Region 5 (Southern California)

Automobile Club of Southern California (Mar. 3, 2014)

City of Irvine (Mar. 14, 2014)

City of Pasadena (Mar. 24, 2014)

Mayer Reprographics, Inc. (Mar. 14, 2014)

Regents of the University of California, Los Angeles (Mar. 18, 2014)

Regents of the University of California, Riverside (Mar. 6, 2014)

Regents of the University of California, Santa Barbara (Mar. 12, 2014)

SC Communications, Inc. (Mar. 17, 2014)

Telephone Connection, 3KFA, LLC and Third District (Mar. 24, 2014)

William R. McLure (Mar. 14, 2014)

Appendix D**Appendix D – Transition Administrator Requests for Waiver in Connection with FRA disputes.****Relief Granted: Extension to Complete Negotiations on or Before the Date Requested (indicated in parentheses).****Region 3 (Arizona)**

City of Nogales (Apr. 17, 2014)

COM Rents, Inc. (Mar. 20, 2014)

Sherriff's Posse of Sun City (Mar. 10, 2014)

Region 5 (Southern California)

City of Santa Monica (Mar. 14, 2014)

Laura and Sergio Rubio (Mar. 19, 2014)

Orange Unified School District (Mar. 7, 2014)

Palomar Communications, Inc. (Mar. 19, 2014)

Region 29 (New Mexico)

TeleBEEPER of New Mexico, Inc. (Mar. 6, 2014)

Region 50 (Texas - El Paso Area)

Hearthstone Enterprises, Inc. (Mar. 7, 2014)

Ricardo Solis Quezada (Mar. 17, 2014)

Ruben Vazquez (Mar. 17, 2014)

Region 53 (Southern Texas - San Antonio Area)

County of Jim Hogg (Mar. 7, 2014)

Edinburg Consolidated Independent School District Police Department (Mar. 20, 2014)

Rio Grande Valley Sugar Growers, Inc. (Mar. 21, 2014)