

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

In the Matter of
PIMA COUNTY, ARIZONA
Licensee of Private Land Mobile Radio Station,
Call Sign WQRN517
WT Docket No. 02-55

ORDER

Adopted: April 30, 2014

Released: April 30, 2014

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

I. INTRODUCTION

1. Under consideration is the (1) Request for Extension of Time to Submit FRA1 Cost Estimate (Request) filed April 7, 2014 by Pima County, Arizona (Pima); (2) the Sprint Opposition to Request for Extension of Time (Opposition) filed April 16, 2014 by Sprint Corporation (Sprint);2 and (3) the Reply of Pima County IT to Sprint Nextel Opposition to Extension of Time (Reply), filed April 24, 2014. For the reasons set out below, the Request is denied.

II. DISCUSSION

1. Section 1.46(a) of the Commission’s rules states that “[i]t is the policy of the Commission that extensions of time shall not be routinely granted.”3 As Sprint points out 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.”4

2. Pima’s cost estimate was due April 16, 2014. The sole reason advanced by Pima, in its Request, for its requested extension of time until September 11, 2014, is that its vendor, “Motorola has

1 Frequency Reconfiguration Agreement.

2 The filing was made by Sprint Corp. subsidiary Nextel Communications, Inc. For purposes of uniformity in 800 MHz rebanding matters we refer to the parent company Sprint.

3 47 C.F.R. § 1.46(a).

4 Sprint Opposition at 2, quoting Regents of the University of California, Order, 28 FCC Rcd 15920, 15921 (PSHSB 2013).

advised that it must allow until August 11, 2014 for delivery of its Reconfiguration Implementation Phase Agreement (RIPA) although it will strive for an earlier date.”<sup>5</sup>

3. Sprint, in its Opposition, notes that “the sum total of the County’s extension filing consisted of a single paragraph that is devoid of any explanation as to what has and has not been done to date and fails to document why a five-month extension could possibly be warranted.”<sup>6</sup> Sprint contends that the five-month extension is unwarranted because Motorola just recently upgraded Pima’s system and, therefore, that both Motorola and Pima should already possess the network and subscriber information necessary to produce a cost estimate.<sup>7</sup> Sprint also questions why Pima should require a month to review the Motorola estimate, given that Pima “should be reasonably well acquainted given its upgrade and ongoing working relationship with Motorola.”<sup>8</sup> Sprint also notes that the Request “contains no explanation of the reasons for the delay in concluding a contract with its vendor, much less any evidence that [it] has attempted to accelerate the process.”<sup>9</sup>

4. In its Reply Pima acknowledges that it previously received a 30-day extension of time to file its Request for Planning Funding, but concedes that it, and Motorola, were both complicit in failing timely to execute the Planning Funding Agreement and starting work on planning.<sup>10</sup> Pima characterizes as “standard and well nigh invariable” the six-month period that Motorola requires to prepare a RIPA.<sup>11</sup> Pima, however, does not address Sprint’s claim that Motorola’s work should be facilitated in Pima’s case given Motorola’s – and Pima’s – prior knowledge of Pima’s recently installed system. And, Pima does not explain why it requires one-month to evaluate the Motorola cost estimate. Instead, Pima recites that it has been occupied in implementing its new system in order to “meet FCC requirements for multiple radio sites” (sic).<sup>12</sup> It defends its requested extension based on an email from a Motorola employee<sup>13</sup> which states, in pertinent part:

So technically the proposal is due 8/11/14. All of that said, I’d hate to see this go to 8/11/14, but as it is today, I understand that the RB<sup>14</sup> field team has not completed the DCW<sup>15</sup> yet. This is critical to all elements of the proposal. Without that task getting completed, there is no way to even begin thinking about expediting.

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<sup>5</sup> *Id.* at note 1 *citing* E-mail from Randy Brooks 3-20-2014 to the author and others. (Randy Brooks is an employee of Motorola; the “author” referred to is Pima’s counsel.)

<sup>6</sup> Opposition at 1.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 4 *quoting* Maricopa County, Arizona, *Order*, DA 14-482, (PSHSB, rel. Apr. 10, 2014), .

<sup>10</sup> Reply at 1-2.

<sup>11</sup> *Id.* at 2.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* *citing* E-mail from Randy Brooks to James Hobson, Esq., *et al.*, Mar. 20, 2014.

<sup>14</sup> Rebanding.

<sup>15</sup> Data Collection Worksheet.

Instead of pressing Motorola to accelerate its efforts because Motorola already was aware of what comprised Pima's system, Pima merely accepted Motorola's August 11, 2014 completion date.

### III. DECISION

5. We admonish Pima for not fully "making its case" in its initial Request, and, instead, waiting until submission of its Reply to set out details of the reasons it believes itself entitled to an extension of time.<sup>16</sup> Moreover, we agree with Sprint that Pima has failed to explain why, for a recently installed system, Motorola, the vendor of that system, is incapable of consulting its own records as to the quantity and type of equipment to be rebanded -- the information to be included in the Data Collection Worksheet

6. Pima already has introduced delay into the rebanding process by virtue of not submitting its request for planning funding on time. As Pima concedes, the 800 MHz Transition Administrator (TA) approved a Planning Funding Agreement "on January 6, 2014, making an FRA Cost Estimate due 100 days later, or by April 16, 2014."<sup>17</sup> Now, more than 100 days later, it appears that the work necessary to produce a cost estimate has barely begun.

7. There is nothing we can do to change the fact that Pima has not been diligent in producing a cost estimate, therefore we have no option other than to give Pima an extension of some duration. We need not, however, accede to the lengthy extension in Pima's Request. Therefore, we are requiring Pima to file a cost estimate with the TA no later than July 15, 2014. Should Pima not meet that date for filing a cost estimate, it shall file a further request for extension containing a full, detailed explanation of why it was unable to meet that date<sup>18</sup> and a detailed timetable for the work remaining to be completed. If that request is granted, it will require Pima to report twice each week, in detail, to the TA on the progress it is making toward producing a cost estimate.

### IV. ORDERING CLAUSES

8. It is therefore ORDERED that the Request for Extension of Time to Submit FRA Cost Estimate until September 11, 2014 IS DENIED.

9. IT IS FURTHER ORDERED, that Pima County, Arizona SHALL FILE a cost estimate for the rebanding of its 800 MHz communications system by July 15, 2014.

10. IT IS FURTHER ORDERED that if Pima County, Arizona does not file a cost estimate for the rebanding of its 800 MHz communications system by July 15, 2014, it shall file a further request for extension of time as specified herein.

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<sup>16</sup> *Cf. Colorado Radio Corp. v. FCC*, 118 F.2d 24, 26 (1941) ("We cannot allow the appellant to sit back and hope that a decision will be in its favor, and then, when it isn't, to parry with an offer of more evidence. No judging process in any branch of government could operate efficiently or accurately if such a procedure were allowed.")

<sup>17</sup> Request at 1.

<sup>18</sup> All facts alleged therein shall be supported by a declaration of a licensee principal with first-hand knowledge of those facts.

11. 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 SYSTEM

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