

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

In the Matter of)
)
City of Brownsville, Texas)
Licensee of Public Safety Land Mobile Station) WT Docket No. 02-55
Call Sign WQLR527)

ORDER

Adopted: June 18, 2014

Released: June 18, 2014

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

I. INTRODUCTION AND BACKGROUND

1. Under consideration is the June 17, 2014 Request to Amend Cost Estimate for Frequency Reconfiguration (Request) filed by the City of Brownsville, Texas (Brownsville). Brownsville’s Public Safety Land Mobile Station, Call Sign WQLR527, is subject to relocation as part of the Commission’s 800 MHz band reconfiguration initiative.¹ Brownsville represents that it timely provided a cost estimate for the rebanding of its system to Sprint Corporation (Sprint) on May 12, 2014, but did not notify Sprint of Brownsville’s intent to upgrade its system until May 15, 2014.²

II. DISCUSSION

2. In the *Fifth Report and Order* in this proceeding,³ the Public Safety and Homeland Security Bureau stated that licensees proposing to upgrade their systems in lieu of rebanding them “should notify the TA [Transition Administrator] and Sprint, in writing, no later than the due date for submission of the licensee’s cost estimate”⁴ of their intent to do so. Here, Brownsville did not provide the notification until three days after filing its cost estimate, but, as Brownsville notes, prior to receipt of a letter from Sprint finding the estimate sufficient to begin negotiations.⁵ Brownsville represents that it and Sprint “are

¹ Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *et al.*, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order*, 19 FCC Rcd 14969 (2004); *Supplemental Order and Order on Reconsideration*, 19 FCC Rcd 25120 (2004), *review denied sub nom. Mobile Relay Associates v. FCC*, 457 F.3d 1 (D.C. Cir. 2006); *Memorandum Opinion and Order*, 20 FCC Rcd 16015 (2005); *Second Memorandum Opinion and Order*, 22 FCC Rcd 10467 (2007). *See also Kay v. FCC*, No. 06-1076 (D.C. Cir. filed Feb. 24, 2006) (holding additional appeals in abeyance).

² Request at 1.

³ Improving Public Safety Communications in the 800 MHz Band, *Fifth Report and Order*, 28 FCC Rcd 4085 (PSHSB 2013).

⁴ *Id.* at 4105.

⁵ Request at 1.

engaged in a process which included discussion of the City's upgrade plans."⁶ It does not anticipate that the negotiations with Sprint will exceed the 30 days allowed for negotiation and the 20 days allowed for mediation.⁷ Brownsville submits that "grant of its request to amend [its cost estimate] will allow the parties to continue working on the upgrade proposal rather than the estimate originally filed."⁸

III. DECISION

3. As an initial matter, we regard the three-day delay in Brownsville's notification of its intent to upgrade its system as *de minimis* and, for that reason, and on our own motion, waive the requirement that upgrade notifications be filed contemporaneously with cost estimates. No party was prejudiced by the delay. The relief requested by Brownsville, however – Commission permission to amend its May 12, 2014 cost estimate – is not required. It is common in rebanding negotiations for licensees to amend their cost estimates, often multiple times, in response to counteroffers made by Sprint, or for other reasons. Such timely, good-faith amendments do not require Commission approval.

IV. ORDERING CLAUSES

4. Accordingly, IT IS ORDERED, *sua sponte*, that the requirement in the *Fifth Report and Order*⁹ for the City of Brownsville, Texas to submit notification of intent to upgrade contemporaneously with the cost estimate for rebanding its system IS WAIVED.

5. IT IS FURTHER ORDERED, that the Request to Amend Cost Estimate for Frequency Reconfiguration, filed June 17, 2014 by the City of Brownsville, Texas IS DISMISSED AS MOOT.

6. This action is taken under delegated authority pursuant to Sections 0.191(a) and 0.392 of the Commission's Rules, 47 C.F.R. §§ 0.191(a), 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
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Public Safety and Homeland Security Bureau

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 2.

⁹ *Supra* n.3.