

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

In the Matter of)	
)	
Motient Communications Inc.)	File Nos. 0000946222 and 0000946226
)	
Request for a Waiver and Extension of the 800)	
MHz Construction Requirements)	

ORDER

Adopted: July 13, 2004

Released: July 14, 2004

By the Chief, Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this Order, we address the requests by Motient Communications Inc. (“Motient”) for waiver and extension of time to meet the construction requirements for certain of its 800 MHz licenses.¹ In addition, Motient requests that we find that certain of its licenses have not “lapsed” due to permanent discontinuance of operations and seeks additional time to place these stations in operation. For the reasons stated below, we deny the Extension Requests and notify Motient that the station licenses at issue have terminated and/or canceled automatically.

II. BACKGROUND

2. Motient is the licensee of a number of 800 MHz authorizations, including the licenses at issue in the Extension Requests. Pursuant to sections 90.155(a) and 90.633(c) of the Commission’s rules, licensees of conventional 800 MHz systems are required to place their authorized stations in operation not later than one year after the date of grant of the system license.² In order to be “in operation” for purposes of section 90.633, a base station must have at least one associated mobile station in operation.³ Furthermore, section 1.955(a)(3) of the Commission’s rules provides that an authorization terminates automatically, without specific Commission action, if service is permanently discontinued.⁴ Similarly, section 90.157 provides that a station license cancels automatically upon permanent discontinuance of

¹ See File Nos. 0000946222 and 00009462226, filed July 1, 2002 by Motient Communications Inc. and amended on August 13, 2002, June 19, 2003, July 31, 2003, and August 6, 2003 (collectively, “Extension Requests”). With the exception of “Exhibit B,” which consists of Motient’s proposed construction schedule, the attachments to these applications are identical. See Extension Requests, attachments entitled “Exhibit A: Public Interest Statement in Support of Motient Communications Inc. Request for Extension of Time to Construct and Commence Service,” (“Public Interest Statement”); “Exhibit C: Description of Amendment Application” (“August 2002 Amendment”); June 19, 2003 amendment (“June 2003 Amendment”), July 31, 2003 amendment (“July 2003 Amendment”); and August 6, 2003 amendment (“August 2003 Amendment”).

² 47 C.F.R. §§ 90.155(a), 90.633(c). We note, however, that licenses subject to an extended implementation period need not be constructed within one year. See 47 C.F.R. § 90.629.

³ 47 C.F.R. § 90.633(d).

⁴ 47 C.F.R. § 1.955(a)(3).

operations.⁵ Section 90.157 defines “permanently discontinued” as any station that has not operated for one year or more.⁶ On July 1, 2002, Motient filed a request for an extension of time to satisfy its construction requirements, seeking an additional three years to complete construction for certain 800 MHz licenses.⁷ On August 13, 2002, Motient amended its Extension Requests to modify its proposed construction schedule and to provide supplemental information in response to informal inquiries from Commission staff.⁸ In this amendment, Motient proposed a multi-phase construction schedule for the licenses at issue, with requested extensions ranging from one business quarter to three years.⁹ Motient also clarified that it was seeking relief from section 90.157 of the Commission’s rules for certain constructed licenses that it obtained from a prior licensee and subsequently deconstructed upon closing of the assignments.¹⁰ Finally, on June 19, 2003, July 31, 2003, and August 6, 2003, Motient provided additional clarification and updated information, at the request of Commission staff.¹¹ In these subsequent filings, Motient noted that seven of the licenses that had been included within the scope of its Extension Requests were timely constructed and placed in operation in accordance with Commission requirements.¹² In addition, Motient sought additional time (beyond that initially requested) to complete construction and/or commence operations for five of its licenses.¹³

III. DISCUSSION

3. Motient failed to timely satisfy its construction obligations, as set forth in section 90.633(d) of the Commission’s rules, for certain of its 800 MHz licenses.¹⁴ Pursuant to sections 1.946(c), 1.955(a)(2), 90.155(a) and 90.633(d) of the Commission’s rules, absent grant of a waiver or an extension of time, these 800 MHz licenses terminated automatically as of their construction deadlines because Motient failed to place the authorized stations in operation within one year of the license grants.¹⁵ Motient also discontinued operations for certain of its 800 MHz station licenses for a period of over one year.¹⁶ Motient obtained these constructed licenses from a third party and discontinued operations after closing on their sale.¹⁷ Motient seeks additional time to resume operations at these facilities. Pursuant to

⁵ 47 C.F.R. § 90.157.

⁶ 47 C.F.R. § 90.157.

⁷ See Extension Requests.

⁸ See August 2002 Amendment.

⁹ See August 2002 Amendment; Extension Requests, Exhibit B.

¹⁰ *Id.* at 3.

¹¹ See August 2002 Amendment.

¹² See June 2003 Amendment. Motient indicated that the following licenses “were built and placed in accordance with FCC requirements on or before their original construction deadline”: WNQQ748; WPTB952; WPTB968; WPTK685; WPTL392; WPEP302; WPHJ359. These licenses therefore are excluded from the scope of this order and remain in “active” status.

¹³ See August 2003 Amendment.

¹⁴ See Appendix 1 for a list of the 800 MHz licenses at issue in the Extension Requests that have not been timely constructed in compliance with original build-out requirements. Appendix 1 also contains the construction deadline for these licenses and the state where the license is located.

¹⁵ 47 C.F.R. §§ 1.946(c), 1.955(a)(2), 90.155(a), 90.633(d).

¹⁶ See Amendment at 3; July 2003 Amendment. See Appendix 2 for a list of the 800 MHz licenses at issue in the Extension Requests that have been deconstructed and operations permanently discontinued. Appendix 2 also contains the date in which Motient acquired the licenses and the state where the license is located.

¹⁷ See Public Interest Statement at 3.

sections 1.955(a)(3) and 90.157 of the Commission's rules, absent grant of a waiver, these 800 MHz licenses canceled automatically for permanent discontinuance of service.

4. As discussed below, we find that Motient fails to satisfy the criteria for grant of an extension of time or waiver of its construction requirements. We similarly find that Motient fails to satisfy the criteria for grant of a waiver of the permanent discontinuance rules. An extension of time to complete construction may be granted, pursuant to section 1.946(e) of the Commission's rules, if the licensee shows that the failure to complete construction is due to causes beyond its control.¹⁸ Waiver may be granted, pursuant to section 1.925 of the Commission's rules, if the petitioner establishes either that: (1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and that grant of the waiver would be in the public interest; or (2) where the petitioner establishes unique or unusual factual circumstances, application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹⁹

A. Extension or Waiver of the Construction Requirements

5. Motient argues that grant of an extension of time is warranted pursuant to section 1.946(e) of the Commission's rules because its failure to construct in a timely manner resulted from circumstances beyond its control. Motient advances five arguments to support this contention. First, Motient argues that poor economic conditions generally, and the downturn in the telecommunications industry specifically, resulted in lower demand for Motient's services and a reduced need for buildout of licenses.²⁰ Motient next argues that it has experienced "uncertainty about future operations" in light of the proposal initiated by Nextel Communications, Inc.,²¹ to relocate certain users of the 800 MHz band in order to accommodate public safety users,²² and the attendant Notice of Proposed Rule Making seeking comment on this possible relocation.²³ Motient expresses concern about the possibility that it might be

¹⁸ 47 C.F.R. § 1.946(e). Section 1.946(e) also states specific circumstances that would not warrant an extension of time to complete construction. 47 C.F.R. § 1.946(e)(2)-(3).

¹⁹ 47 C.F.R. § 1.925. Alternatively, pursuant to section 1.3, the Commission has authority to waive its rules if there is "good cause" to do so. 47 C.F.R. § 1.3. *See also Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

²⁰ Public Interest Statement at 2. Motient's service consists of a two-way wireless packet data network provide a range of mobile and internet communication services principally to business-to-business customers and enterprises.

²¹ *See* "Promoting Public Safety Communications - Realigning the 800 MHz Land Mobile Radio Band to Rectify Commercial Mobile Radio - Public Safety Interference and Allocate Additional Spectrum to Meet Critical Public Safety Needs," filed by Nextel Communications, Inc. on Nov. 21, 2001 ("Nextel Proposal"). Nextel subsequently supplemented its comments and consolidated its comments with those of other parties. *See* Supplemental Comments of Aeronautical Radio, Inc., the American Mobile Telecommunications Association, the American Petroleum Institute, the Association of Public-Safety Communications Officials-International, Inc., the Forest Industries Telecommunications, the Industrial Telecommunications Association, Inc., the International Association of Chiefs of Police, the International Association of Fire Chiefs, Inc., the International Municipal Signal Association, the Major Cities Chiefs Association, the Major County Sheriffs' Association, the National Sheriffs' Association, National Stone, Sand and Gravel Association, Nextel Communications, Inc., the Personal Communications Industry Association, and the Taxicab, Limousine and Paratransit Association, WT Docket No. 02-55 (filed Dec. 24, 2002) ("Supplemental Comments").

²² Public Interest Statement at 2-3; *see also* August 2002 Amendment at 2.

²³ *See* Improving Public Safety Communications in the 800 MHz Band, Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels, *Notice of Proposed Rulemaking*, 17 FCC Rcd 4873 (2002) ("800 MHz NPRM"); "Wireless Telecommunications Bureau Seeks Comment on 'Supplemental Comments of the Consensus Parties' Filed in the 800 MHz Public Safety Interference Proceeding," *Public Notice*, DA 03-19 (rel. Jan. 3, 2003) ("Notice"); *Order Extending Time for Filing Comments*, DA 03-163 (rel. Jan. 16, 2003).

required to relocate and incur related operational and financial costs.²⁴ Third, Motient explains that, on January 10, 2002, Motient Corporation (and its wholly-owned subsidiaries) filed for reorganization under Chapter 11 of the Bankruptcy Code. Motient emerged from bankruptcy on April 26, 2002.²⁵ According to Motient, it “has had limited financial resources to complete the build-out of certain of its 800 MHz licenses” because of this bankruptcy.²⁶ Fourth, Motient states that it expects to experience difficulties obtaining necessary infrastructure equipment because its only infrastructure provider “has indicated that it intends to leave the messaging infrastructure business.”²⁷ Finally, Motient states that it has experienced tower difficulties because “tower owners are shutting down unprofitable sites,” thereby “forc[ing] Motient to focus its internal resources on finding new towers to ensure continuity of service for its existing customers” rather than on “the build out of new licenses.”²⁸

6. Motient also claims that grant of the Extension Requests will serve the public interest because of the number of subscribers Motient serves and the fact that “[o]nce the telecommunications market recovers and Motient is able to find a new infrastructure provider, Motient will continue to improve and develop its network in order to attract other large customers.”²⁹ Motient further claims that denial of the extension “could jeopardize new customer opportunities” for Motient, “or cause existing customers to explore alternative service providers.”³⁰ Motient argues that “denying Motient’s extension request could result in further delays to the buildout of these licenses,” because the Commission must find a new licensee with “no guarantee” that the new licensee will construct the system.³¹

7. In the alternative, Motient seeks a waiver of section 1.946(e). Motient argues that a waiver of section 1.946(e) is warranted under section 1.925 because its circumstances, as described above, are unique and could not have been foreseen.³² In addition, Motient claims that grant of the waiver would “not raise any issues of spectrum warehousing because Motient has clearly demonstrated its ability to develop and construct its system” based upon its prior construction history.³³ Motient further claims that denial of a waiver would not serve the public interest because it would “disrupt[] service” to current customers and “hinder[] Motient’s ability to expand its data network.”³⁴

1. Motient does not Warrant an Extension Under Section 1.946(e)

8. We are not persuaded that Motient’s failure to construct in a timely manner is the result of circumstances outside its control under section 1.946(e). As an initial matter, the circumstances that Motient relies upon as a basis for relief, such as the Nextel Proposal and the economic downturn, are industry-wide circumstances that have affected, or have the potential to affect, many similarly-situated 800 MHz licensees. The grant of a waiver based solely upon factors such as the general economic

²⁴ Public Interest Statement at 3.

²⁵ *Id.* at 3-4.

²⁶ *Id.* at 3; *see also* August 2002 Amendment at 2.

²⁷ Public Interest Statement at 4; *see also* August 2002 Amendment at 2.

²⁸ Public Interest Statement at 5; *see also* August 2002 Amendment at 3.

²⁹ Public Interest Statement at 5.

³⁰ *Id.*

³¹ *Id.* at 6.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

downturn effectively would eliminate the construction requirement; all licensees could claim that the economic downturn has impeded their ability to build out their systems. We do not believe, as a policy matter, that these are the kinds of circumstances that section 1.946(e) was intended to address. We further note that, across the wireless services, licensees have been able to timely construct their licensed facilities, notwithstanding similar economic conditions. Finally, fluctuations in the state of the economy, or even the state of the telecommunications industry specifically, are factors that reasonably should be expected in the ordinary course of business.

9. With respect to the Nextel Proposal, we find that it is not the kind of circumstance that warrants an extension of time pursuant to section 1.946(e). Motient has refrained from constructing its system for two years allegedly because of the uncertain possibility that, at some undetermined point in the future, the Commission might require that it relocate and incur attendant costs. We find that Motient's concerns were largely speculative when they were filed and not a sufficient justification to waive our rules. Moreover, due to the evolving nature of the telecommunications industry, the Commission regularly initiates rule making proceedings in order to keep pace with changes in technology, consumer needs, and other public interests. As a policy matter, it would undermine the enforceability of Commission regulations if licensees were relieved from complying with current Commission rules on the basis that these rules might change in the future or might otherwise be affected by a rule making proceeding. Licensees should be familiar with Commission procedures and proceedings and should recognize that the Commission commonly initiates rule making proceedings that might result in modifications to Commission regulations, thereby potentially affecting licensees' business plans.³⁵ As a regulated entity, this is a circumstance that a licensee should reasonably expect during the course of its business. In sum, we cannot grant Motient a waiver of its construction requirement based upon the potential consequences of an undetermined event in the future.

10. Furthermore, we are not persuaded that Motient's financial situation provides sufficient basis for grant of an extension under section 1.946(e). Motient explains that, as a result of its bankruptcy reorganization efforts, it "has had limited financial resources to complete the build-out of certain of its 800 MHz licenses."³⁶ Motient states that it "expects to need additional funds to meet remaining interest obligations, capital expenditures, and other non-operating cash expenses."³⁷ Motient has not demonstrated that reliance upon its bankruptcy foreclosed its ability to satisfy its construction requirements after its reorganization, except to state that it had insufficient funding. Section 1.946(e)(2), however, specifically excludes lack of financing as grounds for an extension.³⁸ Furthermore, as we indicated earlier, Motient's decision to expend available capital on expenses other than construction of the subject licenses is a business decision and not a circumstance beyond Motient's control.

³⁵ As the Commission has stated previously, Commission licensees have no vested right to an unchanged regulatory scheme throughout their license term. *See* Amendment of Part 1 of Commission's Rules – Competitive Bidding Procedures, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, 15 FCC Rcd 15293, 15306 ¶ 22 (2000).

³⁶ Public Interest Statement at 3. Motient states that "[t]he Commission has previously held that bankruptcy may be a special circumstance that warrants a limited extension of time." *Id.* (citing to Petition of Teligent, Inc. for Extension of Time to File the Numbering Resource Utilization/Forecast (NRUF) Report FCC Form 502, *Order*, 16 FCC Rcd 14768 (Comm. Carr. Bur. 2001) ("*Teligent*"). This case is inapposite. In *Teligent*, the licensee was given an additional three months to file a semi-annual report of its actual and forecasted number usage, so that Teligent might "accurately compile a manual report." *Teligent* at 14769. The decision in *Teligent* was premised upon the Commission's interest in obtaining accurate information in order to properly monitor the use and allocation of numbering resources. *Id.* at 14770. As this rationale clearly does not apply to Motient's circumstances, it is not a proper basis for grant of an extension of time in this case.

³⁷ August 2002 Amendment at 2.

³⁸ 47 C.F.R. § 1.946(e)(2).

11. We similarly are not persuaded that the tower closings provide a sufficient basis for grant of an extension of time, based upon the circumstances described in the Extension Requests. Motient does not indicate that any of the towers that were removed were going to be utilized to construct the licenses at issue in the Extension Requests; on the contrary, Motient states that “none of the subject licenses has been directly affected by tower removals.”³⁹ Motient fails to sufficiently establish the causal relationship between its need to allocate resources to find new towers and its inability to construct the subject licenses in a timely manner. Likewise, we are not persuaded that Motient’s decision to direct available resources from construction of the subject licenses constitutes anything more than a business decision entirely within its control.

12. Motient states that it “expects to have difficulty obtaining a sufficient quantity of equipment necessary to fully build out” the subject licenses, because its equipment provider “has indicated that it intends to leave the messaging infrastructure business.”⁴⁰ Motient therefore “believes that it may be difficult, if not impossible, to find an alternative provider of infrastructure equipment” in order to construct the licenses in a timely manner.⁴¹ Motient’s argument is speculative and does not demonstrate that an alternative has been sought. Motient fails to demonstrate a sufficient level of diligence in attempting to construct the subject licenses. The fact that an equipment manufacturer might cease production of a particular type of equipment is a foreseeable business occurrence. As we noted above, telecommunications technology is constantly evolving; licensees cannot reasonably expect that equipment specifications, or even equipment providers, will remain constant.⁴² The circumstances presented in this case differ from previous instances in which we have granted extensions based upon equipment availability. For example, we have granted an extension of the construction requirements when licensees have demonstrated a commitment to deploying advanced technology that was in the process of being developed and therefore unavailable in time to satisfy the licensees’ construction benchmarks.⁴³ Furthermore, those cases involved licensees who had placed equipment orders or who had otherwise demonstrated a sufficient level of diligence and commitment to construction of the licenses.⁴⁴

³⁹ August 2002 Amendment at 3.

⁴⁰ Public Interest Statement at 4; *see also* August 2002 Amendment at 2.

⁴¹ Public Interest Statement at 4.

⁴² *See Eldorado Communications L.L.C., Order*, 17 FCC Rcd 24613, 24618 (Comm. Wir. Div., WTB 2002) (finding that “[c]arriers’ decisions to adopt or discard specific technical standards such as TDMA or GSM are reasonably foreseeable occurrences in the communications industry, as wireless carriers must modify their business plans in order to keep up with evolving technology.”)

⁴³ *See FCI 900, Inc. Expedited Request for 3-Year Extension of 900 MHz Band Construction Requirements and Neoworld License Holdings, Inc. Request for Waiver of the 900 MHz Band Construction Requirements and Petition for Declaratory Ruling, Memorandum Opinion and Order*, 16 FCC Rcd 11072 (Comm. Wir. Div., WTB 2001) (“*FCI 900, Inc.*”) (granting 900 MHz MTA licensees an extension of the construction deadline so that they might deploy advanced digital 900 MHz systems, where the subject digital voice equipment was not commercially available in sufficient quantities in time to meet the five-year construction deadline); *Leap Wireless International, Inc., Request for Waiver and Extension of Broadband PCS Construction Requirements, Memorandum Opinion and Order*, 16 FCC Rcd 19573 (Comm. Wir. Div., WTB 2001) (“*Leap Wireless*”) (granting extension of time so that licensee might deploy “high data rate” wireless technology that was not available in time to meet the five year construction requirement); *Monet Mobile Networks, Inc., Request for Waiver and Extension of the Broadband PCS Construction Requirements, Order*, 17 FCC Rcd 6452 (“*Monet Mobile*”) (Comm. Wir. Div., WTB 2002) (granting extension of time so that licensee might deploy “high data rate” wireless technology that was not available in time to meet the five-year construction requirement); and *Warren C. Havens, et al., Request for Waiver or Extension of the Five-Year Construction Requirements for 220 MHz Phase II Licensees, Memorandum Opinion and Order*, DA 04-2100 (adopted July 12, 2004) (granting extension of the 5 year construction requirement for 220 MHz licensees to allow for the use of next-generation digital technology in the band).

⁴⁴ *See FCI 900, Inc.*, 16 FCC Rcd at 11079; *Leap Wireless* at 19575-76, 19578; *Monet Mobile* at 6454.

In this case, Motient does not seek an extension based upon the anticipated rollout of advanced technology that will provide increased public interest benefits to its consumers. Motient also fails to provide any evidence that it actually placed equipment orders or otherwise attempted to construct its licenses in a timely manner.

2. Motient Does Not Warrant a Waiver Under Section 1.925

13. Motient also fails to satisfy the waiver criteria of section 1.925. We disagree with Motient's contention that the economic conditions and other factors set forth in the Extension Requests constitute unique or unforeseeable circumstances. As explained above, economic shifts, including industry-specific downturns and their attendant consequences, are factors that a licensee reasonably should account for in developing its business plan. Furthermore, we are not persuaded that grant of its Extension Requests will serve the public interest. Although Motient claims that denial of the Extension Requests would disrupt service to current customers,⁴⁵ we do not find this argument persuasive because the subject licenses are not constructed and therefore are not being used to serve existing customers. In addition, Motient claims that "[i]f the Commission denies Motient's request and cancels its licenses, additional Commission resources will be necessary to find a new licensee with no guarantee that the new licensee will build this system."⁴⁶ We similarly are not persuaded by this argument and believe it is in the public interest to enforce our construction rules. By enforcing our construction requirement, we will make spectrum available to those who have a present need for the spectrum, as well as the present means to build out the systems. Motient admits that it has neither the need nor the resources to build out the subject licenses at the present time. Motient states that it "simply does not need to deploy as many base stations in its network as quickly as Motient initially thought it would need them," and that "[e]ach additional base station built must be cost-justified, and if a new base station is not needed to support subscriber growth, then it is not cost-effective for Motient to build the base station."⁴⁷ Motient claims that "as economic conditions improve, Motient will need to return to its earlier network expansion plans and continue building its network."⁴⁸ We believe that it is contrary to the public interest to allow Motient to retain these licenses while it waits for better economic conditions or opportunities.

B. Waiver of the Permanent Discontinuance Rules

14. In addition to seeking an extension of time to satisfy its initial construction obligations for the 800 MHz licenses set forth in Appendix 1, Motient seeks additional time to place the 800 MHz licenses set forth in Appendix 2 in operation. Based upon the information provided in the Extension Requests, Motient acquired these constructed licenses from a third party and discontinued operations after closing upon the sale of these licenses.⁴⁹ Motient consummated the assignments of licenses more than one year ago and seeks additional time to reinstitute operations at these facilities. Because these stations have not been operated for more than one year, absent grant of a waiver of the permanent discontinuance rules, these licenses cancelled automatically pursuant to sections 1.955(a)(3) and 90.157 of the Commission's rules.⁵⁰

15. We find that Motient fails to satisfy the requirements for a waiver of the permanent discontinuance rules. Motient claims "that it would not be in the public interest to allow these stations to

⁴⁵ Public Interest Statement at 6.

⁴⁶ *Id.* at 6.

⁴⁷ Public Interest Statement at 6.

⁴⁸ *Id.*

⁴⁹ August 2002 Amendment at 3.

⁵⁰ *See* 47 C.F.R. §§ 1.955(a)(3), 90.157.

lapse, with the significant price paid by Motient for their purchase – particularly given the limited extension of time needed to complete construction of these sites.”⁵¹ We disagree. First, Motient does not demonstrate how its particular circumstances would satisfy the criteria for waiver of the permanent discontinuance rules. Motient simply states that these licenses should not be permitted to “lapse.”⁵² Motient references the price it paid for the licenses and the fact that it seeks only a “limited extension.”⁵³ Neither argument is persuasive. We do not consider the amount that Motient voluntarily paid for the licenses as a sound basis for granting a waiver; nor do we agree that Motient’s extension request is limited in duration, as Motient seeks up to several additional years to reinstate operations at these facilities. Moreover, even considering that, at least for one of the licenses, the requested extension of time is only several months, we are not persuaded that allowing the licenses to “lapse” is contrary to the public interest.⁵⁴ As we explained above, we do not believe that Motient’s inability to construct and operate these facilities in a timely manner results from unforeseeable and unique circumstances, nor will grant of a waiver serve the public interest. In summary, based upon the record, the licenses set forth in Appendix 2 have cancelled automatically under sections 1.955(a)(3) and 90.157 for permanent discontinuance of operations.

IV. ORDERING CLAUSE

16. Accordingly, IT IS ORDERED, pursuant to section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and sections 0.331, 1.925, and 1.946 of the Commission’s rules, 47 C.F.R. §§ 0.331, 1.925, 1.946, that the requests filed by Motient Communications Inc. on July 1, 2002, and amended on August 13, 2002, July 31, 2003, June 19, 2003, and August 6, 2003, for extension and waiver of the 800 MHz construction requirements and waiver of the permanent discontinuance rules, ARE HEREBY DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Thomas Derenge
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

⁵¹ August 2002 Amendment at 3.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Motient indicates that the construction deadline for WPQK862 is March 29, 2003 and requests an extension until the “Fourth Quarter 2003” for this particular license. Based upon the information provided in the Extension Requests, Motient requests extensions of approximately one year or longer for the remaining licenses. *See* Extension Requests, Exhibit B. *See also* August 2003 Amendment.

APPENDIX 1
(Failure to Satisfy Initial Construction Requirement)

Call Sign	Buildout Deadline	STATE NAME	EA
WPSQ643	7/12/2002	Georgia	38
WPTB950	8/27/2002	Tennessee	43
WPTB954	8/27/2002	Washington	147
WPTC683	8/29/2002	Georgia	39
WPTK786	10/22/2002	California	163
WPTK801	10/22/2002	California	163
WPTK916	10/23/2002	Minnesota	106
WPTL252	10/23/2002	Kentucky	70
WPTM894	11/2/2002	Pennsylvania	54
WPTN892	11/13/2002	California	163

**APPENDIX 2:
(Permanent Discontinuance of Operations)**

Call Sign	Acquired Date	STATE NAME	EA
WPJT290	2/26/2002	Arkansas	90
WPMG325	10/5/2001	West Virginia	48
WPQK862	10/5/2001	New York	6
WPMX370	10/5/2001	Illinois	68
WPTB949	10/5/2001	Michigan	57
WPSQ644	9/29/2001	Indiana	67
WPTC682	9/29/2001	Indiana	67
WPUI717	2/23/2002	Alabama	78
WPIB906	2/23/2002	Alabama	80
WPSQ640	5/7/2002	Florida	31
WPTE230	7/12/2001	Georgia	38
WPHB917	7/12/2001	Georgia	38
WPHG510	8/27/2001	Tennessee	43
WPGQ396	8/29/2001	California	163
WPES898	9/7/2001	New York	5
WPDA547	3/13/2002	Indiana	65