



Federal Communications Commission
Washington, D.C. 20554

12/07/2007

DA 07-4918

Raymond J. Quianzon
Fletcher, Heald & Hildreth, P.L.C.
1300 North Seventeenth Street, Eleventh Floor
Arlington, VA 22209

Re: Request for Extension of Time to Construct Ten Paging Licenses

Dear Mr. Quianzon:

This letter addresses the above-captioned Request for Extension of Time to Construct (Waiver Request), filed on behalf of the County of Placer (Placer) on April 18, 2007, seeking waiver of the construction requirements of section 22.503(k)(2) of the Commission's rules¹ for ten geographic-based Part 22 paging licenses.² Specifically, Placer requests a waiver until July 30, 2012 to complete construction for the ten licenses subject to the Waiver Request. For the reasons stated below, we partially grant the Waiver Request by extending the construction deadline for the subject licenses to December 31, 2009.

Pursuant to sections 1.946(c) and 1.955(a)(2) of the Commission's rules, Placer's licenses will terminate automatically as of the construction deadline if Placer fails to meet the requirements of section 22.503(k)(2),³ unless the Commission grants an extension or waives the construction requirements.⁴ The construction deadline for the ten licenses was July 30, 2007.

A waiver may be granted, pursuant to section 1.925 of the Commission's rules, if the petitioner establishes 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, that application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.⁵

Placer acquired the ten licenses (where each license is a channel pair) for the Sacramento – Yolo, California Economic Area (EA) in May 2005 via an assignment of licenses from Cook Telecom, Inc.⁶ As

¹ 47 C.F.R. § 22.503(k)(2).

² Request for Extension of Time to Construct (filed April 18, 2007) ("Waiver Request"); Amendment to Request for Extension of Time to Construct (filed September 5, 2007) ("Amendment to Waiver Request"). See Appendix A for a list of the File Nos. and Call Signs subject to the Waiver Request.

³ Pursuant to section 22.503(k)(2) of the Commission's rules, an EA paging licensee must construct facilities to cover two-thirds of the population of its license area within five years of initial license grant. 47 C.F.R. § 22.503(k)(2).

⁴ 47 C.F.R. §§ 1.946(c), 1.955(a)(2).

⁵ 47 C.F.R. § 1.925. The Commission has stated that, in situations in which the circumstances are unique and the public interest would be served, it would consider waiving construction requirements on a case-by-case basis. See Amendment of the Commission's Rules To Establish New Personal Communications Services, GEN Docket No. 90-314, *Memorandum Opinion and Order*, 9 FCC Rcd 4957, 5019 (1994) (*PCS MO&O*), citing *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

⁶ File No. 0001860411.

part of the assignment application, Placer requested a waiver of the Commission's rules to operate the Part 22 paging channels for a countywide public safety network.⁷ Placer states that it operates a countywide communications system that serves the Placer County Sheriff (Office of Emergency Services, Fire Dispatch), as well as other departments, and that it is deploying a new system using its Part 22 paging frequencies.⁸ Placer states that it has developed a three phase approach to construct its new system, and that it is currently in the third phase. In the first phase, Placer developed a strategy for deploying a new system, acquired the necessary spectrum, conducted detailed engineering studies, and upgraded tower sites. In the second phase, Placer obtained federal and state funding, upgraded Sheriffs' dispatch centers, and expanded radio infrastructure and towers.⁹ Placer states that the third phase consists of constructing and testing its new system, implementing new technology at the local agency level, and managing and maintaining the new network.¹⁰ Placer states that it expects to complete construction of its countywide system by the end of 2009. Placer, however, requests an extension of time to construct until the end of its license term, which is July 30, 2012.

Based on the totality of the circumstances involved in this case, we believe that the public interest would be served by extending the construction deadline for the ten licenses listed in Appendix A until December 31, 2009 (the time in which Placer states that it will complete its construction). While such lengthy extensions are not routine, we believe it is justified in this instance, given the challenges in constructing a countywide public safety network and Placer's diligence in taking steps to use its Part 22 paging licenses. Placer plans to deploy a new countywide public safety system utilizing the spectrum associated with its Part 22 paging licenses, which it acquired in the secondary market two years ago. Although Placer has held the licenses for only two years, it has made progress towards completing construction of its countywide public safety system, as outlined above. We expect that such a system will provide critical communications to first responders and other public safety users and, accordingly, will benefit the public with an enhanced public safety communications system. Placer's commitment to construct such a system, including its efforts in obtaining both state and federal funding leads us to conclude the public interest would be served by an extension of the construction requirements in this instance. However, because Placer states that it will conclude its construction by the end of 2009, an extension until the end of its license term is not necessary. We, therefore, grant an extension of time to construct until December 31, 2009.

⁷ *Id.* Request for Waiver to Use Part 22 Paging Channels for Public Safety Voice and Data Communications. The request for waiver was granted. *See* Response to Waiver Request (May 9, 2005).

⁸ Waiver Request at 2.

⁹ Amendment to Waiver Request at 1.

¹⁰ *Id.* at 2.

Accordingly, IT IS ORDERED that, pursuant to section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 303(r) and sections 0.331 and 1.925 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.925, the Request by the County of Placer for Extension of Time to Construct IS HEREBY PARTIALLY GRANTED, to extend the construction deadlines for the licenses listed in Appendix A until December 31, 2009.¹¹

Sincerely,

Thomas P. Derenge
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

¹¹ 47 U.S.C. § 154(i), 47 C.F.R. §§ 0.331, 1.925.

Appendix A

File Number	Call Sign	Market	Market Description	Channel Block
0002997481	WPVQ329	BEA164	Sacramento – Yolo, CA	FA
0002997482	WPVQ330	BEA164	Sacramento – Yolo, CA	FB
0002997483	WPVQ331	BEA164	Sacramento – Yolo, CA	FC
0002997484	WPVQ332	BEA164	Sacramento – Yolo, CA	FD
0002997485	WPVQ333	BEA164	Sacramento – Yolo, CA	FE
0002997486	WPVQ334	BEA164	Sacramento – Yolo, CA	FF
0002997487	WPVQ335	BEA164	Sacramento – Yolo, CA	FM
0002997488	WPVQ336	BEA164	Sacramento – Yolo, CA	FP
0002997489	WPVQ337	BEA164	Sacramento – Yolo, CA	FQ
0002997490	WPVQ338	BEA164	Sacramento – Yolo, CA	FR