

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

In the Matter of
Improving Public Safety Communications in the
800 MHz Band
Requests for Interim Waiver of the June 26, 2008
Rebanding Deadline – Wave 1 Public Safety
Regions
WT Docket No. 02-55

ORDER

Adopted: June 17, 2008

Released: June 17, 2008

By the Associate Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this order, by delegated authority, we act on multiple requests by 800 MHz public safety licensees in Wave 1 for interim waiver of the June 26, 2008 deadline to allow the completion of rebanding planning, negotiation of Frequency Reconfiguration Agreements (FRAs), and the submission of final proposed rebanding schedules to the Commission. We grant these interim requests to the extent set forth below, conditioned on each licensee, if necessary, filing a supplemental waiver request by the date specified for the licensee in Appendix A of this order that includes a proposed rebanding implementation timetable.

II. BACKGROUND

2. In the 800 MHz Report and Order and subsequent orders in this proceeding, the

1 Wave 1 includes the following NPSPAC Regions: Region 6 (Northern California), Region 7 (Colorado), Region 8 (Metropolitan New York Region), Region 13 (Illinois), Region 14 (Indiana), Region 19 (New England), Region 20 (Maryland/District of Columbia/Northern Virginia), Region 28 (Eastern Pennsylvania, New Jersey, Delaware), Region 35 (Oregon), Region 42 (Virginia), Region 45 (Wisconsin), Region 54 (Chicago/Southern Lake Michigan Region). A list of all NPSPAC regions and their corresponding geographic areas can be found at http://www.fcc.gov/Bureaus/Wireless/Orders/199August fcc98191.txt.

2 Waiver requests by Wave 1 licensees who have completed FRA negotiations and submitted proposed rebanding schedules will be addressed in a separate order. This order also does not address the request for waiver filed by Fairfax County, Virginia on behalf of 14 licensees in the Nation Capital Region (NCR), which we will address separately. Finally, we hold in abeyance the waiver requests of Washoe County, Nevada/Sparks, Nevada; Chester County, Pennsylvania; Chesapeake, Virginia; Sacramento, California; the Commonwealth of Virginia; and Honolulu, Hawaii, pending resolution of other matters concerning these licensees that are currently pending before the Commission.

3 On May 1, 2008, Sprint Nextel Corporation (Sprint) filed a request for waiver to remain temporarily on Channel 1-120 channels that are designated for assignment to NPSPAC licensees that receive waivers of the June 26, 2008 deadline. Request for Waiver by Sprint Nextel Corporation, filed May 1, 2008. We will address Sprint's waiver request separately.

Commission ordered the rebanding of the 800 MHz band to resolve interference between commercial and public safety systems in the band.⁴ These orders mandate that 800 MHz licensees in non-border areas must complete their rebanding by June 26, 2008.⁵ However, the Commission has also established a waiver process for licensees that are unable to complete rebanding by the deadline, and has delegated authority to the Public Safety and Homeland Security Bureau (PSHSB) to act on such waiver requests.⁶

3. On January 17, 2008, the Commission released a *Public Notice* that established procedures and provided guidance for submission of requests to waive the deadline.⁷ The Commission recommended that licensees seeking waivers provide the Commission with a proposed timetable for completion of rebanding. However, the Commission also recognized that some licensees might be unable to propose a timetable because they had not yet negotiated their FRAs with Sprint. The Commission stated that such licensees should file interim waiver requests stating “when the licensee anticipates having an FRA and filing a final waiver request that will include a proposed timetable.”⁸ The Commission set March 17, 2008 as the deadline for licensees in Wave 1 to submit either an interim or a final request.⁹

III. DISCUSSION

4. The Commission has stated that requests for waiver of the June 26, 2008 deadline “will be subject to a high level of scrutiny. Licensees will be expected to demonstrate that they have worked diligently and in good faith to complete rebanding expeditiously, and that the amount of additional time requested is no more than is reasonably necessary to complete the rebanding process.”¹⁰ We have reviewed each of the Wave 1 interim waiver requests in accordance with this standard.

5. We first address those licensees in Wave 1 that seek interim waivers to complete planning, negotiate their FRAs, and provide the Commission with their proposed timetables on or before July 18, 2008.¹¹ After review of these requests, we find that each of these licensees has demonstrated a sufficient level of diligence and good faith warranting grant of the requested interim waiver. Moreover, we find that the limited amount of time that each licensee seeks is no more than is reasonably necessary to complete the planning and negotiation process and submit a comprehensive waiver request with a

⁴ See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 (2004) (*800 MHz Report and Order*); *Supplemental Order and Order on Reconsideration*, 19 FCC Rcd 25120 (2004) (*800 MHz Supplemental Order*); *Memorandum Opinion and Order*, 20 FCC Rcd 16015 (2005); *Second Memorandum Opinion and Order*, 22 FCC Rcd 10467 (2007); *Third Memorandum Opinion and Order*, 22 FCC Rcd 17209 (2007) (*800 MHz 3rd MO&O*). The *800 MHz 3rd MO&O* was recently affirmed by the U.S. Court of Appeals. *Sprint Nextel Corp. v. FCC*, 524 F.3d 253 (D.C. Cir. 2008).

⁵ *800 MHz Report and Order*, 19 FCC Rcd at 15130, ¶ 347. “Non-border” licensees are Wave 1-3 licensees and those Wave 4 licensees that have received rebanding frequency assignments from the 800 MHz Transition Administrator (TA). Licensees that have not received frequency assignments from the TA due to their proximity to the U.S.- Canada or U.S.- Mexico border are not subject to the June 26, 2008 deadline. The Bureau has established a separate rebanding timeline for the Canadian border region, Improving Public Safety Communications in the 800 MHz Band, *Second Report and Order*, WT Docket 02-55, 23 FCC Rcd 7605 (PSHSB 2008), and will establish a rebanding timeline for the Mexican border region at a later date.

⁶ *800 MHz 3rd MO&O*, 22 FCC Rcd at 17223 ¶ 48.

⁷ Federal Communications Commission Provides Guidance for Submission of Requests for Waiver of June 26, 2008 Deadline for Completion of 800 MHz Rebanding, *Public Notice*, 23 FCC Rcd 664 (2008) (*Waiver Guidance Notice*).

⁸ *Id.* at 666.

⁹ *Id.* at 665.

¹⁰ FCC Announces Supplemental Procedures and Provides Guidance for Completion of 800 MHz Rebanding, *Public Notice*, 22 FCC Rcd 17227, 17232 (2007).

¹¹ See Appendix A.

proposed timetable. We therefore grant these interim requests, conditioned on each licensee filing a supplemental waiver request by the interim date specified in Appendix A that includes a proposed implementation timetable as set out in the *Waiver Guidance Notice*.¹² The timetable should include proposed milestone dates for completion of (1) retuning, reflashing, and/or replacement of subscriber equipment (subscriber equipment deployment); (2) retuning of base stations to the licensee's new channel assignments and commencement of system operations on the new channels (system "cutover"); and (3) additional post-cutover system modifications (e.g., disposal or return of temporary or legacy equipment, removal of pre-rebanding channels from subscriber units).¹³ Upon filing of a timely waiver request that meets these criteria, the interim relief granted by this order will extend until the Bureau acts on the request.

6. A number of Wave 1 licensees have requested interim waiver dates that are now past, but have not subsequently filed a proposed timetable or any other supplemental filings.¹⁴ As specified in Appendix A, we require each of these licensees to file a supplemental waiver request to the Bureau with a proposed timetable meeting the *Waiver Guidance Notice* criteria within 30 days of the release of this order.

7. We apply a higher level of scrutiny to those licensees in Wave 1 that failed to specify interim dates or requested dates beyond July 18, 2008 to complete their planning, FRA negotiations, and submit a waiver request to the Commission with a proposed timetable.¹⁵ We recognize that there are a variety of factors that may justify longer planning and negotiation periods for these licensees, including system size and complexity, coordination of planning issues with other licensees, and prior delays in the rebanding process outside the licensee's control. However, while we understand that the planning and FRA negotiation process can be complex and time-consuming, it is also important to the continued progress of rebanding in Wave 1 that these licensees expedite their efforts to develop proposed timetables for rebanding their systems. We also believe that by July 18, 2008, all of these licensees should be sufficiently far along with their planning to be able to provide projected milestone dates for completion of the major steps in the rebanding process.

8. We therefore grant interim relief to each of these licensees, conditioned on the licensee

¹² See *Waiver Guidance Notice*, 23 FCC Rcd at 665-666. We recommend that licensees use the template form developed by the TA to submit their waiver requests and supporting timetable information. The template is available at www.800ta.org/content/documents/rebanding_deadline_extension_process.asp.

¹³ In some cases, NPSPAC licensees will continue to operate and support operations on the five nationwide mutual aid channels in the old NPSPAC band after they have completed their own system cutovers to the new NPSPAC band, and will maintain the old mutual aid channels until rebanding by all NPSPAC licensees in a region is complete. In such cases, we clarify that a licensee submitting a proposed timetable should specify dates relating to the rebanding of the licensee's own system (e.g., the licensee's own system cutover date), but is not required to specify a date for the rebanding of the five mutual aid channels.

¹⁴ See Appendix A. These licensees are: Richmond, California; Roseville, California (Region 6); Denver, Colorado (Region 7); Suffolk County, New Jersey; Waterbury, Connecticut; Trenton, New Jersey; and New Jersey Transit (Region 8); Portland Maine; Norwalk, Connecticut; Connecticut Department of Corrections; North Providence, Rhode Island (Region 19); and Wicomico County, Maryland (Region 20).

¹⁵ See Appendix A. These licensees are: Davis, California; San Francisco, California (Region 6); Adams 12 Star Schools, Colorado (Region 7); Old Bridge Township, New Jersey; New York City (DOITT) (Region 8); State of Illinois (IPSAN) (Region 13); State of Indiana (Region 14); West Hartford, Connecticut; Cambridge, Massachusetts; Massachusetts Department of Corrections; Massachusetts State Police (region 19); Anne Arundel County, Maryland, Baltimore, Maryland; Baltimore County, Maryland (Phases I and II); Carroll County, Maryland; Harford County, Maryland; State of Maryland (MDOT-MAA); State of Delaware (Region 20); Marion County, Oregon (Region 35); Chesterfield County, Virginia; Culpeper County, Virginia; Henrico County, Virginia; Hopewell, Virginia; Newport News, Virginia (Region 42); Milwaukee County, Wisconsin; Chicago Dept. of Aviation, Illinois; Chicago (OEMC), Illinois; Elgin, Illinois; Gundy County, Illinois; Joliet, Illinois; Aurora, Illinois; Montgomery, Illinois; Naperville, Illinois (Region 54).

submitting a supplemental waiver request by July 18, 2008 that includes a proposed rebanding timetable as set out in the *Waiver Guidance Notice*.¹⁶ As discussed above, the timetable should include proposed milestone dates for completion of subscriber equipment deployment, system cutover, and post-cutover system modifications.¹⁷ The timetable should also include the amount of additional time that the licensee estimates is reasonably required to complete planning and negotiate its FRA. Upon filing of a timely supplemental waiver request that meets these criteria, the interim relief granted by this order will extend until the Bureau acts on the request.

IV. ORDERING CLAUSE

9. Accordingly, pursuant to the authority of Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392; Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925, IT IS ORDERED that the requests for interim waiver of the June 26, 2008 deadline submitted by the licensees listed in Appendix A of this order are GRANTED to the extent described herein.

FEDERAL COMMUNICATIONS COMMISSION

David L. Furth
Associate Bureau Chief
Public Safety and Homeland Security Bureau

¹⁶ See *Waiver Guidance Notice*, 23 FCC Rcd at 665-666. Licensees may amend their waiver requests after July 18, 2008 to revise their proposed milestone dates should such revision be warranted based on subsequent developments (e.g., scheduling information resulting from a subsequently negotiated FRA or a subsequent TA-sponsored Implementation Planning Session).

¹⁷ See ¶ 5, *supra*.

APPENDIX A

Region 6 (Northern California)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Alameda County, CA	KNNQ366	February 21, 2008	May 31, 2008	30 days from release of this Order
Davis, CA	WQAJ611	March 11, 2008	September 1, 2008	July 18, 2008
City and County of San Francisco, CA	WNXV207	March 17, 2008	September 1, 2008	July 18, 2008
Richmond, CA	WPGR333	March 17, 2008	April 15, 2008	30 days from release of this Order
Roseville, CA	WPMQ537	March 17, 2008	April 23, 2008	30 days from release of this Order

Region 7 (Colorado)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
City and County of Denver, CO	KNN4200	March 17, 2008	April 15, 2008	30 days from release of this Order
Adams 12 Star Schools, CO	WPQC884	March 17, 2008	August 31, 2008	July 18, 2008

Region 8 (Metropolitan New York Region)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Suffolk County, NY	WNNM880	March 17, 2008	March 28, 2008	30 days from release of this Order
New Jersey Transit	WNWI428	April 24, 2008 ¹⁸	June 9, 2008	30 days from release of this Order
Union City, NJ	WPWN762	March 17, 2008	May 1, 2008	30 days from release of this Order
Waterbury, CT	WNNM913	March 17, 2008	May 1, 2008	30 days from release of this Order

¹⁸ Waiver Request filed by Transition Administrator.

Trenton, NJ	WPGP231	March 17, 2008	May 5, 2008	30 days from release of this Order
State of New York (Division of State Police)	WNNM915	April 21, 2008 ¹⁹	May 21, 2008	30 days from release of this Order
Old Bridge Township, NJ	WNAJ329	March 17, 2008	June 30, 2009	July 18, 2008

Region 13 (Illinois)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
IPSAN	WPKG583	March 17, 2008	February 28, 2009	July 18, 2008
Peoria County, IL	WQAB235	March 17, 2008	May 31, 2008	30 days from release of this Order

Region 14 (Indiana)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
State of Indiana	KNNP956	March 17, 2008	August 1, 2008	July 18, 2008

Region 19 (New England)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Portland, ME	WPMW699	March 17, 2008	April 4, 2008	30 days from release of this Order
Norwalk, CT	WNQS468	March 17, 2008	April 15, 2008	30 days from release of this Order
Connecticut Department of Corrections	WPAR691	March 17, 2008	May 1, 2008	30 days from release of this Order
Wethersfield, CT	WPLY874	June 10, 2008	August 31, 2008	July 18, 2008
Hampden, MA	WQID749	April 22, 2008	June 26, 2008	June 26, 2008
Boston Public Health Commission	WPHZ634	March 17, 2008	July 1, 2008	July 1, 2008
West Hartford, CT	WPMN274	March 17, 2008	July 15, 2008	July 15, 2008
Cambridge, MA	WPSE405	May 20, 2008 ²⁰	June 13, 2008	30 days from

¹⁹ This request supersedes the request filed by the State of New York on March 21, 2008 requesting an interim waiver until April 11, 2008.

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Massachusetts Department of Corrections	KNNF711	March 17, 2008	September 30, 2008	July 18, 2008
Hartford Hospital, CT	WQHZ494	April 22, 2008	September 1, 2008	July 18, 2008
Hartford, CT	WPSJ542	March 17, 2008	February 28, 2009	July 18, 2008
Massachusetts Water Resources Authority	WPRX288	March 17, 2008	July 15, 2008	July 25, 2008 ²¹
Massachusetts State Police	WQCM953	March 13, 2008	No date	July 18, 2008
North Providence, RI	WQEE893	March 17, 2008	May 16, 2008	30 days from release of this Order

Region 20 (Maryland/District of Columbia/Northern Virginia)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Anne Arundel County, MD	KNJU751	March 17, 2008	October 1, 2008	July 18, 2008
Baltimore, MD	WQCB503	March 17, 2008	August 18, 2008	July 18, 2008
Baltimore County, MD (Phase I)	WNAS444	March 17, 2008	No date	July 18, 2008
Baltimore County, MD (Phase II)	WNLM765	March 17, 2008	August 18, 2008	July 18, 2008
Calvert County, MD	WPFN680	March 12, 2008	May 30, 2008	30 days from release of this Order
Carroll, County, MD	WPIQ515	March 17, 2008	August 18, 2008	July 18, 2008
Harford County, MD	WQAK305	March 17, 2008	August 18, 2008	July 18, 2008
Howard County, MD	WPQZ923	March 17, 2008	August 18, 2008	July 18, 2008
State of Maryland (MDOT – MAA)	WQFL987	March 17, 2008	August 18, 2008	July 18, 2008
Upper Maryland Eastern Shore Consortium	WPSG976	March 17, 2008	May 30, 2008	30 days from release of this Order
Wicomico County,	WMPU653	April 17, 2008	April 18, 2008	30 days from

²⁰ This request supersedes the request filed by Cambridge on March 17, 2008 requesting an interim waiver until May 20, 2008.

²¹ Because Massachusetts Water Resources Authority system is dependent on the Massachusetts State Police system, we grant MWRA until July 25, 2008 to submit its proposed schedule so that it has an opportunity to review the proposed schedule submitted by the Massachusetts State Police.

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Region 28 (Eastern Pennsylvania/New Jersey/Delaware)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
State of Delaware ²²	WPIQ290	March 17, 2008	September 1, 2008	July 18, 2008
Lancaster County, PA	WPZC615	March 17, 2008	May 25, 2008	30 days from release of this Order

Region 35 (Oregon)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Marion County, OR	WQDY702	March 17, 2008	September 30, 2008	July 18, 2008

Region 42 (Virginia)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Albemarle County, VA ²³	WPUA888	March 14, 2008	June 30, 2008	June 30, 2008
Chesterfield County, VA ²⁴	KNJU750	March 14, 2008	August 15, 2008	July 18, 2008
Henrico County, VA ²⁵	WPMP987	March 14, 2008	August 15, 2008	July 18, 2008
Richmond, VA ²⁶	WPPB793	March 14, 2008	August 15, 2008	July 18, 2008
Roanoke, VA	WNJU627	March 12, 2008	July 30, 2008	July 18, 2008
Roanoke County, VA	WNJU627	March 12, 2008	July 30, 2008	July 18, 2008

²² Delaware separately filed two previous requests for additional time to complete planning and submit a cost estimate to Sprint by June 12, 2008 and August 12, 2008. We dismiss these requests as moot.

²³ Albemarle separately requested an extension to complete planning by April 30, 2008. We dismiss this request as moot.

²⁴ Chesterfield separately requested an extension to complete planning by June 10, 2008. We dismiss this request as moot.

²⁵ Henrico separately requested an extension to complete planning by June 10, 2008. We dismiss this request as moot.

²⁶ Richmond separately requested an extension to complete planning by June 10, 2008. We dismiss that request as moot.

VA				
York County, VA	WQAW910	March 14, 2008 ²⁷	May 30, 2008	30 days from release of this Order

Region 45 (Wisconsin)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Brown County, WI Public Safety Communications	WQAP246	March 7, 2008	May 30, 2008	30 days from release of this Order
State of Wisconsin	WNUX451	March 16, 2008	May 30, 2008	30 days from release of this Order

Region 54 (Chicago/Southern Lake Michigan Region)

Licensee	Call Sign/Lead Call Sign	Date Interim Waiver Request Filed	Interim Extension Date Requested	Interim Extension Date Granted
Milwaukee County, WI	WNWI428	March 17, 2008	July 31, 2008	July 18, 2008
Chicago Dept. of Aviation	WNAJ329	March 17, 2008	July 1, 2008	July 1, 2008
Chicago, IL (OEMC)	WPFY216	March 17, 2008	August 30, 2008	July 18, 2008
Elgin, IL	WPKG583	March 17, 2008	July 15, 2008	July 15, 2008
Grundy County, IL	WPUE331	March 17, 2008	July 20, 2008	July 18, 2008
Joliet, IL	WPJT201	March 17, 2008	July 1, 2008	July 1, 2008
Aurora, IL	WPCW888	March 17, 2008	September 30, 2008	July 18, 2008
Naperville, IL	WNUX421	March 17, 2008	September 30, 2008	July 18, 2008
Montgomery, IL	WNSS277	May 29, 2008	None	July 18, 2008

²⁷ York County supplemented its request on May 15, 2008.