

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

In the Matter of
Improving Public Safety Communications in the
800 MHz Band
Requests for Waiver of the June 26, 2008
Rebanding Deadline – Wave 3 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 3 for waiver of the June 26, 2008 deadline for the completion of 800 MHz rebanding. Our specific action with respect to each request is listed in Appendix A of this order.

II. BACKGROUND

2. In the 800 MHz Report and Order and subsequent orders in this proceeding, the Commission ordered the rebanding of the 800 MHz band to resolve interference between commercial and public safety systems in the band. These orders mandate that 800 MHz licensees in non-border areas must complete their rebanding by June 26, 2008. However, the Commission has also established a

1 Wave 3 includes the following NPSAC Regions: Region 1 (Alabama), Region 9 (Florida), Region 10 (Georgia), Region 18 (Louisiana), Region 23 (Mississippi), Region 31 (North Carolina), Region 37 (South Carolina), Region 47 (Puerto Rico) and Region 48 (US Virgin Islands). A list of all NPSAC regions and their corresponding geographic areas can be found at http://www.fcc.gov/Bureaus/Wireless/Orders/1998/fcc98191.txt. We will address waiver requests from Region 47 separately. We note that no NPSAC licensee in Region 48 filed a waiver request.

2 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 NPSAC 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.

3 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 Corporation v. FCC, 524 F.3d 253 (D.C. Cir. 2008).

4 800 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

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.⁵ On January 17, 2008, the Commission released a *Public Notice* that established procedures and provided guidance for submission of requests to waive the deadline.⁶ The Commission recommended that licensees provide certain information in their requests, and encouraged the use of a template form developed by the 800 MHz Transition Administrator (TA) for this purpose.⁷ The Commission also set April 15, 2008 as the deadline for licensees in Wave 3 to submit their requests.⁸

III. DISCUSSION

3. 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.”⁹ We have reviewed each of the Wave 3 waiver requests in accordance with this standard. More specifically, we have considered the following factors identified by the Commission as pertinent to such requests:

- System size and complexity.
- Interoperability with other systems in the region, and how such interoperability will affect the ultimate rebanding schedule.
- Steps already taken to complete physical reconfiguration, including participation in the Subscriber Equipment Deployment (SED) program.
- Participation (or commitment to participate) in the TA’s regional Implementation Planning Session (IPS) for the licensee’s Public Safety Region.¹⁰

4. We first address the waiver requests of licensees in Wave 3 that propose to complete their rebanding between June 26, 2008 and July 1, 2009 and have requested waiver dates accordingly.¹¹ We grant the waiver dates requested by these licensees. After review of the requests, we find that each of these licensees has taken substantial steps towards completion of the rebanding process and has demonstrated a level of diligence and good faith warranting the requested extension. Moreover, we find that the amount of time that each licensee seeks is no more than is reasonably necessary to complete the rebanding process.

5. We apply a higher level of scrutiny to those licensees in Wave 3 that request waivers past July 1, 2009. We recognize that there are a variety of factors that may justify longer waiver periods for some licensees, including system size and complexity, interoperability coordination issues with other licensees, and prior delays in the rebanding process outside the licensee’s control. However, because these licensees request significant additional time to complete their rebanding, we believe it is appropriate

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.

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

⁶ 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*).

⁷ *Id.* at 666.

⁸ *Id.* at 665.

⁹ FCC Announces Supplemental Procedures and Provides Guidance for Completion of 800 MHz Rebanding, *Public Notice*, 22 FCC Rcd 17227, 17232 (2007).

¹⁰ To date, no IPS session has been held in Wave 3.

¹¹ See Appendix A.

to focus more specifically on the proposed timing of the major milestones in each licensee's rebanding process, *i.e.*, (1) retuning, reflashing, and/or replacement of subscriber equipment (subscriber unit 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, such as disposal of temporary or legacy equipment, removal of pre-rebanding channels from subscriber units (post-cutover modifications). We expect these licensees to exercise particular diligence in completing these milestones, and to use best efforts to accelerate their schedules wherever possible. The timely completion of the first two of these milestones is particularly important, because once reconfigured subscriber units are deployed and the system cutover has occurred, the main objective of the rebanding process – spectral separation of public safety from commercial cellular operations – will have been substantially accomplished.

6. Specifically, we grant the relief set forth below and in Appendix A to the following licensees:

7. *Licensees Proposing Milestone Dates After July 1, 2009.* Multiple Wave 3 licensees propose to complete subscriber deployment and system cutover before July 1, 2009, but will not complete post-cutover modifications until after July 1, 2009.¹² We grant each of these licensees a waiver until July 1, 2009, and will consider additional requests for time to the extent necessary to complete post-cutover modifications. Marion County, Florida proposes to complete subscriber unit deployment by June 29, 2009, but will not complete system cutover or post-cutover modifications until after July 1, 2009.¹³ We grant Marion County a waiver until July 1, 2009, at which time it may seek additional time if necessary to complete system cutover and post-cutover modifications based upon a sufficient showing of its progress to date.

8. *Waiver Requests With No Milestone Dates Identified.* Some licensees listed in Appendix A have requested extension dates beyond July 1, 2009 for final completion of rebanding, but have not specified milestone dates for completion of interim steps in accordance with the *Waiver Guidance Notice*.¹⁴ We hold these waiver requests in abeyance and direct these licensees to supplement their requests within 30 days of the release date of this Order by submitting proposed milestone dates for subscriber unit deployment, system cutover, and post-cutover modifications. Upon receipt of these proposed milestone dates, we will act on these licensees' requests.

9. *Requests Based on Proximity to Channel 69 Analog Broadcast Stations (Region 9; Region 10).* Three NPSAC licensees in Georgia (Cobb County, DeKalb County, Fayette County), and the Georgia Technology Authority (GTA)¹⁵ filed requests for extension of the June 26, 2008 rebanding deadline based on their proximity to incumbent full power analog TV broadcaster WUPA-TV, which operates on Channel 69 (800-806 MHz) in Atlanta, Georgia.¹⁶ In Florida, the Broward County Board of County Commissioners filed a request for extension on behalf of the Broward County Sheriff's Office and the School Board of Broward County, based on their proximity to incumbent full power analog TV

¹² See Appendix A. These licensees are: Alachua County, Florida; Delray Beach and South Palm Beach County Public Safety Communications Cooperative, Florida and Hernando County, Florida (Region 9).

¹³ See Petition of Marion County, Florida (Region 9).

¹⁴ See Appendix A. These licensees are: Lake County, Florida; Pasco County, Florida (includes Dade and Pasco County Sheriff's Office) (Region 9); Avoyelles Parish Communications District, Louisiana; and Jefferson Parish Sheriff's Office, Louisiana (Region 18). As noted in below, we hold the Jefferson Parish Sheriff's Office request in abeyance pending resolution of its separately filed interim waiver request. See Appendix A.

¹⁵ GTA represents the following agencies that use State of Georgia communications systems: Georgia World Congress Center, University of Georgia (Athens), Jekyll Island DPS, and Georgia Institute of Technology.

¹⁶ See Request for Waiver, DeKalb County, Georgia, filed February 25, 2008; Petition for Waiver, Cobb County, Georgia, filed February 4, 2008; Request for Waiver, Fayette County, Georgia, filed October 10, 2007; and Petition for Waiver of Reconfiguration Deadline, Georgia Technology Authority, filed October 15, 2007.

broadcaster WAMI-TV, which operates on Channel 69 in Miami, Florida.¹⁷ These licensees express concern that if they retune to the new NPSPAC band (806-809 MHz) before the February 17, 2009 DTV transition date, they will receive out-of-band emission (OOBE) interference on their new NPSPAC channels from the Channel 69 incumbent. We grant these requests in part and will allow each of the above licensees to delay the commencement of its infrastructure retuning until March 1, 2009, after the Channel 69 incumbent has vacated the spectrum. However, we direct each licensee to proceed with all rebanding activity that can occur prior to the DTV transition date (*e.g.*, planning and FRA negotiation, subscriber unit deployment). This relief is consistent with the approach the Commission adopted in the *800 3rd MO&O*.¹⁸

10. *Further Extension Requests/Progress Reports.* We hold open the option of extending the above waivers upon further request and showing of good cause.¹⁹ Any licensee submitting a further request must submit the request prior to the expiration of the waiver granted to such licensee by this order, and will be expected to demonstrate that it has 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. Upon filing of a timely further waiver request, the relief granted by this order will extend until the Bureau acts on the request. We also direct licensees that are subject to this order to provide progress reports to the TA on a quarterly basis unless the TA determines that more frequent reports are required.

11. *NPSPAC Mutual Aid Channels.* Finally, we clarify that licensees do not need to seek waivers for continued operation and support of operations on the five nationwide mutual aid channels in the old NPSPAC band after they have completed their own rebanding. Licensees may continue to operate and maintain infrastructure that supports the five mutual aid channels until all NPSPAC licensees in the region have completed rebanding of their own systems, provided that they notify the TA of such continued mutual aid operations.

IV. ORDERING CLAUSE

12. 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 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

¹⁷ See Request of Broward County Board of County Commissioners, filed December 17, 2007.

¹⁸ *800 MHz 3rd MO&O*, 22 FCC Rcd at 17221-23 ¶¶ 40-48.

¹⁹ For example, licensees may seek further extensions if their proposed implementation dates are derived from a subsequent TA-sponsored Implementation Planning Session for the region.

APPENDIX A

Region 1 (Alabama)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Extension Date Requested	Extension Date Granted
Dothan, AL	WPGW902	April 14, 2008	October 6, 2008	October 6, 2008
Huntsville, AL ²⁰	WHPI451	May 22, 2008	June 26, 2009	June 26, 2009
Madison, AL	WPPF587 WPSH506	May 22, 2008	March 26, 2009	March 26, 2009

Region 9 (Florida)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Extension Date Requested	Extension Date Granted
Alachua County and Gainesville, FL	WPTA884	April 10, 2008	April 30, 2010	July 1, 2009
Brevard Board of County Commissioners, FL	WNRU543	April 15, 2008	September 30, 2008	September 30, 2008
Broward County Board of County Commissioners, FL (includes Broward County Sheriff's Office and School Board) ²¹	KNJH368	December 17, 2007	April 1, 2009	March 1, 2009
Charlotte County, FL ²²	WPMJ856	April 14, 2008	January 1, 2009	January 1, 2009
Citrus County, FL	WPBZ470	March 26, 2008	August 30, 2008	August 30, 2008
Clay County, FL	WPDC613	April 15, 2008	April 15, 2009	April 15, 2009
Collier County, FL	WQGV528	April 15, 2008	July 30, 2008	July 30, 2008
Del Ray Beach and South Palm Beach County Public Safety Communications Cooperative, FL	WPMU878	April 15, 2008	August 1, 2009	July 1, 2009
Desoto County, FL ²³	WPLX950	April 15, 2008	March 31, 2009	March 31, 2009
Flagler County, FL	WQEK508	April 15, 2008	July 15, 2008	July 15, 2008
Hernando County, FL	WNFW960	April 14, 2008	December 31, 2009	July 1, 2009
Hillsborough County,	WPCW643	April 15, 2008	February 9, 2009	February 9, 2009

²⁰ Huntsville separately filed an interim waiver request to submit a final timetable by July 26, 2008. Because the instant waiver request supersedes the interim waiver request, we dismiss the interim waiver request as moot.

²¹ Broward County Board of County Commissioners and Broward County School Board separately filed interim waiver requests to submit a final timetable by August 12, 2008. Because the instant waiver request supersedes the interim waiver requests, we dismiss the interim waiver requests as moot.

²² Charlotte separately filed an interim waiver request to submit a final timetable by June 15, 2008. Because the instant waiver request supersedes the interim waiver request, we dismiss the interim waiver request as moot.

²³ Desoto separately filed an interim waiver request to submit a final timetable by April 15, 2008. Because the instant waiver request supersedes the interim waiver request, we dismiss the interim waiver request as moot.

FL				
Hollywood City, FL	WPDU292	April 24, 2008	April 1, 2009	April 1, 2009
Indian River County, FL	WPKD640	April 15, 2008	August 15, 2008	August 15, 2008
Lake County, FL	WQEM853	April 15, 2008	February 1, 2010	Held in abeyance – Provide milestone dates within 30 days of this Order
Lakeland, FL	WNCA380	April 4, 2008	May 31, 2009	May 31, 2009
Marion County, FL	WQDH497	April 14, 2008	July 31, 2009	June 29, 2009
Ocean Ridge, FL	WQCA913	May 22, 2008	August 31, 2008	August 31, 2008
Palm Coast, FL	WQDD802	April 15, 2008	August 30, 2008	August 30, 2008
Palm Beach County Solid Waste Authority	WPAY226	June 13, 2008	September 30, 2008	September 30, 2008
Pasco County, (includes Dade, and Pasco County Sheriff's Office), FL	KIB662	April 15, 2008	April 15, 2010	Held in abeyance – Provide milestone dates within 30 days of this Order
Saint Lucie County, FL	WPXK779	April 1, 2008	December 31, 2008	December 31, 2008
Sarasota, FL	WNFF442	March 18, 2008	June 30, 2009	June 30, 2009
St. Johns County, FL	WQFU240	June 6, 2008	December 31, 2008	December 31, 2008

Region 10 (Georgia)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Extension Date Requested	Extension Date Granted
Albany, GA	WPJN219	April 23, 2008	September 1, 2008	September 1, 2008
Bibb County, GA	WNVR832	April 14, 2008	September 1, 2008	September 1, 2008
Catoosa County, GA	WQGM757	May 8, 2008	December 31, 2008	December 31, 2008
Cobb County, GA ²⁴	KNJH400	February 4, 2008	March 1, 2009	March 1, 2009
Coweta, GA	WQDD645	June 9, 2008	June 30, 2009	June 30, 2009
DeKalb County, GA	KNAN828	February 25, 2008	March 1, 2009	March 1, 2009
Emory University	WPJY941	April 23, 2008	August 31, 2008	August 31, 2008
Fayette County, GA	WPMC742	October 15, 2007	March 1, 2009	March 1, 2009
Forsyth County, GA	WQCX796	May 28, 2008	September 30, 2008	September 30, 2008
Georgia Technology Authority, GA ²⁵	WNZZ937	October 10 2007	March 1, 2009	March 1, 2009

²⁴ Cobb County separately filed an interim waiver request to submit a final timetable by August 4, 2008. Because the instant waiver request supersedes the interim waiver request, we dismiss the interim waiver request as moot.

²⁵ Georgia Technology Authority separately filed an extension request to complete planning and submit a cost estimate by July 15, 2008. GTA also separately filed an interim waiver request to submit a final timetable. Because the instant waiver request supersedes the interim waiver request and the planning extension request, we dismiss those requests as moot.

Glynn County and Brunswick 911, GA	WPHF398	May 7, 2008	January 1, 2009	January 1, 2009
Gwinnett County, GA	WPRG481	April 9, 2008	September 24, 2008	September 24, 2008
Macon, GA	WPXX405	April 14, 2008	September 1, 2008	September 1, 2008
Rome, GA	WPUP754	May 14, 2008	August 16, 2008	August 16, 2008
Rossville, GA	WQEN582	May 20, 2008	December 31, 2008	December 31, 2008
Western Area Regional Radio System	WQGU292 and WQGU618	May 19, 2008	September 1, 2008	September 1, 2008

Region 18 (Louisiana)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Extension Date Requested	Extension Date Granted
Avoyelles Parish Communications District, LA	Not specified	March 17, 2008	No dates specified	Held in abeyance – Provide milestone dates within 30 days of this Order
Calcasieu Parish, LA ²⁶	WPKH225	April 18, 2008	December 31, 2008	December 31, 2008
East Baton Rouge Sheriff's Office	KNJU727	June 16, 2008	October 31, 2008	October 31, 2008
Houma, LA (Police Department)	WQGJ864	April, 15, 2008	September 30, 2008	September 30, 2008
Iberville Parish Sheriff's Office, LA	WPJI361		October 31, 2008	October 31, 2008
Jefferson Parish Sheriff's Office, LA ²⁷	WPGP268	April 11, 2008	September 30, 2009	Held in abeyance pending resolution of interim waiver request
Kenner, LA (NPSPAC Channels)	WPMD252	April 15, 2008	April 1, 2009	April 1, 2009
Kenner, LA (1-120 Channels)	WNSM923	April 15, 2008	September 30, 2008	September 30, 2008
LaFourche Parish, LA	WPLY828	April 15, 2008	April 1, 2009	April 1, 2009
Louisiana Dept. of Public Safety, LA	WNII532	June 6, 2008	June 30, 2009	June 30, 2009
Orleans Parish School Board, LA	KNJU690	April 10, 2008	January 1, 2009	January 1, 2009
Slidell, LA	WNKH995	April 15, 2008 (amended June 4, 2008)	July 30, 2008	July 30, 2008

²⁶ Calcasieu Parish separately filed an interim waiver request to submit a final waiver by July 31, 2008. We dismiss this request as moot.

²⁷ The Jefferson Parish Sheriffs' Office (JPSO) separately filed an interim waiver request to submit a proposed timetable by June 1, 2008. Accordingly, we hold JPSO's final waiver request in abeyance pending disposition of JPSO's interim request.

St. Tammany Parish Sheriff's Office, LA	WPSN203	April 15, 2008	December 31, 2008	December 31, 2008
St. Martin Parish Sheriff's Office, LA	WQFJ933	April 15, 2008	March 1, 2009	March 1, 2009
Sulphur, LA	WPCT821	April 18, 2008	December 31, 2008	December 31, 2008
Terrebonne Parish Sheriff's Office, LA	WPOE500	May 9, 2008	September 30, 2008	September 30, 2008

Region 23 (Mississippi)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Extension Date Requested	Extension Date Granted
Hancock County, MS	WQGN490	April 10, 2008	July 25, 2008	July 25, 2008
Jackson County, MS (Emergency Communications District)	WNSS282	April 16, 2008	June 30, 2009	June 30, 2009
Jones County, MS	WPUA824	April 15, 2008	December 31, 2008	December 31, 2008
Mississippi, Dept. of Corrections	WNPV601	May 23, 2008	October 31, 2008	October 31, 2008
Noxubee County, MS	WQCC270	April 17, 2008	September 30, 2008	September 30, 2008

Region 31 (North Carolina)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Extension Date Requested	Extension Date Granted
Cleveland County, NC	WPUC453	May 20, 2008	October 1, 2008	October 1, 2008
Concord, NC	WPGT418	May 19, 2008	September 30, 2008	September 30, 2008
Duke University, NC	WPPF278	May 15, 2008	August 15, 2008	August 15, 2008
Dunn, NC	WPCE866	April 15, 2008	December 31, 2008	December 31, 2008
Harnett County, NC	WPCE866	April 15, 2008	December 31, 2008	December 31, 2008
Jacksonville, NC	WPSF984	April 14, 2008	September 15, 2008	September 15, 2008
Onslow County, NC	WPSJ690	April 14, 2008	September 15, 2008	September 15, 2008
Shelby, NC	WPJR980	May 20, 2008	October 1, 2008	October 1, 2008

Region 37 (South Carolina)

Licensee	Call Sign/Lead Call Sign	Date Waiver Request Filed	Extension Date Requested	Extension Date Granted
Charleston, SC	WPIM739	April 8, 2008	February 15, 2009	February 15, 2009
Charleston County, SC	WNVH447	April 8, 2008	October 30, 2008	October 30, 2008
Charleston, Mount Pleasant Fire Dept., SC	WQCJ479	April 18, 2008	December 31, 2008	December 31, 2008