



Federal Communications Commission
Washington, D.C. 20554

September 1, 2009

DA 09-1988

Sonya R. Dutton
Verizon Wireless
1120 Sanctuary Pkwy, #150 GASA5REG
Alpharetta, GA 30009

Re: Request for Extension of Time to Construct a Cellular Site, Call Sign KNKN568

Dear Ms. Dutton:

This letter addresses the above-captioned Request for Extension of Time to Construct (Extension Request), filed on behalf of Cellco Partnership d/b/a Verizon Wireless (Verizon) on June 17, 2009, seeking waiver of the construction requirements of section 22.946(c) of the Commission's rules¹ for one cellular site (Matthews, MO Site) associated with Call Sign KNKN568, CMA522 - Missouri 19 - Stoddard.² Specifically, Verizon requests an extension of time until December 18, 2009, to satisfy its construction requirements for the Matthews, MO Site. For the reasons stated below, we grant the Extension Request.

Pursuant to sections 1.946(c) and 1.955(a)(2) of the Commission's rules, Verizon's authorization for the Matthews, MO Site will terminate automatically as of the construction deadline if Verizon fails to meet the requirements of section 22.946(c),³ unless the Commission grants an extension or waives the construction requirements.⁴ The construction deadline for the Matthews, MO Site was June 18, 2009.

Verizon states that the Matthews, MO Site is constructed, but due to causes beyond its control, a six month extension is needed to comply with section 22.946 of the Commission's rules with regard to providing service from the site.⁵ Specifically, Verizon states that an unforeseen problem with the existing fiber to the site must be corrected and that Landline Telco is currently installing new fiber to the site.⁶ Once the new fiber is installed, Verizon states that it will place the Matthews, MO Site in service.⁷

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.⁸ Alternatively, a licensee may be granted an extension of time to meet its construction

¹ 47 C.F.R. § 22.946(c).

² Request for Extension of Time to Construct (filed June 17, 2009) (Extension Request). See File No. 0003873937.

³ Pursuant to section 22.946(c) of the Commission's rules, the construction period for new or modified cellular facilities for which a separate authorization is granted is one year, beginning on the date the authorization is granted. See 47 C.F.R. § 22.946(c). In addition, in order to comply with section 22.946(c) of the Commission's rules, licensees must be "providing service" as outlined in section 22.946(b) of the Commission's rules. See 47 C.F.R. § 22.946(c).

⁴ 47 C.F.R. §§ 1.946(c), 1.955(a)(2).

⁵ Extension Request at 1.

⁶ *Id.*

⁷ *Id.*

⁸ 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

requirements, pursuant to section 1.946(e), if the failure to construct is due to involuntary loss of its site or other causes beyond its control.⁹

We find that Verizon has demonstrated that its failure to meet its construction requirement for the Matthews, MO site under license KNKN568 is due to factors beyond its control. Verizon appears to have been diligent in constructing this site and would have likely met its construction requirement had the fiber connection worked. In this instance, we find that an extension of time, pursuant to section 1.946(e), will allow Verizon to correct this unforeseen circumstance and commence operation of the Matthews, MO site in the near term. Furthermore, we find that termination of the authorization would not serve the underlying purpose of the rule and would further delay cellular service in this area.

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 1.946 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.946, the Request by Cellco Partnership d/b/a Verizon Wireless for Extension of Time to Construct IS HEREBY GRANTED, and the construction deadline for the Matthews, MO Site shall be extended until December 18, 2009.¹⁰

Sincerely,

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

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).

⁹ 47 C.F.R. § 1.946(e).

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