

In the Matter of )  
 )  
Implementing a Nationwide, Broadband, ) PS Docket No. 06-229  
Interoperable Public Safety Network in the 700 )  
MHz Band )

## ORDER

**Adopted: August 17, 2010**

**Released: August 17, 2010**

By the Chief, Public Safety and Homeland Security Bureau:

## I. INTRODUCTION

1. By this *Order*, the Public Safety and Homeland Security Bureau (Bureau) tolls the 60-day deadline for the Bureau to act on the interoperability showings submitted by certain waiver recipients pursuant to the Commission's *Waiver Order* issued on May 12, 2010.<sup>1</sup> We find that the public interest is served by the tolling of this time frame in order to permit the waiver recipients to more fully develop and finalize their interoperability plans and progress with the procurement process. Allowing more time for increased certainty with respect to plans for technical deployments of these public safety broadband networks will further advance the Commission's goal of ensuring nationwide interoperability.

## II. BACKGROUND

2. On May 12, 2010, the Commission granted, with conditions, twenty-one waiver petitions filed by public safety entities (Waiver Recipients) seeking early deployment of statewide or local public safety broadband networks in the 700 MHz public safety broadband spectrum (763-768 MHz and 793-798 MHz). The Commission found that the Waiver Recipients generally met the standard for waiver of the Commission's rules and that the public interest warranted allowing early deployment, so long as the conditions imposed by that order were met.

3. Among other conditions, the Commission allowed each Waiver Recipient submit an “interoperability showing” to the Bureau for approval if they wanted to proceed with network deployment before the FCC adopted its final technical rules.<sup>2</sup> This showing, which was to be filed within a 30 day window commencing with approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), would provide certain details as to how a Waiver Recipient’s network would be constructed. This in turn would allow ERIC and the Commission to ensure that networks would be interoperable, pending the adoption of final technical rules by the Commission.<sup>3</sup> Alternatively,

<sup>1</sup> See Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket 06-229, *Order*, 25 FCC Rcd 5145 (2010) (*Waiver Order*).

<sup>2</sup> *Id.* at 5163-64 ¶¶ 55-58.

<sup>3</sup> *Id.*

rather than submitting an interoperability showing, a Waiver Recipient could opt to wait until such final rules were adopted. The Bureau subsequently issued a Public Notice providing additional guidance on the information that should be submitted in each interoperability showing.<sup>4</sup> In addition to these showings, the Commission required that all Waiver Recipients file a status report with the Commission addressing certain information, including the Waiver Recipient's progress with respect to planning and deployment, and the status of any Request for Proposal (RFP) or other procurement activity.<sup>5</sup>

4. The Commission received 15 interoperability showings, as well as status reports from each Waiver Recipient.<sup>6</sup> With the exception of the Bay Area, none of the interoperability showings or status reports indicated that the Waiver Recipient had completed the RFP process or selected a vendor for its network buildout.

### III. DISCUSSION

5. In establishing the 30-day filing window for the interoperability showings and the 60-day deadline for the Bureau's action on them, the Commission recognized that the initial information submitted by the waiver petitioners required more detail to ensure consistent technical and governance specifications for interoperability and roaming.<sup>7</sup> The Commission directed the Waiver Recipients to work with the Emergency Response Interoperability Center (ERIC) to develop this detail, and required the above-referenced interoperability showings to be sufficiently detailed and concrete to allow ERIC to recommend to the Bureau an initial set of requirements applicable to those submitting plans.<sup>8</sup> The Commission further recognized that during this timeframe the standards process would be ongoing, and by establishing the 30-day window and 60-day deadline the Commission sought to strike a balance between the need for certainty and expediency with the nascent nature of 4G technologies.<sup>9</sup>

6. Among other things, the Commission emphasized that any interoperability showing submitted should be sufficiently detailed and concrete, allowing ERIC to assess the viability of proposed technical specifications and interoperability plans.<sup>10</sup> With the exception of the Bay Area, none of the Waiver Recipients submitting an interoperability showing has sufficiently progressed in its planning process to provide the needed level of certainty. While they generally have submitted promising proposals, many provide alternative plans or otherwise are not yet able to commit to pursuit of the plan

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<sup>4</sup> Public Safety and Homeland Security Bureau Offers Further Guidance to Conditional Waiver Recipients on Completing the Interoperability Showing Required by the 700 MHz Waiver Order, *Public Notice*, DA 10-923 (rel. May 21, 2010).

<sup>5</sup> *Waiver Order* at 5165-66 ¶¶ 63-64.

<sup>6</sup> Interoperability showings were received from: Adams County, CO; the State of Alabama; Boston, MA; Calumet, Outagamie, and Winnebago Counties, WI; Charlotte, NC; Chesapeake, VA; the District of Columbia; the State of Mississippi; the State of New Mexico; New York City; the State of Oregon; Pembroke Pines, FL; San Antonio, TX; the San Francisco Bay Urban Area Security Initiative (Bay Area); and Seattle, WA. In addition to those filing made pursuant to the *Waiver Order*, the City of Chicago also filed an interoperability showing. However, Chicago does not currently possess a waiver to deploy a 700 MHz broadband network because its waiver request was filed subsequent to the issuance of the Commission's *Waiver Order*. Accordingly, we dismiss Chicago's interoperability showing without prejudice.

<sup>7</sup> At 5163 ¶ 55.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 5156-57 ¶¶ 55-57.

<sup>10</sup> *Id.* at 5165 ¶ 35.

submitted. Accordingly, even if the Bureau were to approve such a showing, it is possible that the Waiver Recipient would not pursue the approved proposal. Conversely, the Bay Area has completed its procurement process, and entered into a contract with a technology vendor for its public safety broadband network, providing a clear and definitive proposal.

7. Because the Waiver Recipients have not yet demonstrated a defined and certain technical solution in the interoperability plans, ERIC and the Bureau do not yet have a basis for evaluating the viability and concreteness of each Waiver Recipient's interoperability showing. The Waiver Recipients have, however, made considerable progress, and there is value to their continued development of the plans that they have submitted. We find this is particularly true in light of the Commission's intent to use the experience gained with these early deployments to aid in the development of technical and interoperability standards. Accordingly, in order to allow the Waiver Recipients to continue their planning and procurement process, and to enable their continuing collaboration with ERIC and the Bureau, we find it is in the public interest to toll the 60-day deadline for the Bureau's action on these interoperability showings until these showings have been sufficiently supplemented, at which time the Bureau can review and act expeditiously on the showings.

8. We will proceed with review of the Bay Area showing, however. The Bay Area has presented a detailed plan that includes vendor selection and a signed contract.<sup>11</sup> Based on the information provided, ERIC has been able to catalogue specific information that will aid its evaluation of the Bay Area's interoperability showing, and has been able to seek supplemental information.<sup>12</sup> Accordingly, assuming such supplemental information is timely provided, we find it remains appropriate for us to act on the Bay Area's showing within the specified 60-day time frame.

## V. ORDERING CLAUSES

9. ACCORDINGLY, IT IS ORDERED, pursuant to sections 1, 4(i), 301, 303, 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 301, 303, 332, and 337, that the 60-day deadline for Bureau action on the interoperability showings specified herein IS TOLLED.

10. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's Rules, 47 C.F.R. §§ 0.191, 0.392, and the *Waiver Order*, 25 FCC Rcd 5145, 5155, ¶ 33 (2010).

FEDERAL COMMUNICATIONS COMMISSION

James Arden Barnett, Jr., Rear Admiral (Ret.)  
Chief, Public Safety and Homeland Security Bureau

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<sup>11</sup> See Bay Area UASI Filing, PS Docket 06-229 (filed July 15, 2010) ("Bay Area Quarterly Report and Status Update").

<sup>12</sup> Letter from Jennifer A. Manner, Deputy Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, to Laura Phillips, General Manager, Bay Area UASI (Aug. 17, 2010).