



Federal Communications Commission
Washington, D.C. 20554

November 22, 2011

DA 11-1927

Mr. Marc D. Fisher
State of Maine
Department of Administrative and Financial Services
Office of Information Technology
26 Edison Drive
145 State House Station
Augusta Maine 04333-0145

RE: Petition for Reconsideration and Request for Extension of Time to Construct VHF Public Safety Trunked Station WQMC387, State of Maine – MSCommNet Project

Dear Mr. Fisher:

On August 23, 2011, the State of Maine, Office of Information Technology (Maine) filed a Petition for Reconsideration of a notice of termination of its license under Call Sign WQMC387 (Whitten Hill, ME).¹ Maine also filed an extended implementation plan and requested an extension of the construction deadline for the Whitten Hill site, as well as for all its site licenses comprising its planned statewide system, until November 5, 2012, pursuant to Sections 90.155 and 90.629 of the Commission's rules.² For the reasons stated below, we grant Maine's petition for reconsideration and we grant its request for extended implementation.

On August 3, 2011, the Bureau notified Maine that it had placed Call Sign WQMC387 in "Termination Pending" status because Maine failed to meet its construction and construction notification requirements as required by the Commission's rules.³ The Bureau's records indicated that it did not receive the "Required Notification of Construction," which was due within 15 days after the construction or coverage requirement deadline,⁴ or a request for an extension of time, which was due before the expiration of the construction or coverage requirement deadline.⁵ The Bureau noted that "[i]f a licensee does not file the Required Notification or Extension of Time request, we presume that the license or license component has not been constructed, or the coverage requirement has not been met."⁶ As a result, the Commission's Universal Licensing System (ULS) placed Maine's license for Call Sign WQMC387 in "Termination Pending" status.⁷

¹ See Letter from Marc D. Fisher, OIT to FCC, Public Safety and Homeland Security Bureau (dated Aug. 23, 2011) (Petition for Reconsideration).

² See Letter from Marc D. Fisher, OIT to FCC, Public Safety and Homeland Security Bureau, (dated Aug. 23, 2011) (Extended Implementation Request).

³ See Auto Termination Letter, Reference Number: 5197570 (dated Aug. 3, 2011) (Auto Termination Letter). As a condition of its authorization, the Commission's rules require Maine to construct Call Sign WQMC387 within one year (*i.e.*, by June 25, 2011). 47 C.F.R. §§ 1.946; 90.155(a).

⁴ 47 C.F.R. § 1.946(d)

⁵ See 47 C.F.R. § 1.946(e).

⁶ See Auto Termination Letter at 1.

⁷ *Id.*

In its petition for reconsideration and extended implementation request, Maine states that it is in the process of implementing the Maine Statewide Communications Network – MSCommNet, “a multi-million, multi-agency, statewide communications project.”⁸ Once completed, the MSCommNet system will provide “statewide mobile coverage for day-to-day operability on VHF High-Band frequencies [(150-174 MHz)].”⁹ Specifically, MSCommNet will serve the following public safety and public service departments throughout the state: Public Safety, Marine Resources, Conservation, Environmental Protection, Corrections, Emergency Services and Inland Fisheries and Wildlife.¹⁰ Maine states that the system is fully funded and “will also support a layer of interoperability communications for all non-state public safety agencies called *RegionNet*.”¹¹ Maine states that it had commenced frequency planning “well in advance of the site construction,”¹² and that its goal “is to have a new, completed, narrowband compliant, statewide communications system” prior to the Commission’s January 1, 2013 VHF/UHF narrowbanding deadline.¹³

Petition for Reconsideration. Section 1.106(c)(2) of the Commission’s rules provides that a petition for reconsideration which relies on facts not previously presented to the Commission may be granted if we find that “consideration of the facts relied on is required in the public interest.”¹⁴ Here, Maine informs us that the Whitten Hill site is one of a constellation of sites that will comprise Maine’s statewide MS-CommNet system, and that the state has commenced large scale, system-wide frequency planning in advance of the site’s construction.¹⁵ Moreover, we find compelling Maine’s commitment to complete a new narrowband-compliant, statewide communications system prior to the Commission’s December 31, 2012 narrowbanding deadline.¹⁶ Based on these facts, we find that the public interest supports grant of the Petition for Reconsideration and reinstatement of the Whitten Hill authorization.

Extended Implementation. Maine also seeks an extension of time until November 5, 2012 to construct all of the site licenses and new frequency applications associated with MS-CommNet system, including the Whitten Hill site.¹⁷ Section 90.629 of the Commission’s rules requires applicants to justify an extended implementation period.¹⁸ The justification must describe the proposed system, state the amount of time necessary to construct and place the system in operation, identify the number of base stations to be constructed and placed into operation during each year of the extended construction period, and show that the proposed system will require longer than twelve months to construct because (i) of its purpose, size, or complexity,¹⁹ (ii) it is to be part of a coordinated or integrated wide-area system,²⁰ or (iii) the applicant is required by law to follow a multi-year cycle for planning, approval, funding, and

⁸ Petition for Reconsideration at 1.

⁹ Extended Implementation Request at 1.

¹⁰ *Id.*

¹¹ *Id.*

¹² Petition for Reconsideration at 1.

¹³ *Id.*

¹⁴ See 47 C.F.R. § 1.106(c)(2).

¹⁵ See Petition for Reconsideration at 1.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See 47 C.F.R. § 90.629.

¹⁹ See 47 C.F.R. § 90.629(a)(1).

²⁰ See 47 C.F.R. § 90.629(a)(2).

purchasing the proposed system.²¹

Based on our review of Maine's filing, we find that it satisfies the requirements to warrant grant of extended implementation of the proposed system until November 5, 2012. Specifically, we find that grant of extended implementation will enable Maine to continue to meet the interim milestones identified in its implementation schedule, involving planning and design, manufacturing and staging, site development and installation, and system optimization and acceptance.²² Given Maine's commitment to complete a narrowband-compliant statewide communications system before the Commission's narrowbanding deadline, and the benefits MScCommNet will provide to mission-critical public safety activities throughout the state, we find that grant of Maine's request for extended implementation serves the public interest. Our decision is also consistent our recent action granting Maine's request for an extension of time until November 5, 2012, to construct fourteen call signs that are part of the MScCommNet system.²³

Accordingly, IT IS ORDERED, pursuant to the authority of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, that the Petition for Reconsideration filed by the State of Maine, Office of Information Technology, on August 23, 2011, IS GRANTED to the extent indicated herein.

IT IS FURTHER ORDERED, that the State of Maine, Office of Information Technology's request for an extension of the construction deadline for Public Safety Trunked Station WQMC387 IS GRANTED *i.e.* until November 5, 2012.

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.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Beers
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

²¹ See 47 C.F.R. § 90.629(a)(3).

²² Extended Implementation Request at 1.

²³ See Letter from Marc D. Fisher, OIT to FCC, Public Safety and Homeland Security Bureau (dated Sept. 13, 2011) (*re* Call Signs WQOD944, WQOC959, WQNX576, WQNX573, WQNV746, WQNV745, WQNV742, WQNR862, WQNP284, WQND766, WQMR539, WQMQR861, WQMQR716, and WQMP240). Maine submitted that “[a]t the moment, all sites are obtained or are in planning stages to be obtained, in accordance to the multi-year program project schedule.” *Id.* Further, Maine adds, “all site equipment has been ordered and has either been fielded or is in Staging to be delivered to the equipment shelters.” *Id.*