

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

In the Matter of)
)
REGIONAL PUBLIC SAFETY PARTNERS IN) WT Docket 99-87
PIERCE COUNTY, WASHINGTON)
)
Request for Waiver of Section 90.209(b) of the)
Commission's Rules)

ORDER

Adopted: November 9, 2012

Released: November 9, 2012

By the: Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau
Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. On April 6, 2012, the Regional Public Safety Partners in Pierce County, Washington (Pierce County) submitted a request for waiver¹ of the Commission's VHF/UHF narrowbanding deadline, which requires private land mobile radio licenses in the 150-174 MHz and 421-512 MHz bands to operate using channel bandwidth of no more than 12.5 kHz or equivalent efficiency by January 1, 2013.² Pierce County originally sought an extension of the narrowbanding deadline until and including January 1, 2014.³ However, on September 21, 2012 Pierce County amended its request to seek a waiver until December 31, 2014.⁴ By this Order, we grant the request for an extension up to, and including, December 31, 2014.

II. BACKGROUND

2. Pierce County is transitioning thirty-five Public Safety licensees' existing VHF/UHF systems to a 700/800 MHz county-wide trunking system.⁵ Pierce County claims that

¹ See Request for Waiver of Commission Rules, filed April 6, 2012, by Regional Public Safety Partners in Pierce County, Washington (Waiver Request). See also Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, 19 FCC Rcd 25045 (2004).

² 47 C.F.R. § 90.209(b)(5). A suspension on applications in the T-Band (450-512 MHz) has been in effect since April 26, 2012. See Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, 27 FCC Rcd 4218 (WTB/PSHSB 2012).

³ Waiver Request at 1.

⁴ See Letter, dated September 21, 2012 from Jim Sharp, South Sound 911 Project Manager to Roberto Mussenden, Public Safety and Homeland Security Bureau, Federal Communications Commission (Sharp Letter).

⁵ See generally Waiver Request. See also *id.* at Appendix A.

they have been planning to eliminate the disparate systems, improve interoperability, and meet the January 1, 2013 narrowbanding deadline since 2005.⁶ Originally, each Pierce County agency planned to individually upgrade or replace its equipment to support narrowband operations as necessary.⁷ However, in November 2011, Pierce County voters approved Proposition 1, establishing “South Sound 911” (SS911), which is charged with consolidating four dispatch centers and two regional communications centers and providing funding to upgrade and/or consolidate existing disparate Public Safety radio communications systems.⁸ Pierce County also states Proposition 1 specifically allots a .01 percent sales tax to funding radio communications and 911 dispatch facilities.⁹

3. Pierce County claims it is developing a detailed design for the expanded 700/800 MHz county-wide trunking environment and that the two largest agencies in the county, Pierce County and the City of Tacoma, have entered into contracts.¹⁰ Pierce County states that it is planning early deployment of new radios, and that the majority of the mobile and portable fleet will be narrowband compliant by the 2013 narrowbanding deadline.¹¹

4. Pierce County states that, although it is working through the governance and financial challenges of establishing a new governmental consortium, it will be unable to meet the January 1, 2013 narrowbanding deadline.¹² Pierce County claims that the passage of Proposition 1, which requires development of entirely new facilities and complete reconstruction of others, has adversely affected its narrowbanding schedule, and that many agencies are concerned that they will be required to cease wideband operations before they have safely transitioned to the new 700/800 MHz system.¹³ Moreover, Pierce County asserts that as SS911 received updated deployment schedules from agencies in the region, it has become clear that more time will be need to allow for governance decision making, procedural issues and the lengthy construction schedules associated with deploying large complex radio systems.¹⁴

5. Pierce County states that the Public Safety agencies have focused their limited resources on upgrading and expanding their 700/800 MHz systems, and transitioning users off of the wideband VHF/UHF radio systems.¹⁵ Pierce County states that a significant amount of its existing equipment is not narrowband capable, and that, since non-narrowband-capable equipment does not interoperate with narrowbanded equipment, the entire system must be upgraded.¹⁶ Pierce County argues that any effort to upgrade the existing system would derail the current process of migrating users to the 700/800 MHz system and that it would be contrary to the

⁶ *Id.*

⁷ *Id.* at 3.

⁸ *Id.* at 1.

⁹ *Id.* at 1, 4.

¹⁰ *Id.* at 3. *See also* Sharp Letter.

¹¹ Waiver Request at 3.

¹² *Id.* at 2.

¹³ *Id.* at 2, 3.

¹⁴ Sharp Letter at 2.

¹⁵ *Id.* at 2.

¹⁶ *Id.* at 4.

public's interest to expend financial, technical, and administrative resources upgrading existing equipment when the plan is largely to vacate those VHF/UHF systems.¹⁷

6. Pierce County states that it will provide narrowband mobile and portable radios to those agencies that interoperate with nearby entities that plan to narrowband their systems by the January 1, 2013 narrowbanding deadline.¹⁸ Pierce County also states that it plans to minimize impacts on co-channel and adjacent channel operations by transitioning users off the existing VHF/UHF channels and turning them off as soon as is reasonable and prudent.¹⁹ Pierce County pledges to work with affected co-channel or adjacent users by addressing any harmful interference as well as prioritizing the transition of users off affected channels.²⁰ Pierce County states that while it will repurpose a select subset of VHF/UHF channels for use as a county-wide narrowband interoperability infrastructure, it will return any remaining unused VHF/UHF frequencies to the FCC.²¹

7. Pierce County originally anticipated completion of its narrowband transition within one and a half years.²² However, in recognition of the unforeseen complexity of this transition coupled with its desire to be prudent and allow for unforeseen circumstances, Pierce County requests an extension of the narrowbanding deadline until and including December 31, 2014.²³

8. On May 10, 2012, the Public Safety and Homeland Security Bureau issued a Public Notice seeking comment on the Waiver Request.²⁴ No party filed comments in support or in opposition to the Waiver Request.

III. DISCUSSION

9. Pierce County seeks relief pursuant to Section 1.925(b) of the Commission's rules, which provides that, in order to obtain a waiver of the Commission's rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest,²⁵ or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.²⁶

10. The Wireless Telecommunications Bureau, the Public Safety and Homeland Security Bureau, and the Office of Engineering and Technology have stated in the jointly issued *Narrowbanding Waiver Guidance Notice*, that "requests for waivers of the deadline (under

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 5.

²² *Id.* at 4.

²³ See Sharp Letter.

²⁴ See Public Safety and Homeland Security Bureau Seeks Comment on Requests for Waiver of the January 1, 2013 VHF-UHF Narrowbanding Deadline, *Public Notice*, 27 FCC Rcd 5101 (PSHSB 2012).

²⁵ 47 C.F.R. § 1.925(b)(3)(i).

²⁶ § 1.925(b)(3)(ii).

Section 1.925) will be subject to a high level of scrutiny.”²⁷ This notice suggests factors to include in a request for a waiver.²⁸ In addressing those factors, this Public Notice specifically recommends that licensees explain how: (i) they have worked diligently and in good faith to narrowband their systems expeditiously; (ii) their specific circumstances warrant a temporary extension of the deadline; and (iii) the amount of time for which a waiver is requested is no more than is reasonably necessary to complete the narrowbanding process.²⁹

11. In light of the record, we find that Pierce County warrants waiver relief because it has demonstrated that the underlying purpose of the narrowbanding rule—promoting efficient spectrum use— would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest.³⁰ The record shows that Pierce County has taken concrete steps since 2005 to secure transition to a new system that would obviate the need for the affected agencies to meet the Commission’s narrowbanding requirement. Implementation has been underway since 2011 and the project is fully funded. Based on these facts, including Pierce County’s pledge to minimize its impact on affected adjacent channel and co-channel licensees, we find that strict enforcement of the narrowbanding deadline under these circumstances would not serve the underlying purpose of the rule.

12. Furthermore, we find that grant of the request is consistent with the public interest. Requiring Pierce County agencies to divert money, time, and other resources from the achievement of this goal in order to upgrade nearly-obsolete systems would be counterproductive, especially in light of the fact that the agencies would only use the upgraded systems for a short period of time. We also find that granting Pierce County’s Waiver Request will provide the Pierce County agencies with a reasonable amount of time to complete their transition to the new system, while allowing the existing VHF/UHF system to continue to provide area first responders with another layer of interoperability without unduly affecting other licensees.

13. We also find that unique or unusual factual circumstances would make strict compliance with the rules inequitable and unduly burdensome for Pierce County.³¹ Until November 2011, the Pierce County agencies were narrowbanding their systems under individual unique plans and schedules. Passage of Proposition 1, while providing funding and promoting communications efficiency among the Pierce County agencies, required the agencies to develop a unified schedule. The administrative delays involved in developing and implementing the schedule effectively prevented Pierce County from completing its narrowbanding process by the January 1, 2013 deadline.

IV. CONCLUSION

14. Based on the foregoing, we conclude that granting this waiver is in the public interest. Accordingly, we grant Regional Public Safety Partners in Pierce County, Washington a

²⁷ Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Waiver and Other Matters, *Federal Communications Commission Public Notice*, 26 FCC Rcd 9647, 9648 (2011) (*Reminder and Guidance Notice*).

²⁸ *Id.* at 9649.

²⁹ *Id.*

³⁰ See 47 C.F.R. § 1.925(b)(3)(i).

³¹ See § 1.925(b)(3)(ii).

waiver of the Commission's January 1, 2013 VHF/UHF narrowbanding deadline, until and including December 31, 2014, for the call signs set forth in Appendix A.

V. ORDERING CLAUSES

15. Accordingly, IT IS ORDERED pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3)(i) of the Commission's rules, 47 C.F.R. § 1.925(b)(3)(i), that the Request for Waiver of the Commission rules filed by Regional Public Safety Partners in Pierce County, Washington, IS GRANTED.

16. We take this action under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191 and 0.392

FEDERAL COMMUNICATIONS COMMISSION

Zenji Nakazawa
Deputy Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

Scot Stone
Deputy Chief,
Mobility Division,
Wireless Telecommunications Bureau

Appendix A: List of Affected Call Signs

Call Sign	Licensee Name	Radio Service
WNCW524	Buckley, City Of	PW
KVA319	Buckley, City Of	PW
KOA972	Central Pierce Fire Protection District 6	PW
WPSN349	City Of Gig Harbor	IG
KOF221	City Of Tacoma	PW
WNHJ671	City Of Tacoma	IG
WRU859	Dupont, City Of	PW
KOK458	Eatonville, Town Of	PW
KTS776	Fife, City Of	PW
KJF797	Fircrest, City Of	PW
KNFC599	Gig Harbor, City Of	PW
KNCL517	Gig Harbor, City Of	PW
KDV657	Graham Fire & Rescue, County Of Pierce	PW
WQHT617	Orting Police Department	PW
WXY503	Pierce County	PW
WQMA347	Pierce County	PW
WQFQ208	Pierce County	PW
WQEY450	Pierce County	PW
WQES897	Pierce County	PW
WQEA684	Pierce County	PW
WQDN364	Pierce County	PW
WQBD245	Pierce County	PW
WPZV507	Pierce County	PW
WPZV503	Pierce County	PW
WPZB949	Pierce County	PW
WPYI897	Pierce County	PW
WPXB748	Pierce County	PW
WPRG300	Pierce County	PW
WPPX942	Pierce County	PW
WPMU560	Pierce County	PW
WPIJ509	Pierce County	PW
WNJJ410	Pierce County	PW
WNJB884	Pierce County	PW
WNFD631	Pierce County	PW
WNDZ313	Pierce County	PW
WNAG888	Pierce County	PW
WAZ668	Pierce County	PW
WAE690	Pierce County	PW

Call Sign	Licensee Name	Radio Service
KYY938	Pierce County	PW
KYD943	Pierce County	PW
KW1719	Pierce County	PW
KR3734	Pierce County	PW
KOL566	Pierce County	PW
KOB452	Pierce County	PW
KNET718	Pierce County	PW
KNDB840	Pierce County	PW
KDL939	Pierce County	PW
KDL938	Pierce County	PW
KD39983	Pierce County	PW
KD39671	Pierce County	PW
KC3985	Pierce County	PW
KC3711	Pierce County	PW
KB87344	Pierce County	PW
KB86231	Pierce County	PW
KAW630	Pierce County	PW
WQFU533	Pierce County Airport	PW
WPIY683	Pierce County Fire Dist 14	PW
KNIR647	Pierce County Fire District #25	PW
KNJE205	Pierce County Fire District 13	PW
KNIR648	Pierce County Fire District 18	PW
WQP829	Pierce County Fire District 20	PW
WPKG780	Pierce County Fire District 23	PW
KIC226	Pierce County Fire District 23	PW
WPUK474	Pierce County Fire District 26	PW
KOM829	Pierce County Fire District 5	PW
KOL355	Pierce County Fire District 8	PW
WNBZ820	Pierce County Fire Prot Dist 12	PW
WQMF893	Pierce County Sheriff's Department	PW
WRA282	Pierce Transit	IG
WQMD762	Pierce, County Of	PW
WQFW208	Pierce, County Of	PW
KOI954	Puyallup City Of	PW
WPDD345	Puyallup, City Of	PW
WNVC741	Puyallup, City Of	PW
WNEB210	Puyallup, City Of	PW
KOA621	Puyallup, City Of	PW
WPYE626	Puyallup, City Of Public Utilities District	IG

Call Sign	Licensee Name	Radio Service
WQEX786	West Pierce Fire & Rescue	PW
KOB276	West Pierce Fire & Rescue	PW
KD31707	West Pierce Fire & Rescue	PW
KD25828	West Pierce Fire & Rescue	PW
KD25348	West Pierce Fire & Rescue	PW
KD21060	West Pierce Fire & Rescue	PW
KB79506	West Pierce Fire & Rescue	PW
WQBW570	West Pierce Fire & Rescue	PW
KOK496	West Pierce Fire & Rescue	PW
WPZY792	West Pierce Fire & Rescue	PW
KWH593	Bonney Lake, City Of	PW
WPBQ524	Bonney Lake, City Of	PW
KNBD961	Bonney Lake, City Of	PW
KOI860	Buckley, City Of	PW
KNDR818	Eatonville, City Of	PW
KDZ383	Sumner, City Of	PW
WQEL214	Sumner, City Of	PW
KYV285	Sumner, City Of	PW
WPGE383	Sumner, City Of	PW