

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

In the Matter of )  
 )  
 SPOKANE REGIONAL EMERGENCY ) WT Docket 99-87  
 COMMUNICATIONS SYSTEMS )  
 )  
 Request for Waiver of Section 90.209(b) of the )  
 Commission’s Rules )

**ORDER**

**Adopted: December 10, 2012**

**Released: December 10, 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 December 29, 2011, the Spokane Regional Emergency Communications Systems (SRECS) submitted a request for waiver<sup>1</sup> of the Federal Communications Commission’s (the Commission) 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.<sup>2</sup> On September 21, 2012, SRECS amended its waiver request to extend the duration of proposed waiver from January 1, 2014, to June 30, 2014.<sup>3</sup> By this Order, we grant the request for an extension up to, and including, June 30, 2014.

**II. BACKGROUND**

2. SRECS is transitioning its communications system from a collection of individual, mostly VHF systems to a new county-wide 800 MHz radio communications system that will provide seamless interoperability communications to all City and County Public Safety agencies within Spokane County, as well as to some agencies in adjoining counties.<sup>4</sup> This new system will consist of fifteen sites, some of which are existing sites requiring complete reconstruction, while others are completely new

<sup>1</sup> See Request for Waiver of Commission Rules, filed December 29, 2011, by Spokane Regional Emergency Communications Systems (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).

<sup>2</sup> 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).

<sup>3</sup> See Letter, dated September 21, 2012 from Bob Lincoln, Director, Spokane Regional Communications Systems to Roberto Mussenden, Public Safety and Homeland Security Bureau, Federal Communications Commission (Lincoln Letter).

<sup>4</sup> Waiver Request at 1.

sites.<sup>5</sup> The project is financed by a 0.1 percent sales tax increase that Spokane County passed in 2008<sup>6</sup> and SRECS has secured additional funding through Federal Public Safety Interoperable Communications (PSIC) and Interoperable Communications Technology Program (ICTP) grant funding.<sup>7</sup>

3. SRECS began implementing its new system in 2009.<sup>8</sup> It successfully completed factory staging in May 2011, and is installing radio equipment at the new sites.<sup>9</sup> While SRECS' original system implementation schedule would have met the 2013 narrowband deadline, SRECS points out that several unforeseen issues have adversely affected the original schedule.<sup>10</sup>

4. SRECS states that it has faced significant delays in constructing new radio sites because most of the sites are located at over 3,000 feet in elevation, which renders them inaccessible during the winter months.<sup>11</sup> In addition, SRECS states that the comprehensive permitting review process for these sites has taken longer than originally anticipated.<sup>12</sup> SRECS states that these delays have caused construction of some sites to slip until at least November 2012.<sup>12</sup> Once these sites are completed, SRECS states that it must install and align its microwave backhaul system followed by coverage testing and system optimization.<sup>13</sup> SRECS intends to have users fully transitioned off the VHF/UHF systems by December 2013, after which time it will then begin to decommission those systems.<sup>14</sup>

5. SRECS is concerned that it will be required to cease wide-band operations before they have safely transitioned to the new system.<sup>15</sup> SRECS claims that a significant amount of its existing system's equipment is not narrowband capable and that it does not have the financial or staff resources to upgrade or modify the system.<sup>16</sup> SRECS states that its primary focus has been on the transition to the new system.<sup>17</sup> Accordingly, SRECS requests an eighteen-month extension of the narrowbanding deadline until and including June 30, 2014.<sup>18</sup>

6. SRECS claims that its system has no interdependencies with neighboring systems and that it plans to minimize any negative 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

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<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.*

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

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 1.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>12</sup> Waiver Request at 1; Lincoln Letter at 1.

<sup>13</sup> *Id.*

<sup>14</sup> Lincoln Letter at 2.

<sup>15</sup> Waiver Request at 2.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Lincoln Letter at 2.

prudent.<sup>19</sup> SRECS also pledges to prioritize transitioning operations on channels that have specific co-channel users with concerns, and that it will return unused VHF/UHF frequencies to the Commission.<sup>20</sup>

7. On January 27, 2012, the Public Safety and Homeland Security Bureau issued a Public Notice seeking comment on the Waiver Request.<sup>21</sup> No party filed comments in support or in opposition to the Waiver Request.

### III. DISCUSSION

8. SRECS 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;<sup>22</sup> 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.<sup>23</sup>

9. 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 Section 1.925) will be subject to a high level of scrutiny."<sup>24</sup> This notice suggests factors to include in a request for a waiver.<sup>25</sup> 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.<sup>26</sup>

10. In light of the record, we find that SRECS 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.<sup>27</sup> The record shows that SRECS has taken concrete steps since 2008 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 2008 and the project is fully funded. Based on these facts, including SRECS's assertion that it expects the affected agencies to have exited the band within one year after the January 1, 2013 deadline, we find that strict enforcement of the narrowbanding deadline under these circumstances would not serve the underlying purpose of the rule.

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<sup>19</sup> *Id.* at 3.

<sup>20</sup> *Id.* at 3-4.

<sup>21</sup> 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 430 (PSHSB 2012).

<sup>22</sup> 47 C.F.R. § 1.925(b)(3)(i).

<sup>23</sup> § 1.925(b)(3)(ii).

<sup>24</sup> 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*).

<sup>25</sup> *Id.* at 9649.

<sup>26</sup> *Id.*

<sup>27</sup> See 47 C.F.R. § 1.925(b)(3)(i).

11. Furthermore, we find that grant of the request is consistent with the public interest. Requiring SRECS agencies to divert money, time, and other resources from its planned transition to a new system 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 SRECS's Waiver Request will provide the SRECS agencies with a reasonable amount of time to complete their transition to the new system, while allowing the existing UHF and VHF system to continue to provide area first responders with another layer of interoperability during this transition without unduly affecting other licensees. In reaching this decision, we also find persuasive SRECS's assertion that because of the unexpected delays it encountered in obtaining permits for construction of new facilities, as well as the logistical constraints imposed by winter weather conditions, it faced unique and unusual circumstances that impeded its ability to complete the narrowbanding process by the January 1, 2013 deadline.<sup>28</sup>

#### IV. CONCLUSION

12. Based on the foregoing, we conclude that granting the instant waiver request is in the public interest. Accordingly, we grant Spokane Regional Emergency Communications Systems a waiver of the Commission's January 1, 2013 VHF/UHF narrowbanding deadline, until and including June 30, 2014, for the call signs set forth in Appendix A.

#### V. ORDERING CLAUSES

13. 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) of the Commission's rules, 47 C.F.R. § 1.925(b)(3), that the Request for Waiver of the Commission rules filed by Spokane Regional Emergency Communications Systems as amended, IS GRANTED.

14. 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

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<sup>28</sup> See § 1.925(b)(3)(ii).

**Appendix A: List of Affected Call Signs**

KA77659	Spokane County Fire Protection Dist 10	PW
KA77660	Spokane County Fire Protection Dist 10	PW
KB41440	Spokane, County Of	PW
KB61637	Spokane, County Of	PW
KE4181	Spokane, County Of	PW
KL9475	Spokane, County Of	PW
KLX208	Spokane, County Of	PW
KLY956	Spokane, County Of	PW
KNCC467	Spokane, County Of	PW
KNIT863	Spokane, County Of	PW
KNJN828	Spokane, County Of	PW
KOK501	Spokane County Fire District 1	PW
KR4255	Spokane, County Of	PW
KUB771	Spokane, County Of	PW
KY2964	Spokane, County Of	PW
WBV857	Spokane County Fire District 3	PW
WNBA482	Spokane, County Of	PW
WNBX916	Spokane, County Of	PW
WNFF982	Spokane Regional Emergency Communication System	PW
WNFU451	Airway Heights, City Of	PW
WNGR551	Spokane County Fire District 9	PW
WNGY555	Spokane Regional Emergency Communication	PW
WNHW951	Spokane County	PW
WNIW728	Spokane, City And County Of	PW
WNJG993	Spokane, County Of	PW
WNNF302	Spokane, County Of	PW
WNPA557	Spokane, County Of	PW
WNPB939	Spokane, County Of	PW
WNRD209	Spokane, County Of	PW
WNSG940	Spokane, County Of	PW
WNVB931	Spokane Regional Emergency Communication	PW
WNVN278	Spokane, County Of	PW
WNWC554	Spokane Regional Emergency Communication	PW
WNWC558	Spokane Regional Emergency Communication	PW
WNXS951	Spokane Regional Emergency Communication	PW
WPGD767	Spokane County Fire District 8	PW
WPGQ928	Spokane County Fire District No 9	PW
WPKL609	Spokane, County Of	PW
WQEX788	Spokane, County Of	PW
WQF250	Spokane, County Of	PW

WQLF595	Spokane, City And County Of	PW
WQNR397	Spokane Regional Emerg. Communications System	PW
WXX646	Spokane, County Of	PW
WZJ436	County Of, Spokane	PW
WZX496	Spokane, County Of	PW
WZX497	County Of, Spokane	PW
WZY319	Spokane, County Of	PW
KB28028	Spokane, City Of	PW
KB51032	Spokane, City Of	PW
KLE739	Spokane, City Of	PW
KOA370	Spokane, City Of	PW
KOB246	Spokane, City Of	PW
WNAA594	Spokane, City Of	PW
WNKE585	Spokane, City Of	PW
WNSY451	Spokane, City Of	PW
WNVL396	Spokane, City Of	PW
WQCK312	Spokane, City Of	PW
WPAN379	Spokane County F P D 1	PW
WNKI993	Spokane County Fire District 4	PW
WPHU864	Spokane County Parks & Rec	IG
WPQB870	Spokane County Fire District 3	PW
WQEX453	Spokane County Fire District #5	PW
KNIE527	Spokane, County Of	PW