

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
CITY OF CHICAGO OFFICE OF EMERGENCY) WT Docket 99-87
MANAGEMENT COMMUNICATIONS)
)
Request for Waiver of Section 90.209(b) of the)
Commission's Rules)

ORDER

Adopted: December 26, 2012

Released: December 26, 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 May 18, 2012, the City of Chicago Office of Emergency Management Communications (Chicago) submitted a request for waiver 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. Chicago seeks a twenty-four month extension of the Commission's narrowbanding deadline until and including January 1, 2015. By this Order, we grant the request for an extension up to and including January 1, 2015.

II. BACKGROUND

2. Chicago is the third largest city in the United States, with 9.8 million inhabitants. The Chicago metropolitan area extends outside the county seat of Cook County, Illinois, into neighboring DuPage County. Chicago is comprised of approximately 234 square miles of urban landscape, including 6.9 miles of the Lake Michigan waterfront, and both the Calumet and Chicago rivers flow entirely or

1 See Request for Waiver of Commission Rules, filed May 18, 2012, by City of Chicago Office of Emergency Management Communications (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 3.

4 Id. at 4.

5 Id.

partially through key parts of the City.⁶ Chicago is the second largest central business district and labor pool in the nation, and hosts over 45 million domestic and international visitors each year as one of the most important worldwide international centers for commerce, finance, and trade.⁷

3. Chicago operates two 800 MHz trunking systems.⁸ To protect and provide services to the City's residents and visitors, Chicago employs approximately 13,000 police officers, 4500 firefighters, 650 paramedics, and hundreds of other employees who require the use of public safety communications.⁹ However, Chicago claims that due to budgetary constraints and hiring freezes brought on by the economic downturn, the City employs only sixteen radio technicians, who are solely responsible for maintaining, installing, and upgrading Chicago's numerous and intricate radio systems.¹⁰ Chicago argues that, despite limited manpower and resources, these technicians have completed a significant number of necessary and mandated upgrades to Chicago's extensive public safety radio networks.¹¹

4. Chicago also states that it has invested tens of millions of dollars on infrastructure construction and narrowbanding of a new T-Band system and other UHF facilities.¹² Chicago claims it has either completed, or has nearly completed, its multi-site UHF T-Band fire digital system, its City/Countywide High Performance Data System, and numerous other regional and national initiatives, including Operation Virtual Shield in cooperation with the Department of Homeland Security and the Department of Justice.¹³ Chicago also states that it has obtained modification of its licenses to reflect the proper emission designators, has obtained licensing of narrow, adjacent frequencies for use in future expansion, and has expanded a substantial number of its UHF subscribers by either investing in new infrastructure or reprogramming existing equipment.¹⁴

5. Chicago specifically notes that it has completed the following: (1) its Citywide police UHF system has been narrowbanded; (2) its "Zone" system employed by police personnel has been narrowbanded; (3) its fire digital system has been narrowbanded; (4) transmitters have been purchased and installed for other miscellaneous UHF stand-alone systems; (5) it has purchased approximately 15,000 new narrowbanded radios; and (6) it has purchased and installed over 400 receivers.¹⁵ Chicago states that the only systems that will not be narrowbanded by the January 1, 2013 deadline are its Medical response teams, Street and Sanitation, and VHF conventional stand-alone systems.¹⁶

6. Chicago contends that, if not for the lack of resources and manpower, it would be able to

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 8.

⁹ *Id.* at 5.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 6.

¹⁴ *Id.*

¹⁵ *Id.* at 7.

¹⁶ *Id.* at 16.

complete narrowbanding by the Commission's deadline.¹⁷ Chicago states that the existing VHF infrastructure and radios were purchased over 20 years ago and are not narrowband capable.¹⁸ Chicago submits that enforcing the January 1, 2013 deadline would be detrimental to its citizens by crippling its public safety communications infrastructure, and would increase scarcity among the already limited spectrum.¹⁹ Chicago argues it is in the public interest to allow the City to construct and operate a public safety network that is fully reliable, expandable, and provides protection for public safety personnel and its citizens while promoting interoperability among cooperating agencies.²⁰ Chicago states that it currently does not support a redundant system or have multiple backups for all of its already-narrowbanded locations.²¹

7. Chicago indicates that, in order to maintain a certain level of reliability and protection while upgrading its systems, it had to plan the completion of the narrowbanding process in stages according to priorities.²² Chicago anticipates three 8-month phases (totaling twenty-four months) to purchase the necessary receiver equipment and to install and deploy the equipment.²³ Chicago has prepared a tentative budget timeline for its narrowbanding process,²⁴ which utilizes Department of Homeland Security, Urban Areas Security Initiative (UASI) grants for the years 2013-2015.²⁵

8. Chicago notes that its Citywide system has minimal interdependency with other public safety region area networks, and that it has already replaced or reprogrammed all infrastructure which is co-dependent or interdependent with neighboring facilities.²⁶ Chicago also claims that granting this waiver will not have a serious negative effect on other operators because precautions have been taken to limit the adverse effect on neighboring systems. Chicago is unaware of any neighboring critical communications systems which would encounter any unacceptable interference by the continual use of wideband operations.²⁷

9. On October 2, 2012, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau issued a Public Notice seeking comment on the Waiver Request.²⁸ On October 23, Chicago submitted comments concerning its own Waiver Request.²⁹

¹⁷ *Id.* at 8.

¹⁸ *Id.*

¹⁹ *Id.* at 14.

²⁰ *Id.* at 15.

²¹ *Id.*

²² *Id.* at 9.

²³ *Id.* at 11.

²⁴ *Id.* at 10, 11.

²⁵ *Id.*

²⁶ *Id.* at 12.

²⁷ *Id.*

²⁸ See Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau Seek Comment on the City of Chicago Office of Emergency Management Communications Request for Waiver of the January 1, 2013 VHF-UHF Narrowbanding Deadline, *Public Notice*, 2012 WL 4523114 (WTB & PSHSB 2012).

²⁹ See Comments of the City of Chicago Office of Emergency Management Communications, filed October 23, 2012 (Chicago Comments).

III. DISCUSSION

10. Chicago seeks relief pursuant to Section 1.925 of the Commission's rules, which provides that 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;³⁰ 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.³¹

11. Applying this standard to narrowbanding, we stated in the *Narrowbanding Waiver Guidance Notice*, jointly issued by the Wireless Telecommunications Bureau, the Public Safety and Homeland Security Bureau, and the Office of Engineering and Technology, that narrowbanding waiver requests "will be subject to a high level of scrutiny" under the waiver standard.³² We have also provided recommended guidance on the factors that licensees should address in their requests and have recommended that in addressing these factors, licensees should seek to demonstrate that "(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."³³

12. In light of the record, we find that Chicago warrants waiver relief because it has demonstrated that in view of its unique or unusual factual circumstances of the instant case, strict application of the narrowbanding would be contrary to the public interest.³⁴ The record shows that Chicago has taken concrete steps to meet the Commission's January 1, 2013 narrowbanding deadline, including narrowbanding a large portion of its current system and securing funding for the remainder of the transition process. Based on these facts, including Chicago's assertion that no co-dependent, interdependent, or neighboring users will be adversely affected by granting the waiver, we find that strict enforcement of the narrowbanding deadline under these circumstances would not serve the underlying purpose of the rule.

13. Furthermore, we find that grant of the request is consistent with the public interest. Given that public safety personnel and the City's citizens would be placed at risk if the waiver was denied, it is in the public interest to allow Chicago to construct and operate a public safety network that is fully reliable, expandable, and provides protection for public safety personnel and its citizens while promoting interoperability among cooperating agencies. We also find that granting Chicago's Waiver Request will provide the cooperating agencies with a reasonable amount of time to complete their transition to the new system, while allowing the existing system to continue to provide area first responders with another layer of interoperability during this transition without unduly affecting other licensees.

³⁰ 47 C.F.R. § 1.925(b)(3)(i).

³¹ 47 C.F.R. § 1.925(b)(3)(ii).

³² 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, *Public Notice*, 26 FCC Rcd 9647 (2011) (*Narrowbanding Waiver Guidance Notice*).

³³ *Id.* at 9649.

³⁴ *See* 47 C.F.R. § 1.925(b)(3)(ii).

14. In reaching this decision, we also find persuasive that Chicago worked diligently and in good faith towards narrowbanding, and that it faced unique and unusual circumstances which hampered its efforts, in the form of an unusually large and complex system, budget constraints, resource and manpower shortages, and the diversion of financial resources to other public safety initiative projects.³⁵ Moreover, we recognize the impact UASI grants have on Chicago's narrowbanding timeline, given the fact that DHS awards UASI grants, which form a substantial part of Chicago's narrowbanding budget, over a period of years rather than in a lump sum.

IV. CONCLUSION

15. Based on the foregoing, we conclude that granting the instant waiver request is in the public interest. Accordingly, we grant the City of Chicago Office of Emergency Management Communications a waiver of the Commission's January 1, 2013 VHF/UHF narrowbanding deadline, until and including January 1, 2015, for the call signs set forth in Appendix A.

V. ORDERING CLAUSES

16. 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)(ii) of the Commission's rules, 47 C.F.R. § 1.925(b)(3)(ii), that the Request for Waiver of the Commission rules filed by the City of Chicago Office of Emergency Management Communications, IS GRANTED.

17. 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
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Public Safety and Homeland Security Bureau

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Wireless Telecommunications Bureau

³⁵ See Chicago Comments at 2.

Appendix A: List of Affected Call Signs**VHF 150-174 MHz Channels**

Frequency	Call Sign(s)
153.7700	KSC711
153.7925	KSC711
153.8300	KSC711
153.9275	KSC711
153.9500	KSC711
154.0100	KSC711
154.1300	KBA321, KSC711
154.2200	KSC711
154.3850	KSC711
154.6500	KA5489
154.7400	KA5489
154.8000	KA5489
154.8300	KA5025
155.7450	KRW306
155.9400	KNDV404
155.9700	KC5285
156.0000	KC5285
158.2500	KGW529, WQCT234
158.7600	KBW414, KBW415, KBW416, KBW421, KF5671
158.8050	KJY777, KJY778, KJY779, KK9884
158.8500	KSF382
158.8800	KKG461
158.8950	WPQG213
158.9100	KC5285
158.9400	KC5285
158.9700	KC5285
159.0300	KSF382
159.1500	KA5489
159.3900	KC5285
159.4500	KC5285

UHF 450 — 470 MHz Channels

Frequency	Call Sign(s)
453.0500	KBJ773
453.1000	KBJ308
453.5000	KRM715
453.5500	KRM715
453.6250	KWB673
453.6500	KRM715
453.6750	KRM715
453.7250	KRM715
458.7750	KRM715
453.8250	KRM715
453.9750	KRM715
458.0500	KY7503
458.1000	KBJ308
458.5000	KRM715
458.5500	KRM715
458.6250	KZ9579
458.6500	KRM715
458.6750	KRM715
458.7250	KRM715
458.7750	KRM715
458.8250	KRM715
458.9750	KRM715
460.5375	KB54951
460.6000	KXZ273
460.6250	KXZ273
462.9500	KNFH932
462.9750	KNFH932
465.6000	KNEW594, KNEW595, KNGN514, KNGN516, WFK423, WGQ939
465.6250	KNEW594, KNEW595, KNGN514, KNGN516, WFK423, WGQ939
467.9500	KNFH932
467.9750	KNFH932