

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

In the Matter of)	
)	
Requests for Waiver of Various)	PS Docket No. 06-229
Petitioners to Allow the Establishment)	
of 700 MHz Interoperable Public Safety)	
Wireless Broadband Networks)	
)	
Implementing Public Safety Broadband)	PS Docket No. 12-94
Provisions of the Middle Class Tax)	
Relief and Job Creation Act of 2012)	

ORDER

Adopted: May 9, 2012

Released: May 9, 2012

By the Chief, Public Safety and Homeland Security Bureau:

1. The Public Safety and Homeland Security Bureau (Bureau) has before it an informal request (Request) from the twenty-two 700 MHz public safety broadband waiver recipients (Waiver Recipients) to issue a stay of the Bureau’s requirement that the Waiver Recipients retain by May 31, 2012, a common clearinghouse to manage their relationships with commercial roaming partners and to settle payment issues associated with their use of a common PLMN ID.¹ We find it appropriate to suspend this deadline as part of the Commission’s broader effort to implement the public safety broadband provisions of the Middle Class Tax Relief and Job Creation Act of 2012, which was enacted following the Bureau’s imposition of this requirement.

I. BACKGROUND

2. The Waiver Recipients are public safety entities that have received waivers of the Commission’s rules to allow early deployment of local or regional public safety broadband networks in the existing public safety broadband spectrum, which is currently licensed to the Public Safety Spectrum Trust (PSST). In granting the initial waivers in May 2010, the Commission imposed a series of conditions on them. However, the Commission found it unnecessary at that time “to impose particular deadlines or milestones in light of the novel nature of these deployments and the ongoing standards and equipment development” for their air interface, and delegated to the Bureau the authority to establish the initial set of technical requirements, in light of recommendations by the Emergency Response Interoperability Center (ERIC).²

¹ See Request for Stay, PS Docket 06-229 (filed Apr. 25, 2012). The Waiver Recipients filed their request as an informal request for Commission action under Section 1.41 of the Commission’s rules. 47 C.F.R. § 1.41.

² See Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket No. 06-229, 25 FCC Rcd 5145 ¶¶ 55, 64 (2010) (*Waiver Order*). The Bureau granted a similar waiver to the State of Texas in May 2011. 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*, 26 FCC RCD 6783 (PSSB 2011) (*Texas Waiver Order*).

3. On January 9, 2012, we issued the *PLMN ID Order* directing the Waiver Recipients to use a common public land mobile network identifier (PLMN ID) for their network deployments.³ In that order, we further directed the Waiver Recipients to “employ a competent numbering administrator” to finalize and administer the scheme for use of the common PLMN ID.⁴ In a March 16 order, we approved the Waiver Recipients’ selection of Science Applications International Corporation (SAIC) to serve in this role.⁵

4. The *PLMN ID Order* also required the Waiver Recipients to retain the services of a common clearinghouse entity “to manage the relationships with commercial roaming partners and to settle the payment issues associated with [Waiver Recipients’] use of a common PLMN ID.”⁶ The order set a deadline of May 31, 2012, for Waiver Recipients’ selection of this entity “to ensure that [the clearinghouse] is in place on day one of network operation.”⁷

5. The Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act), enacted on February 22, 2012, works fundamental changes to the regulatory regime upon which the Commission based these waivers.⁸ The Spectrum Act now directs the Commission to license the existing public safety broadband spectrum currently licensed to the PSST (as well as the spectrally adjacent “D Block” spectrum) to the First Responder Network Authority (FirstNet),⁹ an independent authority established within NTIA to oversee the development of a nationwide interoperable public safety broadband network.¹⁰ The Spectrum Act further directs the Commission to “take all actions necessary to facilitate the transition” to FirstNet of the spectrum currently licensed to the PSST.¹¹ Once its Board members are appointed and it is licensed by the Commission, FirstNet will have responsibility to ensure the “building, deployment and operation” of the nationwide network and to develop its “technical and operational requirements.”¹² Of particular relevance here, the Spectrum Act assigns to FirstNet the responsibility to enter agreements “as it determines appropriate” to enable roaming from the public safety broadband network onto commercial networks.¹³ On April 6, 2012, the Bureau issued a public notice seeking comment on the transition of Waiver Recipients’ deployments under this statutory framework.¹⁴

6. In their Request, the Waiver Recipients argue that their obligation to retain a clearinghouse should be stayed in light of the Spectrum Act’s enactment. They contend that “[i]t may frustrate the intention of Congress, in establishing FirstNet, if the Petitioners attempt to enter into

³ 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*, DA 12-25 (PSHSB rel. Jan. 9, 2012) (*PLMN ID Order*).

⁴ *Id.* at 7 ¶ 17.

⁵ 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*, DA 12-423 (PSHSB rel. Mar. 16, 2012).

⁶ *Id.* at 9 ¶ 22.

⁷ *Id.* at 10 ¶ 23.

⁸ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012).

⁹ *Id.* § 6201(a).

¹⁰ *Id.* § 6202(a).

¹¹ *Id.* § 6201(c).

¹² *Id.* §§ 6206(b)(1), 6206(c)(1)(B).

¹³ *Id.* § 6206(c)(5).

¹⁴ See Public Safety and Homeland Security Bureau Seeks Comment on Transition Process for 700 MHz Public Safety Broadband Waiver Recipients, PS Docket No. 12-94, *Public Notice*, DA 12-555 (PSHSB Apr. 6, 2012). The comment date for the public notice was April 20, 2012.

roaming agreements or obtain the services of a clearinghouse entity” to facilitate roaming as required under the *PLMN ID Order*.¹⁵ The Waiver Recipients also note that the enactment of the Spectrum Act has left them in an uncertain status under their current leases with the PSST, and that an expedited deadline for establishing the clearinghouse is not necessary because “no [commercial] carriers presently have roaming onto their LTE networks.”¹⁶

II. DISCUSSION

7. In its April 6 public notice, the Bureau initiated an inquiry on the transition of the Waiver Recipients’ deployments in light of the Spectrum Act. With a transition plan for these deployments pursuant to the newly enacted Spectrum Act not yet resolved, we do not find it prudent to require the Waiver Recipients to expend resources retaining and putting into operation a common clearinghouse for their deployments. Accordingly, consistent with the Commission’s authority under the Spectrum Act to facilitate the transition of this spectrum to FirstNet, we hereby suspend the deadline of May 31, 2012, by which we ordered the Waiver Recipients to select a clearinghouse entity and submit their selection for the Bureau’s approval.

8. In its *Waiver Order*, the Commission recognized that “roaming is a fundamental requirement that must be addressed as a condition of early deployments, even with respect to initial operations.”¹⁷ Accordingly, the Bureau is suspending its previous deadline only in order to permit the Commission to address the matter in connection with questions raised about the transition of the waiver deployments in the proceeding initiated in PS Docket 12-94, and in light of the enactment of the Spectrum Act.

III. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that, 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, and Section 6201(c) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012), THIS ORDER in PS Docket No. 06-229 is ADOPTED.

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, 5161, 5164 ¶¶ 48, 55 (2010).

FEDERAL COMMUNICATIONS COMMISSION

David L. Furth
Acting Chief, Public Safety and Homeland Security Bureau

¹⁵ Request at 3.

¹⁶ See *id.* at 4.

¹⁷ *Waiver Order*, 25 FCC Rcd at 5160 ¶ 45.