



Federal Communications Commission  
Washington, D.C. 20554

DA 14-1553

October 27, 2014

Mr. Gary Poon  
County of Los Angeles  
1110 N Eastern Avenue  
Los Angeles, California 90063

Re: County of Los Angeles, Request for Waiver and Extended Implementation Authorization  
(Call Signs WQJX500, *et al.*) filed December 20, 2013

Dear Mr. Poon:

This letter addresses the above-referenced request filed on behalf of the County of Los Angeles, California (County) seeking waiver of Section 90.629 of the Commission's rules to extend the construction completion date for fifty seven UHF "T-Band" licenses<sup>1</sup> that are to be integrated into the Los Angeles Regional Interoperable Communications System (LA-RICS).<sup>2</sup> The County requests that the construction period be extended until November 30, 2017. For the reasons discussed below, we grant the County's waiver request, in part, and extend the construction completion date for the fifty seven T-Band licenses until December 31, 2016.

In 2008, the Public Safety and Homeland Security Bureau (Bureau) granted the County a waiver pursuant to Section 337 of the Communications Act of 1934, as amended,<sup>3</sup> to use UHF TV channel 15 to construct a "standards-based, single platform, UHF voice radio system" to be used by all public safety agencies in the County.<sup>4</sup> At the time of the initial grant, the County requested extended implementation (slow growth) authority under Section 90.629 of the Commission's rules.<sup>5</sup> The Bureau extended the construction date for the project through February 3, 2014.<sup>6</sup>

In its instant request, the County states that the Channel 15 frequencies "will be constructed as part of the [LA-RICS], to be operated by a Joint Authority formed by the County, the City of Los

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<sup>1</sup> See File Nos. 0006064558 *et al.*, attachment: "Requesting Waiver of FCC Rule 90.629 for Slow Growth" (filed Dec. 20, 2013) (Extension Request). For a complete list of call signs and file numbers associated with the Extension Request, see *infra* Appendix A.

<sup>2</sup> Extension Request at 1. The previously granted extension expired Feb. 3, 2014.

<sup>3</sup> 47 U.S.C. § 337(c). Section 337(c) of the Act provides that, in connection with an application by an "entity seeking to provide public safety service," the Commission "shall waive any requirement of this Act or its regulations implementing this Act (other than its regulations regarding harmful interference) to the extent necessary to permit the use of unassigned frequencies for the provision of public safety services . . ." if the Commission finds that certain criteria are met. *Id.* Section 337(f) defines "public safety services." 47 U.S.C. § 337(f).

<sup>4</sup> See County of Los Angeles, California, *Order*, 23 FCC Rcd 18389, 18390 ¶ 3 (PSHSB 2008) (*Order*).

<sup>5</sup> Section 90.629 permits licensees up to five years to complete construction of a licensed system, versus the general one-year allowance, if licensees can show that the technical or coordination complexities of their system necessitate additional time. See 47 C.F.R. § 90.629.

<sup>6</sup> Extension Request at 1.

Angeles, and more than 80 other municipalities and public sector entities.”<sup>7</sup> The County explains that “LA-RICS had originally planned for its voice communications platform to operate entirely within portions of the 470-512 MHz band, which has long been the principal frequency band for Los Angeles area public safety agencies.”<sup>8</sup> However, “in 2012, Congress adopted the Middle Class Tax Relief and Job Creation Act (the “Act”), Section 6103 of which requires public safety users to vacate spectrum in the 470-512 MHz band by early in the next decade.”<sup>9</sup> \* \* \* As a result of the Act, the County spent considerable unanticipated time and effort to develop a revised spectrum plan that could accommodate the extensive user base of Los Angeles area public safety agencies well into the future.”<sup>10</sup>

The County states that its “new plan is a hybrid system that would allow for the migration of users from 470-512 MHz to 700 MHz narrowband spectrum.”<sup>11</sup> LA-RICS released a Request for Proposals (RFP) for the hybrid system on October 25, 2012, and a contract was then awarded to Motorola Solutions, Inc.<sup>12</sup> The timeline for design, construction and deployment is as follows:

- Phase 1 – LMR System Design – Complete by July 2014.<sup>13</sup>
- Phase 2 – LMR Site Construction/Modification – Complete by April 2016.
- Phase 3 – LMR Telecommunications System Components – Complete by December, 2016.
- Phase 4 – LMR Telecommunications System Implementation – Complete by November, 2017.<sup>14</sup>

In a follow-up report dated September 25, 2014, the County modified the timeline as follows:

- Phase 1 – LMR System Design – Completed September 9, 2014.
- Phase 2 – LMR Site Construction/Modification – Extended to September, 2016 due to “unanticipated Environmental Impact Reporting.”

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<sup>7</sup> *Id.* “LA-RICS will be a new multi-agency, interoperable radio communications system that will serve the over 10 million residents of the Los Angeles metropolitan area, a population that is greater than 42 of the 50 states.” *Id.* “LA-RICS will support a total user population of more than 34,000 first responders and up to 17,000 secondary responders.” *Id.*

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

<sup>9</sup> *Id.* On February 22, 2012 the President of the United States signed into law the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). *See* Middle Class Tax Relief and Job Creation Act of 2012 Pub. L. No. 112-96, 126 Stat. 156.

<sup>10</sup> Extension Request at 1.

<sup>11</sup> The Commission recently directed Regional Planning Committees to give preference to relocating T-Band licensees when assigning released 700 MHz Reserve Channels. *See* Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands, *et al.*, Report and Order, FCC 14-172, \_\_\_ FCC Rcd \_\_\_ (October 24, 2014).

<sup>12</sup> Extension Request at 1.

<sup>13</sup> “Additionally, under Phase 1 an initial 5-site hybrid trunked system will be deployed throughout Los Angeles County utilizing 476-482 MHz frequencies.” *Id.* “The purpose is to test the hybrid concept and interoperability.” *Id.* “Upon successful completion, there will be a gradual transition by various agency users to the hybrid system.” *Id.* “This equipment has been ordered and factory staged by Motorola Solutions and is on schedule for complete implementation by March 31, 2014.” *Id.*

<sup>14</sup> *Id.* at 1-2.

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- Phase 3 – LMR Telecommunications System Components – In process. Completion anticipated by May, 2016.
- Phase 4 – LMR Telecommunications System Implementation. Complete by November, 2017.<sup>15</sup>

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 requested waiver would be in the public interest;<sup>16</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>17</sup> An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.<sup>18</sup> As discussed below, under the unique circumstances of this case, we conclude that granting the County an extension until December 31, 2016 would be consistent with the County’s goals and the Commission’s waiver criteria.

As noted in the Bureau’s December 2012 decision granting LA-RICS a similar slow growth extension through December 31, 2016, the circumstances under which the Bureau granted the County’s initial slow growth period “have changed.”<sup>19</sup> There the Bureau noted that “Section 6103 of the Spectrum Act requires that the Commission, not later than February 2021: (1) reallocate public safety spectrum in the 470 – 512 MHz (T-Band);<sup>20</sup> and (2) begin a system of competitive bidding to grant new initial licenses for such spectrum,<sup>21</sup> and relocate public safety users not later than two years after said competitive bidding is completed.”<sup>22</sup> The Bureau also noted that the “Commission’s staff has taken preliminary steps to perform the actions required by the Spectrum Act.”<sup>23</sup> Against this background, we granted LA-RICS an extension to complete construction of its hybrid 470/700 MHz system by December 31, 2016.<sup>24</sup>

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<sup>15</sup> Letter from Ron Wong, County of Los Angeles to Michael Wilhelm, FCC, Sept. 25, 2014.

<sup>16</sup> 47 C.F.R. § 1.925(b)(3)(i).

<sup>17</sup> 47 C.F.R. § 1.925(b)(3)(ii).

<sup>18</sup> *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969) (*WAIT Radio*), *aff’d*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (*citing Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp., Memorandum Opinion and Order*, 18 FCC Rcd 1414, 1415 (2003).

<sup>19</sup> *See* County of Los Angeles, *Letter*, 27 FCC Rcd 14520 (PSHSB 2012) (*LA-RICS Waiver*).

<sup>20</sup> Spectrum Act § 6103(a)(1) *citing* 47 C.F.R. § 90.303.

<sup>21</sup> Spectrum Act § 6103(a)(2) *citing* 47 U.S.C. § 309(j).

<sup>22</sup> Spectrum Act § 6103(c).

<sup>23</sup> First, the Commission’s staff issued an order waiving the deadline for licensees in the T-Band to migrate to 12.5 kHz bandwidth (otherwise known as “narrowbanding”). *See* 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, *Order*, 27 FCC Rcd 4213 (WTB, PSHSB and OET 2012)(*Narrowbanding Waiver Order*). Second, the Commission staff has taken steps to suspend future licensing in the T-Band, including placing a “freeze” on all T-Band applications which change or add a frequency or extend a system’s contour “footprint.” *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 (PSHSB and WTB 2012).

<sup>24</sup> *LA-RICS Waiver*, 27 FCC Rcd at 14522.

Here, we find that a grant of a waiver would not frustrate the underlying purpose of Section 90.629.<sup>25</sup> At the time the Bureau granted the County's Section 337 waiver request, the County contemplated a single platform solution and did not anticipate the eventual loss of the T-Band, including TV channel 15, or having to make use of the 700 MHz band.<sup>26</sup> Indeed, the Bureau agreed with the County that "no other spectrum allocated to public safety services is immediately available to satisfy the requested public safety service use."<sup>27</sup> However, because the County now has selected a hybrid system, it requires additional time for the design and construction of the new system. We find that the County has acted reasonably in developing a revised spectrum plan that can support the extensive user base of Los Angeles area public safety agencies while still providing a migration path to 700 MHz narrowband for its users. Grant of the waiver request would serve the public interest because it would allow the County to meet the interoperable communications requirements of the County's first responders.<sup>28</sup>

As noted above, we granted the County an extension of time until December 31, 2016, to complete construction of the facilities represented by 20 call signs.<sup>29</sup> The instant request seeks an extension of time until November 30, 2017 to complete construction of the facilities represented by the 57 call signs in Appendix A. However, we are granting an extension only until December 31, 2016 – the extension date granted for the facilities represented by the 20 call signs *supra*. If, by December 31, 2016, the County has made substantial progress in the construction of its overall system, but the system is not yet complete, it may file another extension request detailing the progress made to date and requesting a further extension of the construction completion date for all unconstructed facilities.

In deciding to continue with the hybrid LMR project, the County assumes the risk that the system to be constructed in the T-Band will have a limited lifetime, and that, absent waiver from the Commission, the County may not add frequencies or extend the contours of its existing licensed T-Band authorizations. Finally, we note that any further request for extension by the County will be subject to a high level of scrutiny and must include a detailed showing that the County has made substantial progress towards completion of the system.

Accordingly, IT IS ORDERED pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Sections 1.925, 1.946(e), and 90.629 of the Commission's rules, 47 C.F.R. §§ 1.925, 1.946(e), 90.629, that the request for waiver filed by the County of Los Angeles, California on December 20, 2013, in connection with applications File Nos. 0006064558, *et al.*, listed in Appendix A, IS GRANTED IN PART, and the applications SHALL BE PROCESSED consistent with the Commission's Rules and this letter.

IT IS FURTHER ORDERED pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Sections 1.925, 1.946(e), and 90.629 of the

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<sup>25</sup> The purpose of Section 90.629 of the Commission's rules is "to ensure beneficial uses of licensed spectrum, and prevent licensees from 'warehousing' spectrum and making it unavailable to other potential licensees." *LA-RICS Waiver*, 27 FCC Rcd at note 29.

<sup>26</sup> *Order*, 23 FCC Rcd at 18400 ¶ 22.

<sup>27</sup> *Id.* at 18398-18400 ¶¶ 17-22.

<sup>28</sup> *See, e.g., LA-RICS Waiver*, 27 FCC Rcd at 14523.

<sup>29</sup> *See id.* at Table 1.

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Commission's rules, 47 C.F.R. §§ 1.925, 1.946(e), 90.629 that the construction date for the facilities represented by the call signs listed in Appendix A is, hereby, extended to December 31, 2016.

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

David G. Simpson, Rear Admiral, USN (Ret.)  
Chief, Public Safety and Homeland Security Bureau

cc: (via email)

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Appendix A

Call Sign	File No.	Extension Date Granted
WQJX500	0006064558	12/31/2016
WQJX501	0006066031	12/31/2016
WQJX502	0006066032	12/31/2016
WQJX503	0006066033	12/31/2016
WQJX504	0006066034	12/31/2016
WQJX505	0006066035	12/31/2016
WQJX506	0006066108	12/31/2016
WQJX507	0006066109	12/31/2016
WQJX508	0006066110	12/31/2016
WQJX509	0006066121	12/31/2016
WQJX510	0006066122	12/31/2016
WQJX511	0006066123	12/31/2016
WQJX512	0006066124	12/31/2016
WQJX513	0006066125	12/31/2016
WQJX514	0006066257	12/31/2016
WQJX515	0006066258	12/31/2016
WQJX516	0006066259	12/31/2016
WQJX517	0006066260	12/31/2016
WQJX518	0006066522	12/31/2016
WQJX519	0006066523	12/31/2016
WQJX520	0006066524	12/31/2016
WQJX521	0006067506	12/31/2016
WQJX522	0006067507	12/31/2016
WQJX523	0006067508	12/31/2016
WQJX524	0006068782	12/31/2016
WQJX525	0006068783	12/31/2016
WQJX526	0006068819	12/31/2016
WQJX527	0006068820	12/31/2016
WQJX528	0006068821	12/31/2016
WQJX529	0006068848	12/31/2016
WQJX530	0006068849	12/31/2016
WQJX531	0006069006	12/31/2016
WQJX532	0006069007	12/31/2016
WQJX533	0006069081	12/31/2016
WQJX534	0006069082	12/31/2016
WQJX535	0006069083	12/31/2016
WQJX536	0006069332	12/31/2016
WQJX537	0006069333	12/31/2016
WQJX538	0006069334	12/31/2016
WQJX539	0006069436	12/31/2016
WQJX540	0006069437	12/31/2016
WQJX541	0006069438	12/31/2016
WQJX542	0006069439	12/31/2016
WQJX543	0006069522	12/31/2016
WQJX544	0006069523	12/31/2016
WQJX545	0006069524	12/31/2016

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WQJX546	0006069550	12/31/2016
WQJX547	0006069551	12/31/2016
WQJX548	0006069552	12/31/2016
WQJX549	0006069594	12/31/2016
WQJX550	0006069595	12/31/2016
WQJX551	0006069828	12/31/2016
WQJX552	0006069829	12/31/2016
WQJX553	0006069830	12/31/2016
WQJX554	0006069867	12/31/2016
WQJX556	0006069868	12/31/2016
WQJX557	0006069869	12/31/2016