

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

In the Matter of)	
)	
Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012)	PS Docket No. 12-94
)	
)	
Service Rules for the 698-746, 747-762 and 777- 792 MHz Bands)	WT Docket No. 06-150
)	
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	

ORDER

Adopted: February 24, 2014

Released: February 24, 2014

By the Chief, Public Safety and Homeland Security Bureau.

I. INTRODUCTION

1. In this *Order*, we grant a request filed by the State of Texas (Texas) for a 180-day renewal of its grant of Special Temporary Authority (STA), call sign WQPW682, to operate a 700 MHz public safety broadband network in Harris County, Texas.

II. BACKGROUND

2. The Middle Class Tax Relief and Job Creation Act of 2012 tasks the First Responder Network Authority (FirstNet) with establishing a nationwide public safety broadband network under a license for the 700 MHz D Block (758-763/788-793 MHz) and the existing public safety broadband spectrum (763-769/793-799 MHz).¹ On July 31, 2012, the Federal Communications Commission (Commission) released an order (*STA Order*) that provides for limited deployment of state and local public safety broadband networks in this spectrum under STA as FirstNet prepares to commence its nationwide deployment.² The *STA Order* identifies a number of public interest considerations that would counsel in favor of an STA grant: (1) substantial network deployment by the applicant prior to enactment of the Act; (2) an ability to deliver timely service; (3) a specific, identifiable public safety need; (4)

¹ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 §§ 6201(a), 6202 (2012) (codified at 47 U.S.C. §§ 1421(a), 1422); see also Universal Licensing System, Call Sign WQQE234 (Nov. 15, 2012) (FirstNet license). The “existing public safety broadband spectrum” includes the 768-769 MHz and 798-799 MHz bands, which are designated under Commission rules as a guard band that spectrally separates the broadband segment of the Upper 700 MHz public safety band from the narrowband segment. See 47 C.F.R. § 90.531(f).

² See Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket No. 12-94, *Order*, 27 FCC Rcd 9652 (2012) (*STA Order*). Although the *STA Order* provided only for operations confined to the existing public safety broadband spectrum, the Commission delegated authority to the Bureau in a subsequent *Order on Reconsideration* to entertain requests that contemplate “10x10 MHz” operations, i.e., operations that also span the D Block. See Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, *Order on Reconsideration*, 27 FCC Rcd 10786, 10788 ¶¶ 1, 6 (2012) (*Order on Reconsideration*).

evidence of state-level coordination; and (5) compliance with interoperability recommendations developed for the nationwide network.³

3. The Public Safety and Homeland Security Bureau (Bureau) is directed to grant within thirty days of filing any such STA requests “that present a compelling basis for relief” in light of the public interest considerations the Commission articulated.⁴ The *STA Order* notes the Commission’s “expectation that we would renew” STA grants to the extent they “continue to satisfy [the Commission’s] renewal and public interest criteria” but cautions that “FirstNet’s preferences, if any, regarding continued early deployment in its licensed spectrum” will also be afforded “considerable weight.”⁵

4. On August 9, 2012, Texas filed a request for STA to operate within Harris County, Texas, a “10x10 MHz” public safety broadband network as contemplated in the *STA Order* and *Order on Reconsideration*.⁶ Finding that Texas’s request, as amended, satisfied the public interest considerations set forth in the *STA Order*, the Bureau granted the STA, effective September 3, 2012, for a period of 180 days.⁷ We then granted three renewals of the STA,⁸ the most recent of which is set to expire on February 25, 2014. On February 19, Texas filed for an additional 180-day renewal.⁹ Texas explains that this renewal will provide it “enough time to answer business model questions from FirstNet” related to the parties’ ongoing spectrum lease negotiations while Texas “maintain[s] uninterrupted services” for users of its network.¹⁰ FirstNet filed a letter concurring in the requested renewal on February 20, 2014.¹¹

III. DISCUSSION

5. Texas contends that further renewal of its STA would permit continued deployment and operation of its network in a manner that satisfies each of the public interest criteria set forth in the *STA Order*. It notes that significant progress has been made in negotiating a spectrum lease with FirstNet, and that there are “very few issues remaining,” but that “[a]dditional time is needed to conclude the negotiations.”¹² Texas explains that it achieved substantial deployment prior to enactment of the statute, and has brought eleven of its thirteen fixed sites into operation, with RF antennas and backhaul

³ See *STA Order*, 27 FCC Rcd at 9662-64 ¶ 25. These considerations are meant to inform the Commission’s determination under Section 1.931(b)(2)(v) of its rules as to whether circumstances exist “which are of such extraordinary nature that delay in the institution of temporary operation would seriously prejudice the public interest.” See 47 C.F.R. § 1.931(b)(2)(v).

⁴ *Id.* at 9664-65 ¶ 28.

⁵ *Id.* at 9665 ¶ 29.

⁶ See State of Texas, Universal Licensing System, File No. 0005346762 (Aug. 9, 2012) (STA Application); State of Texas, Universal Licensing System, File No. 0005346762 (Aug. 28, 2012) (Amended Application). See also *supra* note 2.

⁷ See Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket 12-94, *Order*, 27 FCC Rcd 10333 (PSSHB 2012) (*Texas STA Order*).

⁸ See Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket 12-94, *Order*, 28 FCC Rcd 1974 (PSSHB 2013) (*Texas STA Renewal Order*); Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket 12-94, *Order*, 28 FCC Rcd 12766 (PSSHB 2013) (*Texas STA Second Renewal Order*); Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket 12-94, *Order*, 28 FCC Rcd 16023 (PSSHB 2013) (*Texas STA Third Renewal Order*).

⁹ See State of Texas, Universal Licensing System, File No. 0006163487 (Feb. 19, 2014) (STA Fourth Renewal Application).

¹⁰ STA Fourth Renewal Letter at 1.

¹¹ See FirstNet Concurrence Letter.

¹² See STA Fourth Renewal Letter at 1.

equipment installed at the remaining two.¹³ Texas represents that “no funding obstacles exist which would inhibit establishment of . . . public safety operations within the coverage footprint” of its STA grant.¹⁴ In addition, Texas asserts that the network will continue to support specific public safety needs, including “higher quality telemetry, on-site analysis and other tools to assist emergency response.”¹⁵ As noted above, the application is filed on behalf of Harris County by the State, thus satisfying the state-level coordination requirement. Texas also reaffirms its commitment to maintaining compliance with each of the “recommended minimum technical requirements” for interoperability developed for the nationwide network.¹⁶ We accordingly find that Texas’s renewal request satisfies the public interest considerations set forth in the *STA Order*.

6. Moreover, the *STA Order* directs the Bureau to afford “considerable weight” to FirstNet’s preferences regarding STA operations in its licensed spectrum.¹⁷ FirstNet concurs in Texas’s requested 180-day STA renewal.¹⁸

7. For the foregoing reasons, we grant Texas’s request and direct the Licensing Branch of the Bureau’s Policy and Licensing Division to grant Texas’s pending STA renewal application for a period of 180 days, commencing February 25, 2014.¹⁹

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that pursuant to sections 1, 4(i), 301, 303, 332 and 1421(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 301, 303, 332, and 1421(c), THIS ORDER in PS Docket No. 12-94, WT Docket No. 06-150, and PS Docket No. 06-229 is ADOPTED.

9. IT IS FURTHER ORDERED that the Licensing Branch of the Policy and Licensing Division SHALL GRANT the pending application for renewal of Special Temporary Authority filed by the State of Texas, Universal Licensing System File Number 0006163487.

¹³ See STA Fourth Renewal Narrative at 1. The last of Texas’ fourteen authorized sites is a PS LTE enabled Mobile Command Vehicle (“Cell on Wheels”), which Texas proposes to operate only within Harris County and only where no active coverage exists. *Id.* at 8; STA Fourth Renewal Letter at 2.

¹⁴ See STA Fourth Renewal Narrative at 8. Texas states that it had “a target date to integrate the remaining sites on or near December 31, 2013.” *Id.*

¹⁵ See *id.* at 2.

¹⁶ See *id.* at 2-8; see also Recommendations of the Technical Advisory Board for First Responder Interoperability, PS Docket 12-74, *Order of Transmittal*, 27 FCC Rcd 7733 (2012).

¹⁷ *STA Order*, 27 FCC Rcd at 9665 ¶ 29.

¹⁸ See FirstNet Concurrence Letter. FirstNet’s concurrence is “premised on temporary operations” within specified “parameters.” *Id.* at 1. These parameters are consistent with the terms of Texas’s existing authority.

¹⁹ The authority renewed under this order remains limited to operation of the fourteen sites identified in Texas’s original application, one of which was specified as its Cell on Wheels described above, and our grant herein does not prejudice our consideration of any future request to expand or modify the scope of these approved network operations.

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, paragraph 28 of the *STA Order*, 27 FCC Rcd 9652 (2012), and paragraphs 1 and 6 of the *Order on Reconsideration*, 27 FCC Rcd 10786 (2012).

FEDERAL COMMUNICATIONS COMMISSION

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Chief, Public Safety and Homeland Security Bureau