

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

In the Matter of)	
)	
Proposed Amendments to the Service Rules)	PS Docket No. 13-87
Governing Public Safety Narrowband Operations in)	
the 769-775/799-805 MHz Bands)	
)	
National Public Safety Telecommunications)	RM-11433
Council Petition for Rulemaking on Aircraft Voice)	
Operations at 700 MHz)	
)	
National Public Safety Telecommunications)	WT Docket No. 96-86
Council Petition for Rulemaking to Revise 700)	PS Docket No. 06-229
MHz Narrowband Channel Plan)	
)	
Region 24 700 MHz Regional Planning)	RM-11577
Committee Petition for Rulemaking)	
State of Louisiana Petition for Rulemaking)	

ORDER

Adopted: April 20, 2015

Released: April 20, 2015

By the Deputy Chief, Policy Division, Public Safety and Homeland Security Bureau:

1. Under consideration is the Request for an Extension of Time (Request) filed March 30, 2015 by the National Regional Planning Council (NRPC).¹ The NRPC notes that in the Commission’s *Report and Order* released October 24, 2014 in the captioned proceedings,² the Commission directed Regional Planning Committees (RPC) to amend their regional plans within six months of publication of the *Report and Order* in the Federal Register³ to conform those regional plans to the rules adopted in the *Report and Order*. The NRPC, however, submits that six months “has been found to be an insufficient amount of time given the information each region must have to modify its 700 MHz plan.”⁴ More specifically, the NRPC points out that it was not until March 2, 2015 that the Commission issued a *Public Notice* seeking comment on recommended nationwide channels for deployable trunked systems in the narrowband public safety segment of the 700 MHz band.⁵ Absent the information contained in the *Public*

¹ Request for an Extension of Time (Request) filed March 30, 2015 by the National Regional Planning Council (Request). Although styled as a request for extension of time, we treat the NRPC request as a request for waiver.

² Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands, *Report and Order*, 29 FCC Rcd 13283 (2014) (*Report and Order*).

³ A summary of the *Report and Order* was published in the Federal Register on Dec. 2, 2014, 79 Fed. Reg. 71321-01 (2014).

⁴ Request at 1.

⁵ Public Safety and Homeland Security Bureau Seeks Comment of Recommended Nationwide Channels for Deployable Trunked Systems in the 700 MHz Narrowband Public Safety Band, *Public Notice*, ___FCC Rcd ___, DA 15-278 (PSHSB rel. Mar. 2, 2015). Comments on the *Public Notice* were due April 2, 2015. Reply Comments are due on April 17, 2015.

Notice, the NRPC contends that the RPCs could not “begin to determine whether they will modify their plans accordingly and how they not only will plan to utilize the 700 MHz Nationwide Deployable Channels but also the remaining former Reserve channels that have been converted to General Use and the use of which is required to be reflected in the proposed 700 MHz plan modification.”⁶

2. The NRPC submits that the time necessary to modify a regional plan, obtain regional approval and the approval of neighboring regions makes it impracticable to have all plans completed by June 2, 2015 – the date six months after publication of the *Report and Order* in the Federal Register. Although the NRPC characterized its request as for an extension of time, it is, in substance, a request for waiver of the Commission’s requirement that regional plans be amended within six months; and, accordingly, we treat it as such.

3. 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;⁷ 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.⁸ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.⁹ Based on the record before us, we find that the NRPC has shown that its request should be granted in part under the first prong of the waiver standard.

4. The underlying purpose of the six month deadline is to facilitate the licensing of the former reserve spectrum to meet a variety of regional, state and local public safety needs.¹⁰ Indeed, the Commission provided that in the event that an RPC does not amend its Regional Plan within six months from the publication of this *Report and Order* in the Federal Register to include channels for deployable trunked systems, the channels shall revert to General Use without further action by the Commission.¹¹ Some RPCs may require additional time to amend their plans. Thus, we find that the NRPC has justified a waiver, but not for the length requested. Ultimately, implementation of the decisions set out in the *Report and Order* – and realization of the public interest benefits that stem from those decisions – hinges on timely action by the RPCs. Therefore, we extend the date by which amended regional plans must be filed with the Commission to October 30, 2015. We believe this brief waiver will promote the public interest in ensuring the efficient and effective use of the former reserve channels to meet public safety needs.¹²

⁶ Request at 1-2.

⁷ 47 C.F.R. § 1.925(b)(3)(i).

⁸ 47 C.F.R. § 1.925(b)(3)(ii).

⁹ *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).

¹⁰ See *Report and Order*, 29 FCC Rcd at 13400 ¶ 46 and note 112.

¹¹ *Id.* at 13400 ¶ 46.

¹² For example, in revising the band plan for the public safety 700 MHz band, the Commission required RPCs with approved plan or plans on file to submit amended plans consistent with the consolidated public safety narrowband allocation. Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 ¶ 346 (2007). On November 9, 2007, the Public Safety and Homeland Security Bureau (Bureau) extended the deadline for RPCs to submit amended plans, consistent with the consolidated narrowband allocation to January 31, 2008, and provided additional guidance for the development of plan amendments. See Public Safety and Homeland Security Bureau Announces the Availability of Revised

(continued...)

5. 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 of the Commission’s rules, 47 C.F.R. § 1.925, that the Request for an Extension of Time, treated as a request for waiver , filed March 30, 2015 by the National Regional Planning Council IS GRANTED IN PART.

6. IT IS FURTHER ORDERED that Regional Planning Committees SHALL FILE amended regional plans as herein directed no later than October 30, 2015.

7. This action is taken under delegated authority pursuant to Sections 0.191(a) and 0.392 of the Commission's Rules, 47 C.F.R. §§ 0.191(a), 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Deputy Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

(Continued from previous page) _____
Channelization Plans for the Consolidated 700 MHz Public Safety Narrowband Spectrum, *Public Notice*, 22 FCC Rcd 17775 (PHSHB 2007).