

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

In the Matter of
County of San Bernardino, California
and
Nextel Communications, Inc.
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WT Docket 02-55
Mediation No. TAM-45145

ORDER

Adopted: May 22, 2015

Released: May 22, 2015

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

I. INTRODUCTION

1. Under consideration is the Recommended Resolution and Request for Waiver in the captioned matter submitted by the 800 MHz Transition Administrator, LLC (TA) on May 18, 2015. The TA seeks an extension of time, until August 21, 2015 for the County of San Bernardino (County) and Nextel Communications, Inc. (Sprint)1 (collectively, the Parties) to execute a Frequency Reconfiguration Agreement (FRA) for the rebanding of the County’s 800 MHz communications system. For the reasons set out below, we grant the requested extension.

II. DISCUSSION

2. Pursuant to the Fifth Report and Order in this proceeding,2 the County was to submit a cost estimate for the rebanding of its 800 MHz system by October 9, 2014. After receiving multiple extensions of time to submit the cost estimate, the County filed its cost estimate on January 16, 2015. Negotiations between the Parties for an FRA were not successful and they entered into compulsory mediation on February 27, 2015. At the end of the mediation period, on March 27, 2015, the Parties still had not agreed on an FRA for the rebanding of the County’s system. We granted multiple extensions of the mediation period, with the last extension expiring on May 7, 2015, without the Parties executing an FRA.

3. Notwithstanding that they have not executed an FRA, the Parties represent that they “have resolved all disputed issues and are in pre-contract agreement.”3 The Parties have agreed on a schedule for execution of the FRA and the TA has attached the schedule to its pleading. By June 9, 2015, Sprint is to submit a completed but unexecuted FRA to the County. The County will review the FRA and obtain the approval of the County Board of Supervisors. We understand, based on a telephone conversation with the TA Chief Mediator, that in order for the FRA to appear on the Board of Supervisor’s meeting agenda, the FRA must be submitted to the Board of Supervisors no later than one-month before its next meeting.

1 For purposes of uniformity in this docket, we refer to wholly-owned subsidiaries of Sprint Corp. by the name of their parent, Sprint.

2 Improving Public Safety Communications in the 800 MHz Band; New 800 MHz Band Plan for U.S. – Mexico Sharing Zone, WT Docket 02-55, Fifth Report and Order, 28 FCC Rcd 4085, 4104 ¶ 62 (PSHSB 2013).

3 Recommended Resolution and Request for Waiver at 3 (dated May 18, 2015).

The County expects Board of Supervisors' approval by August 18, 2015, whereupon the County will execute the FRA and send it to Sprint for signature, which will occur on August 21, 2015.

III. DECISION

4. Section 1.46(a) of the Commission's rules states that "[i]t is the policy of the Commission that extensions of time shall not be routinely granted."⁴ The Bureau has emphasized that the "import of that rule is especially relevant to 800 MHz rebanding where delay in rebanding by one licensee can cause a 'domino effect' delay in the rebanding efforts of other licensees that have met the Commission's 800 MHz band reconfiguration deadlines with a consequent delay of the overall program. We therefore afford a high degree of scrutiny to the reasons licensees advance for extensions of time."⁵

5. Applying that high degree of scrutiny here, and notwithstanding the multiple extensions already granted to the Parties, we still believe that the latest extension request should be granted because the County employees responsible for the rebanding of the County's system apparently cannot control the approval protocol of the County Board of Supervisors. The alternative to granting the requested extension would be to direct the TA Mediator to have the parties submit proposed resolution memoranda. That, however, would be a futile exercise since there are no disputed issues to be resolved between the parties. Moreover, other than the Board of Supervisors approval, the times for completion of the tasks in the schedule are reasonably brief.

IV. ORDERING CLAUSE

6. Accordingly IT IS ORDERED that the Recommended Resolution and Request for Waiver submitted May 18, 2015 by the 800 MHz Transition Administrator IS GRANTED.

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

⁴ 47 C.F.R. § 1.46(a).

⁵ Regents of the University of California, *Order*, 28 FCC Red 15920, 15921 (PSHSB 2013).