Alan S. Tilles, Esq.

Shulman Rogers Gandal Pordy & Ecker, P.A.

12505 Park Potomac Ave., Sixth Floor

Potomac, MD 20854

 Re: County of Los Angeles, Request for Waiver and Extended Implementation Authorization

 (Call signs WPLU218, *et al*.), filed July 19, 2016.

Dear Mr. Tilles:

 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[[1]](#footnote-1) to extend the construction completion date for 77 UHF (T-Band} licenses[[2]](#footnote-2) that are to be integrated into the Los Angeles Regional Interoperable Communications System (LA-RICS).[[3]](#footnote-3) The County requests that the construction period for these licenses be extended until December 2018. For the reasons discussed below, we grant the County’s waiver request and extend the construction completion date until December 31, 2018.

On November 21, 2012, the Public Safety and Homeland Security Bureau (Bureau) granted the County a waiver extending the construction deadline for 20 narrowband licenses from October 31, 2012 to December 31, 2016.[[4]](#footnote-4) On October 27, 2014, the Bureau granted the County a construction extension from February 3, 2014 to December 31, 2016 for 57 licenses in the TV Channel 15 band (476-482 MHz), which harmonized the construction deadline for all 77 licenses at issue in the instant request.[[5]](#footnote-5) The Bureau stated that “[i]f, 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.”[[6]](#footnote-6)

In support of its current extension request, the County states that “despite the considerable progress made to date …, LA County has not been able to advance the project as quickly as believed by the Commission in the 2014 Order.”[[7]](#footnote-7) The County reports that it has started construction of both the Channel 15, 16 and 700 MHz narrowband channels for the LA-RICS land mobile radio system.[[8]](#footnote-8) The County reports that “more than $50 million has been spent on the project, including $36.3 million paid to Motorola Solutions, Inc. and approximately $13.7 million paid to LA-RICS project management contractor Jacobs Engineering.”[[9]](#footnote-9) The County notes that it “has (1) entered in vendor contracts to effectuate the build-out; and (2) completed construction of a portion of the facilities.”[[10]](#footnote-10)

The County argues that “[t]he extension sought herein (until December 2018) represents a reasonable amount of time for completion under the circumstances.”[[11]](#footnote-11) The County asserts that it “is clearly not warehousing spectrum, as demonstrated by the fact that one of the systems has been operational since the 1980s, and the second is partially constructed.”[[12]](#footnote-12) The County has also provided progress schedules for each of its sites including estimated completion dates for: (1) system design; (2) site construction and modification; (3) supply of LMR system components; and (4) LMR system implementation.[[13]](#footnote-13) Finally, the County argues that the extension is warranted because of uncertainty regarding the future disposition of the T-Band spectrum pursuant to Section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act).[[14]](#footnote-14) The County argues that “[w]ithout knowing what alternative spectrum the Commission will make available, it is difficult for LA County to plan to have multi-band equipment installed that would enable mere reprogramming of equipment to effectuate relocation to new spectrum, other than what public safety spectrum has already been allocated for public safety, and for which has been determined is insufficient in capacity.”[[15]](#footnote-15)

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;[[16]](#footnote-16) 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.[[17]](#footnote-17) An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.[[18]](#footnote-18)

We believe that the County has shown sufficient diligence in the progress made to date to merit consideration of its current extension request. We further find that the County satisfies the second prong of the Commission’s waiver standard. As the County notes, “LA-RICS was created with the vision of establishing a single communications platform that will provide instantaneous interoperability across agencies [including 50 local law enforcement agencies and 31 local fire departments] when responding to diverse emergencies, and eliminate the duplication of costs and effort involved in maintaining separate radio systems for each agency.”[[19]](#footnote-19) We also agree with the County that “this system represents an enormously complex and substantial undertaking” that warrants more time for completion.[[20]](#footnote-20) Finally, due to the freeze on new T-Band applications,[[21]](#footnote-21) the requested extension will not harm potential new applicants. Given these special circumstances, we find that strictly enforcing the December 21, 2016 deadline would be inequitable and contrary to the public interest, as cancellation of the County’s licenses would strand investment of tax and federal grant dollars and would squander facilities already under construction.

Accordingly, we grant the County’s extension request. We emphasize that notwithstanding the extension, the County remains subject to the provisions of Section 6103 of the Spectrum Act and any action the Commission may take to implement such provisions. Specifically, the County assumes the risk that the portion of system to be constructed in the T-Band will have a limited lifetime, and absent waiver from the Commission, the County may not add frequencies or extend the contours of its existing T-Band authorizations.

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 CFR §§ 1.925, 1.946(e), 90.629, that the request for waiver filed by the County of Los Angeles, California on July 19, 2016, in connection with applications File Nos. 0007343887, *et al*., listed in Appendix A, IS GRANTED, 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 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, 2018.

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)

Pat Mallon (pat.mallon@la-rics.org)

Ron Wong (ron.wong@la-rics.org)

Gary Poon (gpoon@isd.lacounty.gov)

Dana Daberko (ddaberko@shulmanrogers.com)

Appendix A

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| --- | --- | --- | --- |
|  | **Call Sign** | **FileNumber** | **Extension Date Granted** |
| 1  | WPNP718   | 0007343848  | 12/31/2018  |
| 2  | WQJX517   | 0007343866  | 12/31/2018  |
| 3  | WPLU218   | 0007343887  | 12/31/2018  |
| 4  | WPLU220   | 0007343893  | 12/31/2018  |
| 5  | WPLU221   | 0007344046  | 12/31/2018  |
| 6  | WPLU224   | 0007344061  | 12/31/2018  |
| 7  | WPLU230   | 0007344071  | 12/31/2018  |
| 8  | WPLU231   | 0007344079  | 12/31/2018  |
| 9  | WPLU232   | 0007344091  | 12/31/2018  |
| 10  | WPLU234   | 0007344097  | 12/31/2018  |
| 11  | WPMK204   | 0007344328  | 12/31/2018  |
| 12  | WPMK277   | 0007345378  | 12/31/2018  |
| 13  | WPMK278   | 0007345384  | 12/31/2018  |
| 14  | WPMK279   | 0007345386  | 12/31/2018  |
| 15  | WPMK280   | 0007345391  | 12/31/2018  |
| 16  | WPMK281   | 0007345395  | 12/31/2018  |
| 17  | WPMK282   | 0007346106  | 12/31/2018  |
| 18  | WPMM805   | 0007346164  | 12/31/2018  |
| 19  | WPMM807   | 0007346173  | 12/31/2018  |
| 20  | WPMW796   | 0007346176  | 12/31/2018  |
| 21  | WPNP716   | 0007346185  | 12/31/2018  |
| 22  | WQJX500   | 0007346207  | 12/31/2018  |
| 23  | WQJX501   | 0007346210  | 12/31/2018  |
| 24  | WQJX502   | 0007346322  | 12/31/2018  |
| 25  | WQJX503   | 0007346330  | 12/31/2018  |
| 26  | WQJX504   | 0007346338  | 12/31/2018  |
| 27  | WQJX505   | 0007346349  | 12/31/2018  |
| 28  | WQJX506   | 0007346355  | 12/31/2018  |
| 29  | WQJX507   | 0007346374  | 12/31/2018  |
| 30  | WQJX508   | 0007346387  | 12/31/2018  |
| 31  | WQJX509   | 0007346388  | 12/31/2018  |
| 32  | WQJX510   | 0007346394  | 12/31/2018  |
| 33  | WQJX511   | 0007346878  | 12/31/2018  |
| 34  | WQJX512   | 0007346885  | 12/31/2018  |
| 35  | WQJX513   | 0007346914  | 12/31/2018  |
| 36  | WQJX514   | 0007346918  | 12/31/2018  |
| 37  | WQJX515   | 0007346925  | 12/31/2018  |
| 38  | WQJX516   | 0007346931  | 12/31/2018  |
| 39  | WQJX518   | 0007346958  | 12/31/2018  |
| 40  | WQJX519   | 0007346961  | 12/31/2018  |
| 41  | WQJX520   | 0007347007  | 12/31/2018  |
| 42  | WQJX521   | 0007347049  | 12/31/2018  |
| 43  | WQJX522   | 0007347071  | 12/31/2018  |
| 44  | WQJX523   | 0007347074  | 12/31/2018  |
| 45  | WQJX524   | 0007347251  | 12/31/2018  |
| 46  | WQJX525   | 0007347262  | 12/31/2018  |
| 47  | WQJX526   | 0007347269  | 12/31/2018  |
| 48  | WQJX527   | 0007347295  | 12/31/2018  |
| 49  | WQJX528   | 0007347390  | 12/31/2018  |
| 50  | WQJX529   | 0007347410  | 12/31/2018  |
| 51  | WQJX530   | 0007347417  | 12/31/2018  |
| 52  | WQJX531   | 0007347419  | 12/31/2018  |
| 53  | WQJX532   | 0007347427  | 12/31/2018  |
| 54  | WQJX533   | 0007347448  | 12/31/2018  |
| 55  | WQJX534   | 0007347452  | 12/31/2018  |
| 56  | WQJX535   | 0007347471  | 12/31/2018  |
| 57  | WQJX536   | 0007347476  | 12/31/2018  |
| 58  | WQJX537   | 0007347497  | 12/31/2018  |
| 59  | WQJX538   | 0007347521  | 12/31/2018  |
| 60  | WQJX539   | 0007347528  | 12/31/2018  |
| 61  | WQJX540   | 0007347532  | 12/31/2018  |
| 62  | WQJX541   | 0007347541  | 12/31/2018  |
| 63  | WQJX542   | 0007347547  | 12/31/2018  |
| 64  | WQJX543   | 0007347555  | 12/31/2018  |
| 65  | WQJX544   | 0007347571  | 12/31/2018  |
| 66  | WQJX545   | 0007347586  | 12/31/2018  |
| 67  | WQJX546   | 0007347592  | 12/31/2018  |
| 68  | WQJX547   | 0007347598  | 12/31/2018  |
| 69  | WQJX548   | 0007347606  | 12/31/2018  |
| 70  | WQJX549   | 0007347613  | 12/31/2018  |
| 71  | WQJX550   | 0007347634  | 12/31/2018  |
| 72  | WQJX551   | 0007347639  | 12/31/2018  |
| 73  | WQJX552   | 0007347647  | 12/31/2018  |
| 74  | WQJX553   | 0007347654  | 12/31/2018  |
| 75  | WQJX554   | 0007347659  | 12/31/2018  |
| 76  | WQJX556   | 0007347663  | 12/31/2018  |
| 77  | WQJX557   | 0007347667  | 12/31/2018  |

1. 47 CFR § 90.629. [↑](#footnote-ref-1)
2. *See* File Nos. 0007343887 *et al*., attachment: Annual Report and Request for Extension of Los Angeles, California (filed July 19, 2016) (2016 Extension Request). For a complete list of call signs and file numbers associated with the Extension Request, *see infra* Appendix A. [↑](#footnote-ref-2)
3. 2016 Extension Request at 3-6. [↑](#footnote-ref-3)
4. *See* Letter from David S. Turetsky, Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, to Ron Wong, Manager, Engineering/Technical Support, LA-RICS, County of Los Angeles (dated Nov. 21, 2012), 27 FCC Rcd 14520 (PSHSB 2012) (2012 Letter). The County refers to these call signs as its narrowband licenses, as they operate at 12.5 kHz bandwidth. 2016 Extension Request at 5-6. [↑](#footnote-ref-4)
5. Letter from David G. Simpson, Rear Admiral, USN (Ret.), Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission to Mr. Gary Poon, County of Los Angeles, 29 FCC Rcd 13390 (PSHSB 2014) (2014 Letter). Because 47 CFR § 90.303 does not allocate Channel 15 for the Private Land Mobile Radio Service in the Los Angeles area, the County obtained its Channel 15 licenses by waiver pursuant to Section 337 of the Communications Act of 1934, as amended (47 § USC 337(c)). *See County of Los Angeles, California*, Order, 23 FCC Rcd 18389 (PSHSB 2008). [↑](#footnote-ref-5)
6. 2014 Letter at 4. [↑](#footnote-ref-6)
7. 2016 Extension Request at 6. [↑](#footnote-ref-7)
8. *Id*. [↑](#footnote-ref-8)
9. *Id*. [↑](#footnote-ref-9)
10. *Id*. at 8. [↑](#footnote-ref-10)
11. *Id*. [↑](#footnote-ref-11)
12. *Id*. The operational system is the Los Angeles County Sheriff’s Department System. *Id*. at 2-3. [↑](#footnote-ref-12)
13. 2016 Extension Request, attached LA-RICS LMR Template Schedule. [↑](#footnote-ref-13)
14. *See* Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). Pub. L. No. 112-96, 126 Stat. 156. Section 6103 requires that the Commission, not later than February 2021: (1) reallocate public safety spectrum in the T-Band; (2) begin a system of competitive bidding to grant new initial licenses for such spectrum, and (3) relocate public safety users not later than two years after said competitive bidding is completed. [↑](#footnote-ref-14)
15. 2016 Extension Request at 6-7. [↑](#footnote-ref-15)
16. 47 CFR § 1.925(b)(3)(i). [↑](#footnote-ref-16)
17. 47 CFR § 1.925(b)(3)(ii). [↑](#footnote-ref-17)
18. *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). [↑](#footnote-ref-18)
19. 2016 Extension Request at 4. [↑](#footnote-ref-19)
20. *Id*. at 8. [↑](#footnote-ref-20)
21. In light of the Spectrum Act’s T-Band provisions, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau have suspended licensing of new entrants and expanded facilities in the T-Band. *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). [↑](#footnote-ref-21)