

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

In the Matter of)
)
Google LLC Expedited Request for Emergency) GN Docket No. 15-319
Waiver of Citizens Broadband Radio Service)
Incumbent Protection Rules)

ORDER

Adopted: February 8, 2024

Released: February 8, 2024

By the Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. By this Order, the Wireless Telecommunications Bureau (“Bureau”), Mobility Division, conditionally grants Google LLC’s (Google)¹ request for a precautionary, limited, and conditional emergency waiver of sections 96.67(c)(2) and (3) of the Commission’s rules governing the Citizens Broadband Radio Service.² Google requests that the Commission grant emergency waiver relief of sections 96.67(c)(2) and (3) to relieve it of the requirement for Environmental Sensing Capabilities (“ESC”) to detect and protect federal incumbent users in the 3550-3700 MHz band (“3.5 GHz band”) from harmful interference for Dynamic Protection Areas (“DPAs”) that may be impacted by the recent storms impacting California, including DPAs West08, West09, West12, West13, and West14 (the DPAs, together with the affected ESCs (W08 and W12R) in such DPAs, the “Impacted Systems”). For the reasons discussed below, we grant Google’s Waiver Request subject to the conditions described herein.

II. BACKGROUND

2. In 2015, the Commission adopted rules for shared commercial use of the 3.5 GHz band.³ The Commission established the Citizens Broadband Radio Service and created a three-tiered access and authorization framework to accommodate shared federal and non-federal use of the band.⁴ Access and operations are managed by a Commission-approved, automated frequency coordinator, known as a Spectrum Access System (“SAS”). SASs coordinate operations between federal and non-federal users by relying on ESCs in DPAs to detect and protect federal incumbent users in the 3.5 GHz band from harmful interference. When there are federal incumbent users operating in the band, ESCs detect their signals and activate the DPA. When the DPA is activated, federal incumbent users are given priority over the other two tiers of users: Priority Access Licensees (“PALs”) and General Authorized Access (“GAA”) users.

¹ See Google LLC Expedited Request for Emergency Waiver of CBRS Incumbent Protection Rules Due to Storms in California, GN Docket No. 15-319 (filed Feb. 6, 2024) (Waiver Request), <https://www.fcc.gov/ecfs/document/1020661238728/1>.

² 47 CFR § 96.67(c)(2)-(3).

³ See *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, GN Docket No. 12-354, Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 3959, 3975, paras. 44-45 (2015) (*2015 Report and Order*).

⁴ *Id.*

In the case that an ESC cannot accurately determine whether federal incumbents are active in the band, they must automatically activate the DPAs.⁵

3. Google seeks a temporary conditional waiver of sections 96.67(c)(2) and (3) of the Commission's rules to relieve it of the requirement to detect the presence of a signal from a federal system in the 3.5 GHz Band and adjacent frequencies and to communicate information about the presence of such a signal to one or more approved SASs.⁶ This waiver would allow Google to treat the subject DPAs as "inactive" for the duration of the waiver authority and thus avoid the need for the ESCs to automatically activate the DPAs in areas affected by the recent storms. Google seeks waiver of these requirements in the interest of providing uninterrupted service to hundreds of Citizens Broadband Radio Service Devices (CBSDs) that provide critical broadband, IP telephone, and television services to hundreds of customers.⁷

III. DISCUSSION

4. Section 1.925(b)(3) of the Commission's rules states that the Commission may grant a waiver when either (i) "[t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest," or (ii) "[i]n 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 Further, section 1.3 allows the Commission, on its own motion, to waive rules for good cause shown.⁹

5. Here, we find that Google's showing, when considered with the conditions established herein, meets the second prong of the Commission's waiver standard. Google asserts that the intense rain storms and high winds have already caused power outages at its sites (W08) or have caused physical damage (W12R).¹⁰ It further contends that with respect to W08, it cannot provide an estimated time for restoration of commercial power, and with respect to W12R, it is awaiting a repair assessment which has been delayed due to the continuing bad weather.¹¹

6. Google contends that "automatic activation of the DPA due to the inability to sense incumbent radar activity would affect hundreds of [CBSDs], including both PAL and GAA, that are in the listed DPA neighborhood and on the DPA move list."¹² The CBSDs serve hundreds of customers—including residential and business customers—all of whom are located in areas that remain directly impacted by the storms.¹³ According to Google, "[m]any customers, including those who have electric service or electricity through the use of generators, rely on these services to receive updates about ongoing dangers and essential services."¹⁴ Accordingly, we grant a waiver of section 96.67(c)(2) and (3) of the Commission's rules, subject to the conditions set forth herein, and consistent with the ESC

⁵ See *Promoting Investment in the 3550-3700 MHz Band*, GN Docket Nos. 15-319, 17-258, Order, 33 FCC Rcd 4987, 4990-91, paras. 6, 9 (2018).

⁶ 47 CFR § 96.67(c)(2)-(3). Additionally, to the extent necessary, we also waive applicable sections of 96.15(a)(2), (a)(3), (b)(3), 96.45(b), 96.53(a), (e)-(g), and 96.57(d).

⁷ See Waiver Request at 2.

⁸ 47 CFR § 1.925(b)(3).

⁹ 47 CFR § 1.3.

¹⁰ See Waiver Request at 1-2.

¹¹ *Id.*

¹² *Id.* at 2.

¹³ *Id.*

¹⁴ *Id.*

waiver orders that the Bureau issued in response to Hurricanes Ian, Fiona and Idalia, Typhoon Mawar, and Tropical Storm Nicole,¹⁵ to allow the Google SAS to treat the subject DPAs as “inactive” for the duration of this waiver and thereby obviate its ESC from the obligation to detect the presence of a signal from a federal system in the 3.5 GHz Band and adjacent frequencies and to communicate information about the presence of such a signal to one or more approved SASs.

7. Specifically, we find the following conditions are required: (1) this waiver only applies to periods where the subject ESC sensors are unable to communicate with the Google SAS due to a power outage or backhaul outage; (2) this waiver is limited to the earlier of either February 22, 2024, or when commercial power and backhaul service is restored to the subject ESC sensors; (3) Google must provide confirmation to the Commission, the Department of Defense (“DoD”), and the Navy within three business days of power restoration to the subject ESC sensors and restoration of backhaul service; (4) extension requests must be justified through demonstration of the specific steps taken to reactivate the subject ESC sensors and the remaining steps necessary to reactivate, and such requests must be filed no later than three business days before expiration of this waiver; and (5) the ESC operator must immediately activate the subject DPAs upon notification from the Commission, the National Telecommunications and Information Administration, or the DoD.

8. In consideration of the emergency presented by the recent powerful rainstorms in California, we find that these are unique circumstances that make application of the rules inequitable, unduly burdensome, and contrary to the public interest. For these reasons, we find it is in the public interest to conditionally grant Google’s request for an emergency waiver of sections 96.67(c)(2) and (3), on a time-limited basis and subject to conditions described herein.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 1.3 and 1.925 of the Commission’s rules, 47 CFR §§ 1.3, 1.925, that the request filed by Google LLC for emergency waiver of sections 96.67(c)(2) and (3) of the Commission’s rules, 47 CFR §§ 96.67(c)(2) and (3) is GRANTED to the extent described, and with the conditions specified, herein.

10. IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 1.3 and 1.925 of the Commission’s rules, 47 CFR §§ 1.3, 1.925, that the Wireless Telecommunications Bureau GRANTS ON ITS OWN MOTION a waiver of sections 96.15(a)(2), (a)(3), 96.45(b), 96.53(a), (e)-(g), and 96.57(d) of the Commission’s Rules, 47 CFR §§ 96.15(a)(2), (a)(3), 96.45(b), 96.53(a), (e)-(g), 96.57(d), to the extent described, and with the conditions specified, herein.

¹⁵ See *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 22-999 (rel. Sept. 22, 2022); *Federated Wireless, CommScope, Inc., and Google LLC’s Expedited Requests for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 22-1042 (rel. Sept. 30, 2022); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 22-1165 (rel. Nov. 9, 2022); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 23-453 (rel. May 30, 2023); *Google LLC Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 23-789 (rel. Aug. 30, 2023).

11. This action is taken under delegated authority pursuant to sections 0.131, and 0.331 of the Commission's rules, 47 CFR §§ 0.131, and 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Roger Noel
Chief, Mobility Division
Wireless Telecommunications Bureau