

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

In the Matter of)
Westchester County, New York) File Nos. 0008404668, 0008404688,
Request for Waiver of Section 90.551 of the) 0008404694, 0008404700
Commission's Rules)

ORDER

Adopted: July 6, 2026

Released: July 6, 2026

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

I. INTRODUCTION

1. On December 22, 2025, Westchester County, New York (Westchester or the County) requested an additional two years to construct four 700 MHz trunked public safety stations licensed under call signs WQSU957, WQSU958, WQUJ897, and WQUJ898.1 We grant the County's extension request through December 31, 2027.

II. BACKGROUND

2. Extended Implementation. Section 90.551 of the Commission's rules requires 700 MHz narrowband stations to be constructed and placed into operation within 12 months from the date of grant of the authorization.2 Licensees may request a longer construction period, up to but not exceeding five years.3 Section 90.629 of the Commission's rules allows licensees to request an extended construction period of up to five years subject to certain conditions.4

3. Westchester's T-Band Relocation. In 2019, the County argued it needed more time to construct its 700 MHz system because existing federal law required public safety users to leave the

1 File Nos. 011843286, 011843287, 011843288, 011843280 (collectively, Westchester Application). See also Request for Construction Extension of Westchester County, New York (attachment to Westchester Application) (Waiver Request). On April 24, 2026, Westchester filed additional information in support of its request. See Supplemental Information Regarding Request For Construction (attachment to File Nos. 0012008841, 0012008852, 001208862, 001200868) (Supplemental Information Filing).

2 47 CFR § 90.551.

3 Id.

4 47 CFR § 90.629. The conditions include but are not limited to the following: The applicant must justify an extended implementation period. The justification must describe the proposed system, state the amount of time necessary to construct and place the system in operation, identify the number of base stations to be constructed and placed in operation during each year of the extended construction period, and show that: (1) the proposed system will require longer than twelve (12) months to construct and place in operation because of its purpose, size, or complexity; or (2) the proposed system is to be part of a coordinated or integrated wide-area system which will require more than twelve (12) months to plan, approve, fund, purchase, construct, and place in operation; or (3) the applicant is required by law to follow a multi-year cycle for planning, approval, funding, and purchasing the proposed system.

T-Band.⁵ This potential relocation meant the County would have to redesign its planned 700 MHz system to absorb displaced T-Band users, but it could not finalize that redesign until the T-Band relocation was resolved.⁶ The Bureau granted a waiver, finding that strictly applying the construction rules would force the County to design and build a combined 700/800 MHz system before knowing whether a T-Band relocation was actually required.⁷ Given the County's efforts and the risk of unnecessary costs, the Bureau concluded additional time was in the public interest.⁸

4. *Westchester's Hybrid T-Band and 700 MHz System.* The County states that it first applied for and received 700 MHz public safety licenses as possible replacement spectrum in the event it would be required to vacate its T-Band spectrum.⁹ When Congress repealed the T-Band relocation mandate,¹⁰ the County explains that it decided to create a hybrid T-Band and 700 MHz system.¹¹ By 2023, the County reported that it had undertaken a major redesign to move its T-Band operations into the 700 MHz band, creating a hybrid 700 MHz/T-Band system.¹² Although relocation was no longer necessary, the County asked the Bureau to recognize the substantial work already completed.¹³ The Bureau granted another extension, finding that strict enforcement of the construction rules would undermine the County's significant investments and hinder its effort to build an upgraded, interoperable public safety system.¹⁴ The complexity of the system and factors outside the County's control justified more time to complete implementation.¹⁵

5. *Westchester's Two-Year Extension Request.* The County now states that a significant amount of work has been conducted for the 700 MHz frequencies allocated by the Commission.¹⁶ The County explains that "[t]ogether with the usual coverage differences between T-Band and 700 MHz spectrum, Westchester has encountered numerous issues in creating a frequency plan for the system."¹⁷ The County states that it "spent over two years testing individual channels for coverage and [intermodulation] interference, in an effort to create a spectrum plan."¹⁸ The County adds that it uncovered major issues in

⁵ *Westchester County, New York*, Order, 34 FCC Rcd 3768, 3769, para. 3 citing Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-16, 126 Stat. 156 (2012) (Spectrum Act), (PSHSB 2019) (2019 Order).

⁶ 2019 Order, 34 FCC Rcd 3769, para. 3. In December 2019, the Commission requested Congress revoke the T-Band auction mandate and issued a public notice suspending the processing of new applications for T-Band licenses. *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Processing of Applications to Renew Part 22 and Part 90 Licenses for Systems Operating on 470-512 MHz (T-Band) Spectrum*, PS Docket No. 13-42, Public Notice, 34 FCC Rcd 11136 (WTB/PSHSB 2019).

⁷ 2019 Order, 34 FCC Rcd 3769-70, para. 5 citing 47 CFR § 1.925(a)(3).

⁸ 2019 Order, 34 FCC Rcd 3769-70, para. 5.

⁹ Waiver Request at 2.

¹⁰ See Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division FF, Title IX, § 902 (2020) (repealing § 6103 of the Middle Class Tax Relief and Job Creation Act of 2012).

¹¹ Waiver Request. at 3.

¹² *Westchester County, New York*, Order, 39 FCC Rcd 3157, 3158 para. 3 (PSHSB 2024) (2024 Order).

¹³ *Id.*

¹⁴ 2024 Order, 39 FCC Rcd 3158-59, para 5.

¹⁵ *Id.*

¹⁶ Waiver Request at 3.

¹⁷ *Id.* For example, the County explains that "[a]s a result of certain directional antenna requirements imposed by the adjacent NPSAC Regional Planning Committee, a number of the 700 MHz channels are 'hobbled' in comparison to the T-Band channels utilized by the County." *Id.*

¹⁸ *Id.*

combining T-Band and 700 MHz spectrum into a single system.¹⁹ The issues included: “(1) the cost to smaller agencies of multi-band radios; (2) coverage limitations of 700 MHz vs. T-Band spectrum, from a physics standpoint; and (3) co-channel separation limitations in both bands which enabled channels in one band to be located at some sites, but not both sites.”²⁰ Because of these limitations, the County indicates that it purchased a considerable number of T-Band frequencies in 2025.²¹ The County explains that it has begun incorporating this additional T-Band spectrum into its existing system.²²

6. *Supplemental Information Filing.* On April 22, 2026, Westchester provided additional information regarding the status of its system. Regarding incorporating the newly acquired T-Band frequencies, two of the frequencies are fully operational at several sites as of May 2026. Regarding the remaining frequencies, the County notes that it is in negotiations with Motorola to contract full incorporation of these frequencies under a Statement of Work that is dependent upon the resolution of this Waiver Request.²³ Westchester states that it does not expect that it will need an extension of time for the 470 MHz (T-Band) frequency conversion.²⁴ Westchester states that it has purchased and supplied over 4,000 multi-band radios to County and local municipal users and that local municipalities and other agencies have purchased over 1,000 additional radios that are now on the system.²⁵ Westchester notes that it does not yet have its 700 MHz frequencies deployed at every site in their system, but continues to work with the Regional Planning Committee to complete coordination at the remaining sites.²⁶ Finally, Westchester notes that the Covid pandemic created significant difficulties for many entities, including Westchester and includes a letter that it received from Motorola pertinent to the construction delays.²⁷

III. DISCUSSION

7. 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; 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.²⁸ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.²⁹

8. The County provides that it is actively working on the project, and has made substantial

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 4, note 9 citing FCC File Numbers 0011658505, 0011658508, 0011658510, 0011658511, 0011658517, 001165518, 0011658522, and 0011658524. These file numbers are associated with call signs WSJM385, WSJL797, WSJL455, WSJL456, WSJL807, WSJL383, WSJL482 and WSJL484. These were granted in August 2025 and thus will have build-out dates of August 2026.

²² *Id.* at 4.

²³ Supplemental Information Filing at 1-2.

²⁴ *Id.* at 2.

²⁵ *Id.* at 2.

²⁶ *Id.* at 2.

²⁷ See Letter, dated March 26, 2026, from Patrick Heavey, Strategic Projects Manager, Motorola Solutions. Inc. to Ken Hurt, Westchester County, Program Administrator - Radio Services (attached to Supplemental Information Filing).

²⁸ 47 CFR § 1.925(a)(3).

²⁹ *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).

progress. The County explains that the acquisition of additional T-Band spectrum precipitated the County's redesign of its 700 MHz build-out, resulting in its inability to complete construction of its 700 MHz system by the end of 2025.³⁰ The County submits that an extension of the construction period until the end of December 2027 is a reasonable amount of time for completion under the circumstances.³¹ The County further demonstrates that the Westchester County Board of Acquisition and Contract approved the amendment of scope of the County's agreement with Motorola to accommodate the 700 MHz redesign.³² The County also substantiates that the multi-million dollar build-out for the hybrid system is an enormous project, and that the requisite redesigns amount to special circumstances that warrant a waiver.³³

9. We find that the County has met the first prong of the Commission's waiver standard as similarly determined in the Bureau's two previous orders. The County continues to implement a system that represents an enormously complex and substantial undertaking. Such a complex build-out warrants more time, particularly with unanticipated obstacles requiring system redesign and lengthening the project timeline. Here, stringent application of our rule would effectively negate the County's investments and frustrate the County's goal to upgrade and consolidate a public safety communications system and achieve interoperability.³⁴ We find particularly persuasive the County Board's December 11, 2025 approval for an additional \$2,241,194 for this system, bringing the total approved for this system to \$47 million since December 2018.³⁵ Under these circumstances, we believe it is in the public interest to afford the County additional time to finish the implementation of its public safety communications system. The requested extension is reasonable in light of the fact the County has acted in good faith by actively working to make substantial progress on construction,³⁶ and is implementing an innovative solution to a complex spectral management project.³⁷

IV. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(c), and Section 1.925 of the Commission's rules, 47 CFR § 1.925, that the waiver requests associated with File Nos. 0008404668, 0008404688, 0008404694, and 0008404700 filed by Westchester County, New York IS GRANTED, and the associated licenses SHALL BE MODIFIED to specify a construction expiration date of December 31, 2027.

³⁰ Waiver at 4.

³¹ *Id.*

³² See Memorandum, dated December 8, 2025, from Marguerite Beirne, Chief Information Officer, Department of Information and Technology to Honorable Members of the Board of Acquisition and Contract (Board Memo).

³³ *Id.*

³⁴ *In the Matter of Cnty. of Morris, New Jersey*, DA Docket No. 21-311, Order, 36 FCC Rcd 5539 (2021).

³⁵ See Board Memo.

³⁶ Waiver Request at 4.

³⁷ *Id.* at 3-5.

11. This action is taken under delegated authority pursuant to Section 155(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c) and Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau