



Federal Communications Commission
Washington, D.C. 20554

July 26, 2012

In Reply Refer To:
2012003759/MKS

James R. Hobson
Best Best & Krieger LLP
2000 Pennsylvania Avenue, N.W., Suite 4300
Washington, D.C. 20006

Re: Request for Extension of Narrowbanding Deadline

Dear Mr. Hobson:

This letter refers to the above-referenced waiver request. On June 19, 2012, the King County, Washington, Department of Transportation, Metro Transit Division (King County) submitted a request¹ for a waiver until December 31, 2013, of the Commission's VHF/UHF narrowbanding deadline, which requires private land mobile radio (PLMR) licensees in the 150-174 MHz and 450-512 MHz bands to operate using channel bandwidth of no more than 12.5 kHz or equivalent efficiency by January 1, 2013.² King County seeks the extension for PLMR Stations WPXK905 and WPXL485. For the reasons set forth below, we grant the waiver request.

Background. King County operates a transit system that serves an average of 387,000 customers daily. It employs security personnel who often provide the first response to security incidents within the transit system, and plays a critical role in support of other emergency responders in the region in implementing disaster and public safety response plans and procedures.

King County began planning for a new 700 MHz radio system in 2000. It retained a technical consultant in 2002, began the procurement process in 2004, and signed a contract in 2006.³ Unexpected delays in the system vendor's technology development, including the complexity of integrating multiple systems, caused installation of the 700 MHz radios to begin in 2010 instead of 2008 as planned.⁴ Since 2010, King County has installed 700 MHz equipment in over 1,000 buses and trolleys (revenue vehicles) and over 100 security, supervisory, and maintenance vehicles (non-revenue vehicles). In order to

¹ See Request for Extension of Narrowbanding Deadline by King County, WA Transportation Department, Metro Transit Division (filed June 19, 2012) (Waiver Request).

² See 47 C.F.R. § 90.209(b)(5); *see also* Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004). On April 26, 2012, the Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology waived the January 1, 2013 narrowbanding deadline for 470-512 MHz band frequencies. *See* Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Order*, WT Docket No. 99-87, RM-9332, 27 FCC Rcd 4213 (WTB/PSHSB/OET 2012).

³ See Waiver Request at 2.

⁴ *Id.* at 2, 3.

complete the migration from the operational 450 MHz legacy system to the new 700 MHz narrowband system, King County will need to install equipment in another 300 revenue vehicles and 100 non-revenue vehicles.⁵ Once King County completes all vehicle installations, it will relinquish its UHF frequencies.⁶

Discussion. 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 Applying this standard to narrowbanding, we have stated in the *Narrowbanding Waiver Guidance Notice*, jointly issued by the Wireless Telecommunications Bureau, the Public Safety and Homeland Security Bureau, and the Office of Engineering and Technology, that narrowbanding waiver requests "will be subject to a high level of scrutiny" under the waiver standard.⁹ We have also provided recommended guidance on the factors that licensees should address in their requests and have recommended that in addressing these factors, licensees should seek to demonstrate that "(i) they have worked diligently and in good faith to narrowband their systems expeditiously; (ii) their specific circumstances warrant a temporary extension of the deadline; and (iii) the amount of time for which a waiver is requested is no more than is reasonably necessary to complete the narrowbanding process."¹⁰

Based on the record before us, we conclude that King County has presented sufficient facts to meet the high standard for grant of the requested waiver. If we were to strictly apply the narrowbanding rules, King County would be required to expend significant financial and administrative resources to narrowband its existing UHF wideband facilities by January 1, 2013. We conclude that strict enforcement of the narrowbanding deadline under these circumstances would not serve the underlying purpose of the rule and that a waiver would be in the public interest. In reaching this conclusion, we place significant weight on the showing that King County has made with respect to the factors identified in our *Narrowbanding Waiver Guidance Notice*.

First, King County has shown diligence in planning its transition to the 700 MHz band, which will enable it to decommission its existing wideband facilities and vacate its UHF frequencies. Planning began in 2000, and King County has made a substantial investment of resources and migrated two-thirds of its fleet to the 700 MHz band. King County would have constructed its 700 MHz system in time to

⁵ *Id.* at 3.

⁶ *Id.* at 6.

⁷ 47 C.F.R. § 1.925(b)(3)(i).

⁸ 47 C.F.R. § 1.925(b)(3)(ii).

⁹ Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Waiver and Other Matters, *Public Notice*, 26 FCC Rcd 9647 (2011) (*Narrowbanding Waiver Guidance Notice*); see also Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Provide Supplemental Guidance for Licensees in the 150-174 and 421-512 MHz Bands Seeking Waivers of the January 1, 2013 Narrowbanding Deadline, *Public Notice*, 27 FCC Rcd 1936 (WTB/PSHSB 2012).

¹⁰ *Narrowbanding Waiver Guidance Notice*, 26 FCC Rcd at 9649.

migrate its operations before the narrowbanding deadline had implementation not been delayed by matters beyond its control. The 700 MHz system will significantly upgrade King County's communications capabilities, which will improve the safety and reliability of its operations. Under these circumstances, we conclude that the 12-month waiver period requested by King County is no more than is reasonably necessary to complete narrowbanding.¹¹

Second, King County is committed to returning more UHF spectrum to the licensing pool than otherwise achievable by narrowbanding its existing UHF licenses once it deploys its 700 MHz system. Grant of the waiver will avoid the diversion of King County's financial, technical, and administrative resources to narrowbanding its existing UHF facilities pending the transition to the 700 MHz system and will allow King County to devote its resources to decommissioning its existing wideband facilities and vacating its UHF frequencies. This will facilitate efficient use of scarce UHF spectrum and free up capacity for potential new spectrum users, which are key goals of the narrowbanding rules.¹²

Based on the foregoing, we conclude that grant of the requested waiver is warranted. Accordingly, we grant King County a waiver of the Commission's January 1, 2013 VHF/UHF narrowbanding deadline until December 31, 2013, for the call signs set forth in the waiver request.

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(b)(3) of the Commission's rules, 47 C.F.R. § 1.925(b)(3), that the Request for Extension of Narrowbanding Deadline, filed on June 19, 2012 by the King County, Washington, Department of Transportation, Metro Transit Division IS GRANTED.

This action is taken under delegated authority pursuant to Sections 0.131, 0.331, 0.191, and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION



Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau



Thomas J. Beers
Chief, Policy and Licensing Division
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¹¹ See *id.* (waiver applicant should show that "the amount of time for which a waiver is requested is no more than is reasonably necessary to complete the narrowbanding process").

¹² See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Report and Order and Further Notice of Proposed Rule Making*, PR Docket No. 92-235, 10 FCC Rcd 10076, 10077 ¶ 2 (1995).

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