

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

In the Matter of)
)
)
Requests for Waiver of Various Petitioners to) PS Docket No. 06-229
Allow the Establishment of 700 MHz Interoperable)
Public Safety Wireless Broadband Networks)

ORDER

Adopted: November 30, 2012

Released: November 30, 2012

By the Chief, Public Safety and Homeland Security Bureau.

I. INTRODUCTION

1. In this Order, we dismiss as moot a petition for reconsideration filed on January 11, 2011, by the Utilities Telecom Council (UTC)¹ and a second petition filed jointly by eight 700 MHz public safety broadband waiver recipients (Waiver Recipients Group) on January 10, 2011,² both seeking reconsideration of a Public Safety and Homeland Security Bureau (Bureau) technical interoperability requirement adopted December 10, 2010, limiting waiver recipients' operation of permanent fixed stations in the 700 MHz public safety broadband spectrum (763-768/793-798 MHz).³ The Federal Communications Commission (Commission) has since terminated the waiver authorizations on which this requirement was imposed, thereby rendering both petitions moot.

II. BACKGROUND

2. On May 12, 2010, the Commission granted twenty-one waiver petitions filed by public safety entities (Waiver Recipients) seeking early deployment of statewide or local public safety broadband networks in the public safety broadband spectrum.⁴ The Commission imposed on these waiver deployments an initial set of conditions, which the Bureau then supplemented with technical interoperability requirements adopted in the December 10, 2010 *Bureau Waiver Order*. Among the requirements adopted in *Bureau Waiver Order* was a restriction on Waiver Recipients' operation of

¹ See Petition for Reconsideration filed by Utilities Telecom, PS Docket 06-229 (filed Jan. 11, 2011) (UTC Petition).

² See Petition for Reconsideration filed by the City of Charlotte, North Carolina; the District of Columbia; the Iowa Statewide Interoperable Communications Systems Board; the State of New Jersey; the City of Mesa, Arizona; the State of New Mexico; the State of Oregon; and the City of Seattle, Washington, PS Docket 06-229 (filed Jan. 10, 2011) (Waiver Recipients Group Petition).

³ See Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket 06-229, *Order*, 25 FCC Rcd 17156, 17162 ¶ 21 (PSHSB 2010) (*Bureau Waiver Order*).

⁴ See Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket 06-229, *Order*, 25 FCC Rcd 5145 (2010) (*Waiver Order*).

“permanent fixed point-to-point and point-to-multipoint stations,” limiting such operations to use on “an ancillary basis.”⁵

3. The Waiver Recipients Group and UTC each filed petitions, on January 10 and January 11, 2011, respectively, seeking reconsideration of the Bureau’s requirement concerning Waiver Recipients’ operation of fixed stations. The former petition contends that for various reasons the requirement “establishes an unwarranted restriction on fixed operations,”⁶ while the latter argues that it would “needlessly discourage utilities from partnering with public safety entities to jointly build out and operate 700 MHz broadband networks.”⁷

4. On February 22, 2012, Congress passed the Middle Class Tax Relief and Job Creation Act of 2012 (Public Safety Spectrum Act), which sets forth a statutory plan for development of a nationwide interoperable public safety broadband network in the 700 MHz band.⁸ The Public Safety Spectrum Act directs the Commission to reallocate the 700 MHz D Block (758-763/788-793 MHz) for public safety services and to assign this spectrum, along with the existing public safety broadband spectrum, to a newly created First Responder Network Authority (FirstNet).⁹ In light of this statutory enactment, the Commission released an order on July 31, 2012, terminating all existing waiver authorizations to operate in the public safety broadband spectrum, effective September 2, 2012.¹⁰

III. DISCUSSION

5. The Waiver Recipients Group and UTC petitions seek reconsideration of a technical requirement imposed as a condition governing the 700 MHz public safety broadband waivers. The Commission has terminated all such waivers as of September 2, 2012. Accordingly, pursuant to Section 1.106(j) of the Commission’s rules,¹¹ we dismiss the Waiver Recipients Group and UTC petitions as moot.

IV. ORDERING CLAUSE

6. Accordingly, IT IS ORDERED that pursuant to sections 1, 4(i), 301, 303, 332, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 301, 303, 332, and 405, Section 6201(c) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012), and Section 1.106 of the Commission’s rules, 47 C.F.R. § 1.106, THIS ORDER in PS Docket No. 06-229 is ADOPTED.

7. IT IS FURTHER ORDERED that the Petitions for Reconsideration filed by the Utilities Telecom Council on January 11, 2011, and filed jointly by the City of Charlotte, North Carolina; the District of Columbia; the Iowa Statewide Interoperable Communications Systems Board; the State of

⁵ *Bureau Waiver Order*, 25 FCC Rcd at 17162 ¶ 21.

⁶ Waiver Recipients Group Petition at 2.

⁷ UTC Petition at 1.

⁸ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012).

⁹ See *id.* § 6201(a).

¹⁰ See Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket No. 12-94, *Order*, FCC 12-85 (rel. July 31, 2012).

¹¹ See 47 C.F.R. § 1.106(j).

New Jersey; the City of Mesa, Arizona; the State of New Mexico; the State of Oregon; and the City of Seattle, Washington, on January 10, 2011, are DISMISSED AS MOOT.

8. 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 S. Turetsky
Chief, Public Safety and Homeland Security Bureau