



Federal Communications Commission
Washington, D.C. 20554

DA 16-1099

September 29, 2016

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 rules¹ to extend the construction completion date for 77 UHF (T-Band) licenses² that are to be integrated into the Los Angeles Regional Interoperable Communications System (LA-RICS).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 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 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

¹ 47 CFR § 90.629.

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.

³ 2016 Extension Request at 3-6.

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.

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).

⁶ 2014 Letter at 4.

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 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 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 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

The County argues that “[t]he extension sought herein (until December 2018) represents a reasonable amount of time for completion under the circumstances.”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 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 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 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

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 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 An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁸

⁷ 2016 Extension Request at 6.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 8.

¹¹ *Id.*

¹² *Id.* The operational system is the Los Angeles County Sheriff’s Department System. *Id.* at 2-3.

¹³ 2016 Extension Request, attached LA-RICS LMR Template Schedule.

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.

¹⁵ 2016 Extension Request at 6-7.

¹⁶ 47 CFR § 1.925(b)(3)(i).

¹⁷ 47 CFR § 1.925(b)(3)(ii).

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).

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 We also agree with the County that "this system represents an enormously complex and substantial undertaking" that warrants more time for completion.²⁰ Finally, due to the freeze on new T-Band applications,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.

¹⁹ 2016 Extension Request at 4.

²⁰ *Id.* at 8.

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 (PSSSB and WTB 2012).

Alan Tilles, Esq.

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

	Call Sign	File Number	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

Alan Tilles, Esq.

75	WQJX554	0007347659	12/31/2018
76	WQJX556	0007347663	12/31/2018
77	WQJX557	0007347667	12/31/2018