

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

In the Matter of)
)
Termination of Certain Proceedings as Dormant) CG Docket No. 17-22

ORDER

Adopted: January 5, 2018

Released: January 5, 2018

By the Acting Chief, Consumer & Governmental Affairs Bureau:

I. INTRODUCTION

1. By this Order, the Consumer & Governmental Affairs Bureau (CGB) terminates, as dormant, the proceedings listed on the Attachment hereto.¹ We believe that termination of these proceedings furthers the Commission's organizational goals of increasing the efficiency of its decision-making, modernizing the agency's processes in the digital age, and enhancing the openness and transparency of Commission proceedings for practitioners and the public. In addition, on the basis of further evaluation, we leave open several proceedings included in the *Sixth Dormant Proceedings Termination Public Notice*.

II. BACKGROUND

2. On February 4, 2011, the Commission released a Report and Order that, *inter alia*, amended Section 0.141 of the Commission's organizational rules to delegate authority to the Chief of CGB to conduct periodic review of all open dockets with the objective of terminating those that were inactive.² The Commission stated that termination of such proceedings also would include the dismissal as moot of any pending petition, motion, or other request for relief in the terminated proceeding that was procedural in nature or otherwise did not address the merits of the proceeding.³

3. Following the release of the *Procedure Order*, CGB, in consultation with the relevant bureaus and offices, conducted a review of all open dockets and identified those dockets that could potentially be terminated. As a result of that process, CGB issued the *First Dormant Proceedings Termination Public Notice*, listing the open dockets under consideration for termination, and providing interested parties the opportunity to file comments on those proposed terminations.⁴ After completion of the comment cycle, by Order released November 1, 2011, CGB terminated as dormant the docketed

¹ We note that all of the proceedings listed on the Attachment hereto were also listed in the Attachment to the *Termination of Certain Proceedings as Dormant Public Notice* released on January 13, 2017. *Consumer & Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, Public Notice, DA 17-60 (CGB 2017) ("*Sixth Dormant Proceedings Termination Public Notice*").

² *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, CG Docket No. 10-44, Report and Order, 26 FCC Rcd 1594 (2011) ("*Procedure Order*").

³ *Id.* at 1604, para. 24.

⁴ *Consumer & Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, 26 FCC Rcd 7850 (CGB 2011) ("*First Dormant Proceedings Termination Public Notice*").

proceedings listed in the Attachment thereto.⁵ Further dormant proceeding terminations followed.⁶

4. On January 14, 2017, CGB released the *Sixth Dormant Proceedings Termination Public Notice* with comments and reply comments due 30 and 45 days after date of publication in the Federal Register (March 6, 2017 and March 20, 2017, respectively).⁷ In response to the *Sixth Dormant Proceedings Termination Public Notice*, we received one Opposition and one comment.⁸

III. DISCUSSION

5. Based on our review of the record received in response to the *Sixth Dormant Proceedings Termination Public Notice* and upon further consideration, we terminate the proceedings listed in the Attachment to this Order⁹ and leave open several, described below, that had been listed in the Attachment to the *Sixth Dormant Proceedings Termination Public Notice*. After review of the Opposition and comment received and upon further evaluation, we have determined that WC Docket No. 04-6, RM-11643, RM-11588, RM-11659, ET Docket No. 13-208, and dockets associated with regional plans for the 700 and 800 MHz bands will remain open and will not be terminated at this time.

6. **W. Scott McCollough, Opposition to Dismissal.** We received an opposition requesting that WC Docket No. 04-6 (*In the Matter of ASAP Paging, Inc. Petition for Preemption of Public Utility Commission of Texas Concerning Retail Rating of Local Calls to CMRS Carriers*) remain open.¹⁰ The ASAP petition in WC Docket No. 04-6 raises an issue regarding retail rating of local calls to Commercial Mobile Radio Service carriers.¹¹ Based upon further evaluation of the record, we find that the issue raised in the ASAP petition remains pending and, accordingly, we will not close WC Docket No. 04-6 at this time.

7. **SSR Communications, Inc.** SSR Communications, Inc. asks that RM-11643 (*Amendment of Section 73.215 of the Commission's Rules Related to Contour Protection for Short Spaced FM Assignments*) remain open until the Commission either acts upon or dismisses RM-11727 (*Amendment of Section 73.207, 73.211, 73.215, and 73.3573 of the Commission's Rules Related to Minimum Distance Separation Between Stations, Station Classes Power and Antenna Height Requirements, Contour Protection for Short Spaced FM Assignment and Processing FM Broadcast Station Application*). SSR asserts that the proceedings are intertwined because both pertain to amendment

⁵ *Termination of Certain Proceedings as Dormant*, Order, 26 FCC Rcd 15312 (CGB 2011) (“*First Dormant Proceedings Termination Order*”).

⁶ See *Consumer & Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, 27 FCC Rcd 1613 (CGB 2012); *Termination of Certain Proceedings as Dormant*, Order, 27 FCC Rcd 11284 (CGB 2012); *Consumer & Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, 29 FCC Rcd 7664 (CGB 2014); *Termination of Certain Proceedings as Dormant*, Order, 29 FCC Rcd 11017 (CGB 2014); *Consumer & Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, 29 FCC Rcd 11168 (CGB 2014); *Termination of Certain Proceedings as Dormant*, Order, 29 FCC Rcd 16059 (CGB 2014); *Consumer & Governmental Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant*, 31 FCC Rcd 1205 (CGB 2016); *Termination of Certain Proceedings as Dormant*, Order, 31 FCC Rcd 7584 (CGB 2016).

⁷ *Sixth Dormant Proceedings Termination Public Notice*, *supra*.

⁸ See SSR Communications, Inc. Comments, CG Docket No. 17-22 (filed Feb. 7, 2017) (SSR Comments); W. Scott McCollough, Opposition to Dismissal, WC Docket No. 04-6 and CG Docket No. 17-22 (filed Mar. 6, 2017) (McCollough Opposition).

⁹ Any party aggrieved by a termination under this delegation of authority may file a petition for reconsideration with CGB or an application for review with the full Commission. *Procedure Order*, 26 FCC Rcd at 1604, paras. 23-24.

¹⁰ McCollough Opposition at 2, 6.

¹¹ *Id.* at 2, 4.

of Sections 73.207 and 73.215 of the Commission's rules.¹² We find that in situations in which a proceeding seeks changes to the same rule sections as another proceeding not proposed for termination, that fact alone does not compel the need to keep a proceeding open. In this particular circumstance, however, there is an overlap of substantive issues, specifically minimum distance separations for FM stations. Accordingly, we will not close RM-11643 at this time.

8. **RM-11588.** The Attachment to the *Sixth Dormant Proceedings Termination Public Notice* identified RM-11588 for potential termination. RM-11588 was inadvertently included in the Attachment, and will not be terminated at this time. RM-11588 considers a California Public Utility Commission (CPUC) petition requesting that the Commission grant states access to the Network Outage Reporting System (NORS) database, or grant CPUC access to California-specific outage reporting NORS filings.¹³ The Commission continues to consider these requests, most recently in a *Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration* adopted in 2016, discussing access to NORS outage filings for states and other entities, and directing the Public Safety and Homeland Security Bureau to study the matter.¹⁴

9. **RM-11659.** The Attachment to the *Sixth Dormant Proceedings Termination Public Notice* identified RM-11659 for potential termination. RM-11659 considers a petition for rulemaking filed by Geo Broadcasting Solutions, LLC regarding the origination of programming on FM booster stations. After the release of the *Sixth Dormant Proceedings Termination Public Notice*, Geo Broadcasting Solutions, LLC filed additional technical information that is under review by the Media Bureau. Accordingly, we will not close RM-11659 at this time.

10. **ET Docket No. 13-208.** The Attachment to the *Sixth Dormant Proceedings Termination Public Notice* identified ET Docket No. 13-208 for potential termination. Subsequently, an accreditation request filed by Perry Johnson Laboratory Accreditation, Inc., became associated with this docket.¹⁵ Because the Commission is actively considering this request, and because it is possible that future accreditation requests may likewise become associated with this docket, we decline to terminate ET Docket No. 13-208 at this time.

11. **Regional Planning Dockets.** Upon further consideration and consultation with the Public Safety and Homeland Security Bureau, we decline at this time to terminate those proceedings pertaining to the work of the regional planning committees (RPCs).¹⁶ RPCs periodically amend their

¹² SSR Comments at 1.

¹³ *Public Safety and Homeland Security Bureau Seeks Comment on Petition for Rulemaking by the California Public Utilities Commission Requesting that State Public Utilities Commissions be Granted Direct Access to the Commission's Network Outage Reporting System*, RM-11588, ET Docket No. 04-35, Public Notice, DA 10-220, 25 FCC Rcd 1241 (PSHSB 2010); see also *Petition of the California Public Utilities Commission and the People of the State of California for Rulemaking on States' Access to the Network Outage Reporting System (NORS) Database and a Ruling Granting California Access to NORS*, ET Docket No. 04-35 (filed Nov. 12, 2009), <https://ecfsapi.fcc.gov/file/7020348021.pdf>.

¹⁴ See *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; New Part 4 of the Commission's Rules Concerning Disruptions to Communications; The Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, PS Docket Nos. 15-80, 11-82, ET Docket No. 04-35, Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 31 FCC Rcd 5817, 5848-54, 5876-77, paras. 81-89, 145-148 (2016).

¹⁵ *Office of Engineering and Technology Seeks Comment on Application by Perry Johnson Laboratory Accreditation, Inc (PJLA) for Recognition as a Laboratory Accreditation Body for Authority to Accreditate Laboratories in the United States*, ET Docket No. 13-208, Public Notice, DA 17-1155 (OET 2017).

¹⁶ These dockets include: *Comments Invited on North Central and North East Texas Public Safety Plan*, Docket No. 88-549; *Mississippi Regional Public Safety Plan*, Docket No. 89-478; *Nebraska Regional Public Safety Plan, Region 26*, Docket No. 89-608; *Public Safety Radio Communications Plan for the Southern California Area*, Docket

regional plans for the 700 and 800 MHz bands either on their own motion or at the Commission's direction. Accordingly, we retain these dockets to provide the means for filings relating to these plans and amendments, and to facilitate public inspection.

IV. PROCEDURAL MATTERS

12. Upon publication of this Order in the Federal Register, the proceedings listed in the Attachment hereto will be terminated in the Electronic Comment Filing System (ECFS). The record in the terminated proceedings will remain part of the Commission's official records, and the various pleadings, orders, and other documents in these proceedings will continue to be accessible to the public, post-termination. Furthermore, should no petitions for reconsideration, applications for review, or petitions for judicial review of this Order be timely filed, the above-captioned proceeding shall be terminated, and the docket will be closed.

13. For additional information concerning this Order, please contact Micah Caldwell at (202) 418-1316, or via e-mail at Micah.Caldwell@fcc.gov.

V. ORDERING CLAUSES

14. Accordingly, **IT IS ORDERED**, pursuant to the authority contained in Sections 4(i) and 4(j) of the Communications Act, 47 U.S.C. Sections 154(i) and (j), and Section 0.141 of the Commission's rules, 47 CFR Section 0.141, that the proceedings set forth in the Attachment hereto are **TERMINATED**.

15. **IT IS FURTHER ORDERED** that should no petitions for reconsideration, applications for review, or petitions for judicial review of this Order be timely filed, the above-captioned proceeding shall be **TERMINATED**, and the docket will be closed.

FEDERAL COMMUNICATIONS COMMISSION

G. Patrick Webre, Acting Chief
Consumer & Governmental Affairs Bureau

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No. 89-97; *Louisiana Public Safety Plan, Region 18*, Docket No. 90-498; *Houston Area Regional Public Safety Plan, Region 51*, Docket No. 91-199; *Lubbock Area Public Safety Plan, Region 52*, Docket No. 92-1; *Oklahoma Public Safety Plan, Region 34*, Docket No. 92-171; *Nevada Public Safety Plan, Region 27*, Docket No. 92-268; *El Paso Area Public Safety Plan, Region 50*, Docket No. 92-286; *Virgin Islands Public Safety Plan, Region 48*, Docket No. 93-105; *Minnesota Public Safety Plan, Region 22*, Docket No. 93-130; *Kentucky Public Safety Plan, Region 17*, Docket No. 93-132; *North Carolina Public Safety Plan, Region 31*, Docket No. 93-150; *Arkansas Public Safety Plan, Region 4*, Docket No. 93-3; *South Dakota Public Safety Plan, Region 38*, Docket No. 93-57; *North Dakota Public Safety Plan Region 32*, Docket No. 93-77; *West Virginia Public Safety Plan, Region 44*, Docket No. 93-79; *Alaska Public Safety Plan, Region 2*, Docket No. 93-81; *Puerto Rico Public Safety Plan, Region 47*, Docket No. 93-82; *New Mexico Public Safety Plan, Region 29*, Docket No. 93-86.

ATTACHMENT