

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Implementation of Sections 309(j) and 337 of the) WT Docket No. 99-87
Communications Acts of 1934, as Amended)
)
)
)

REQUEST FOR LIMITED WAIVER AND FURTHER EXTENSION

Dixie County, Florida (“Dixie County” or “County”), by its attorneys and pursuant to Sections 1.3 and 1.925 of the Rules and Regulations of the Federal Communications Commission (“FCC” or “Commission”)¹ and the Commission’s *Narrowbanding Extension Public Notice*,² hereby requests an additional limited waiver of Section 90.209(b) of the Commission’s rules, which requires private land mobile radio (“PLMR”) licensees in the 150-174 MHz and 450-512 MHz (VHF/UHF) bands to have converted and migrated systems to technology utilizing channel bandwidths of no more than 12.5 kHz or equivalent efficiency (“narrowband”) by January 1, 2013.³ On December 17, 2012, Dixie County requested that the

¹ 47 C.F.R. §§ 1.3 and 1.925.

² *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, DA 11-1189 (July 13, 2011) (“*Narrowbanding Extension Public Notice*”); see also *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Provide Supplemental Guidance for Licensees in the 150-174 MHz and 421-512 MHz Bands Seeking Waivers of the January 1, 2013 Narrowbanding Deadline*, Public Notice, DA 12-246 (rel. Feb. 1, 2012).

³ See *Implementation of Sections 309(j) and 337 of the Communications Act of 1934, as Amended*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 3034 (2003); *Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended*, Third Memorandum Opinion and Order, Third Further Notice of Proposed

Commission waive Section 90.209(b) of its rules to provide an eighteen (18) months extension of the narrowband migration deadline for each of its PLMR Stations KKC960, WNRT539, WNUE989, WQFH883, WPGP534, WQUG308 (the “Licenses”). The Commission initially granted Dixie County a waiver request on January 2, 2013, but only granted the County a one-year extension, until January 1, 2014.⁴

On December 20, 2013, Dixie County requested that the Commission again waive Section 90.209(b) of its rules to provide a further one-year extension of the narrowband migration deadline for the Licenses, which the Commission granted on January 6, 2014, until January 1, 2015.⁵

Although Dixie County has continued to work diligently over the past year to dramatically upgrade and transition its current wideband system to state-of-the-art narrowband technology, as explained in greater detail herein, circumstances beyond Dixie County’s control will preclude full migration of the Licenses to narrowband technology by the current January 1, 2015 deadline. Pursuant to *Second Grant Letter*,⁶ for the reasons set forth below, Dixie County

Rule Making and Order, 19 FCC Rcd 25045 (2004); *Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended*, Order, 25 FCC Rcd 8861 (2010); *see also* 47 C.F.R. § 90.209(b).

⁴ *See* Letter from Zenji Nakazawa, Deputy Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission to Donald L. Herman, Jr., Herman & Whiteaker, LLC (Jan. 2, 2013) (“*Grant Letter*”).

⁵ *See* Letter from Zenji Nakazawa, Deputy Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission to Donald L. Herman, Jr., Herman & Whiteaker, LLC (Jan. 6, 2014) (“*Second Grant Letter*”).

⁶ *Id.* at p. 2 (“In light of the record, we find that the County warrants waiver relief because it has demonstrated that in view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, and contrary to the public interest. Absent a grant of an extension, Dixie would be forced to endure diminished operability until it completed its upgrade. We find this scenario would be unduly burdensome and contrary

requests that the Commission waive Section 90.209(b) of its rules to provide a further extension of the narrowband migration deadline for each of the Licenses until January 1, 2016, twelve (12) months from the current deadline. It is Dixie County's strong belief that this will be the final extension request required to complete the narrowbanding project, and that an additional 12 months will provide adequate time for the completion and testing of the new network.

Specifically, a further extension of narrowbanding migration deadline is necessary because, as indicated in the Icom America letter attached hereto as Exhibit 1, Dixie County's frequency coordinator has encountered unexpected delays in the obtaining FCC approval, and will not be able to provide coordinated frequencies to Dixie County until at least February 28, 2015. Following coordination and licensing of new frequencies, Dixie County will need an additional two to eight months to complete construction, testing, and deployment of its new narrowbanding network. Grant of this additional waiver will serve the public interest by preventing dangerous disruptions to critical public safety communications, which provide vital law enforcement, medical, transit, and public safety management services to citizens throughout Dixie County.

I. Background

The County covers approximately 714 square miles and has a population of 16,422 residents.⁷ The County's rural location and proximity to the Gulf of Mexico make emergency preparedness and public safety communications a top priority for the County. The Licenses are currently utilized to maintain critical communications among many local law enforcement, medical, transit, and public safety entities, including Dixie County's Emergency Medical

to the public interest. We therefore grant the County an extension of its current narrowband waiver until January 1, 2015.”).

⁷ U.S. CENSUS BUREAU (2010).

Services, Emergency Management, Sherriff's Office, Road Department, Publics Works, School District, and fire departments within the County. A few examples of the ways in which the Licenses are being used include radio communications for: advanced life support transport vehicles during emergency and non-emergency activities; all county and city fire departments initial incident dispatching and emergency scene communications; coordination and response during disaster activities; coordination of evacuations of special needs patients; law enforcement officer coordination inside the Dixie County Jail; daily school bus transportation coordination; and school resource officer coordination within Dixie County public schools. Although the County has been looking to upgrade land mobile radio system since 2008, and has been diligently working with potential vendors to design and deploy a narrowband system since 2009, Dixie County has experienced a plethora of unanticipated delays developing a viable narrowbanding solution, as well as delays trying to work with vendors overloaded with other government entities narrowbanding waiver requests.

II. Grant of the Requested Limited Waiver and Extension is Warranted Pursuant to the FCC's Rules.

Pursuant to Section 1.3 of the FCC's rules, the Commission may waive any provision of its rules if good cause is shown.⁸ In this instance, a limited waiver and further extension of the current deadline is warranted because, although Dixie County has been diligently working throughout the past year and has made significant progress toward completing the narrowbanding transition, due to significant delays, the County has not yet completed deployment of its narrowband system. Specifically, Dixie County's progress has been significantly delayed by the FCC frequency authorization and coordination process, a factor entirely outside of the County's control. Most recently, Dixie County received a Notice of

⁸ See 47 C.F.R. § 1.3.

Return from the FCC requesting that Dixie County “[p]rovide frequency justification for the proposed frequencies, in accord with rule 90.20(f).”⁹ Under rule 90.20(f), in order for a single applicant can only be assigned more than “two frequencies or pairs of frequencies in the paired frequency mode of operation... upon a satisfactory showing of need...”¹⁰ Dixie County plans to refile and provide a justification within two weeks of the filing of this Request and expects the Commission to grant the requested frequencies. Given that the frequency coordination and approval process is outside of the County’s control and continues to be ongoing, a limited waiver and further extension of the current deadline is warranted.

Dixie County has essentially completed all of the necessary steps in its transition plan that it can take, aside from actually installing, testing and final deployment of its new system, steps that the County *cannot* legally take until they receive the requisite coordinated frequencies and associated licenses. Dixie County continues to pursue an aggressive deployment schedule and expects to complete narrowbanding of its system within months of obtaining the requested coordinated frequencies. As such, Dixie County expects to complete its narrowbanding transition by August 1, 2015, if not sooner. The requested waiver and further extension of the current January 1, 2015 deadline is necessary, in order to prevent dangerous disruptions to critical public safety communications during the deployment process. Good cause thus exists for grant of the requested extension to allow the County a reasonable amount of time to complete its ongoing narrowbanding migration.

Dixie County’s request for limited waiver and further extension of the narrowbanding migration deadline also satisfies the Commission’s general standards for determining when a

⁹ See Letter from Federal Communications Commission, Public Safety and Homeland Security Bureau to Emergency Services Director of Dixie County (Oct. 31, 2014).

¹⁰ 47 C.F.R. § 90.20(f).

waiver should be granted in a Wireless Telecommunications Bureau proceeding.¹¹ Pursuant to Section 1.925(b)(3) of the Commission's rules, a request for waiver may be granted if it is shown that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested 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.¹²

In the *Narrowbanding Extension Public Notice*, the Commission identified specific factors that it considers relevant in assessing whether a request for waiver of the narrowbanding deadline satisfies the Commission's standard under Section 1.925 of the rules. These factors include: (1) the steps that have been taken to plan for, initiate, and complete the narrowband transition; (2) the system size and complexity; (3) whether equipment must be replaced or upgraded; (4) whether, in addition to narrowbanding, the licensee plans additional system upgrades or improvements; (5) whether the licensee has funding sources; (6) whether the licensee's narrowbanding schedule is affected by relationships with neighboring systems due to interoperability; (7) plans to minimize the impact of extended wideband operations on co-channel and adjacent channel operations; and (8) whether the licensee will relinquish the VHF/UHF spectrum. As explained in greater detail below, based on these factors, approval of Dixie County's request for limited extension is warranted.

¹¹ See 47 C.F.R. § 1.925(b)(3).

¹² *Id.*

A. Steps already taken to plan for, initiate, and complete the transition to narrowband operations

Dixie County has worked diligently on the narrowbanding of its system for many years. Specifically, as explained in the 2012 Waiver Request¹³ and the 2013 Waiver Request,¹⁴ prior to 2014, the County had already completed the following steps:

- Designated responsibility for developing and implementing the County’s narrowbanding transition plan to a Communications Committee (the “Committee”), which is comprised of representatives from the Dixie County Department of Public Safety, local law enforcement agencies, the Dixie County School Board, and the Dixie County Manager;
- Projected a budget for completion of the narrowbanding project;
- Received approval from the Dixie County Board of County Commissioners for the funding requested for the narrowband project;
- Researched strategies and potential vendors for its narrowbanding transition;
- Selected the vendor ICOM America Inc., (“ICOM”) to help develop a system that meets the County’s needs;
- Obtained a Statement of Work to identify all system components and subscriber radios needed, working within the approved budget;
- Researched and considered a number of design options, the Committee also initially selected a design for a four site, 6.25 kHz digital NXDN VHF/UHF system;
- Researched new equipment options and selected specific equipment;
- Selected tower sites for the new public safety communications system, including two County-owned sites, one site that is currently under contract, and one state-owned Florida’s State Law Enforcement Radio System (“SLERS”) site;
- Completed propagation studies to insure adequate coverage sites, using antennas heights approved by tower owners;

¹³ See *Implementation of Sections 309(j) and 337 of the Communications Acts of 1934, as Amended*, WT Docket No. 99-87, Request for Waiver and Extension, Dixie County, Florida, pp. 6-7 (Dec. 17, 2012) (“2012 Waiver Request”).

¹⁴ See *Implementation of Sections 309(j) and 337 of the Communications Acts of 1934, as Amended*, WT Docket No. 99-87, Request for Waiver and Extension, Dixie County, Florida, pp. 6-7 (Dec. 20, 2013) (“2013 Waiver Request.”)

- Based on the selected repeater sites, available VHF/UHF frequency pairs have been identified and work on applications to obtain authorizations of these VHF/UHF frequencies has begun;
- Modified the design for its 6.25 kHz digital NXDN VHF/UHF system by adding three (3) additional sites, which will enhance public safety by enabling system coverage inside of buildings throughout the County;
- Researched and selected three (3) additional sites;
- Negotiated site agreements and leases;
- Finalized and ratified the contract with ICOM;
- Reviewed and issued a notice to proceed;
- Completed inspection of all County-owned towers;
- Examined and repaired an existing tower;
- Hired a new employee to serve as the County's narrowbanding consultant and project manager;
- Researched, selected, and procured one hundred percent (100%) of subscriber products;
- Researched, selected, and procured one hundred percent (100%) of antenna products; and
- Researched, selected, and procured one hundred percent (100%) of system products.

In 2014, Dixie County continued to make significant progress toward completing the narrowbanding of its system. Currently, as a result of its hard work over the past year, Dixie County has:

- Installed one hundred percent (100%) of mobile radios for the Dixie School District;
- Installed seventy-five percent (75%) of mobile radios for emergency services vehicles;
- Installed eighty percent (80%) of mobile radios for fire services;
- Installed approximately twenty-five percent (25%) of mobile radios for law enforcement;
- Completed construction of three (3) communications shelters;
- Upgraded two (2) tower sites to R-56 grounding and accompanying electrical services;

- Partnered with the town of Cross City, which, through a U.S. Food and Drug Administration grant, will provide approximately \$125,000 toward system costs;
- Received and integrated the majority of systems products into factory build;
- Received subscriber products for integration;
- Finalized and consummated tower lease agreements;
- Received the site infrastructure product from ICOM, which is scheduled to be installed no later than December 31, 2014;
- Filed VHF license application with American Association of State Highway and Transportation Officials; and
- Filed frequency coordination application with the FCC.¹⁵

B. System size and complexity.

As explained in the 2012 and 2013 Waiver Requests, the Licenses presently operate on a single site VHF/UHF multicast wideband system, which provides limited mobile coverage throughout Dixie County. Although the current system is not complex, it is aging and does not provide adequate communications. The current system uses six repeaters located throughout Dixie County, and each repeater is interfaced to a VHF/UHF link radio that provides simple single channel backhaul. The VHF/UHF link radios used in the current system are problematic as they are prone to interference. The antenna and cabling systems are aging, and most of the equipment is more than twenty years old. Accordingly, although the system is not particularly large or complex, the County has determined that it essentially must be replaced in its entirety.

C. Narrowband Capability of the System

Although some of the system equipment already owned by the County is narrowband capable, this equipment is only able to operate on 12.5 kHz of channel bandwidth and not at 6.25

¹⁵ FCC Form 601, ULS File No. 0006432745 (filed Aug. 21, 2014).

kHz bandwidth. Since the county is deploying an ultra-efficient system designed to operate at 6.25 kHz, all existing equipment must be replaced.

D. Planned System Upgrades.

Dixie County is in the final stages of make significant improvements to its current system that go beyond the changes required by the Commission for narrowband migration. The County is installing a seven site, 6.25 kHz digital NXDN VHF system for all county communications with a microwave backhaul system. This new backhaul system will replace the interference-prone VHF/UHF remote base link radios currently providing backhaul.

E. Sources of funding and budget approval process.

The County's narrowband project is receiving funding from the following sources: 1) fire assessment, 2) EMS assessment, 3) law enforcement, 4) municipalities, and 5) general Dixie County funds. The budget approval process involves making a presentation and obtaining approval from The Dixie Board of County Commissioners. The budget for the narrowbanding migration project has been approved.

F. Whether the licensee's narrowbanding schedule is impacted by neighboring systems due to interoperability relationships or other interdependencies.

The County's narrowbanding migration schedule is not affected by neighboring systems.

G. Plans to minimize the negative impact of extended wideband operations on co-channel and adjacent channel operations.

If this request for an additional limited extension is approved by the Commission, Dixie County plans to continue minimizing the negative impact of wideband operations on co-channel and adjacent channel operations by restricting use of its current system to two-tone paging and limited voice transmissions, thereby significantly reducing the level of wideband radio traffic and decreasing the risk of harmful interference. Throughout 2014, Dixie County's extended

wideband operations have not, to the County's knowledge, caused any harmful interference to co-channel or adjacent channel operations.

H. Plans to migrate to a non-VHF/UHF band and relinquishment of VHF/UHF Spectrum

This factor is not applicable to Dixie County, as it does not plan to migrate to a non-VHF/UHF band.

I. Grant of the Requested Limited Waiver and Extension Furthers the Purpose of Rule 90.209(b) and Serves the Public Interest.

Limited waiver and further extension is warranted in this case because strict enforcement of the narrowbanding deadline would not serve the underlying purpose of Section 90.209(b). The County is in the final stages of deploying a spectrally efficient, seven site 6.25 kHz, countywide interoperable system, and plans to swiftly complete the construction and deployment of its new system once the requisite coordinated frequencies have been received. Allowing the County additional time in which to deploy this new system will further the purpose of the rule by enabling the County to deploy spectrally efficient equipment without disruption of critical public safety communications.

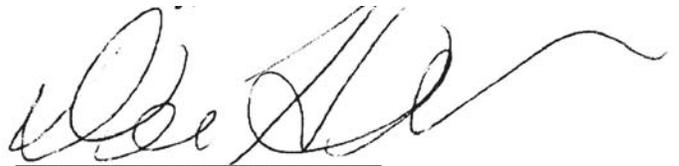
Grant of this limited waiver and extension request will also serve the public interest by supporting Dixie County's good faith efforts to expeditiously complete deployment of an improved, countywide interoperable, narrowband communications system. Most importantly, grant of this additional waiver request will serve the public interest by preventing dangerous disruptions to public safety communications. In addition, approval of this request is appropriate because Dixie County does not have an interoperability relationship or interdependency with any neighboring systems, and will not negatively impact any co-channel or adjacent channel operations. In the alternative, if the Commission does not approve this additional extension of the narrowbanding transition deadline, Dixie County will face disruption of critical

County public safety communications, thereby seriously endangering the lives, safety, and property of Dixie County citizens, contrary to the public interest.

III. Conclusion

For the reasons set-forth above, Commission approval of the requested waiver is warranted. In the past year, Dixie County has worked diligently, allocating hundreds of thousands of dollars in an attempt to meet the revised deadline for converting its public safety communications system to advanced narrowband technology. Despite the County's good-faith efforts, however, additional unforeseen delays associated with FCC frequency authorization and coordination process have precluded full migration of the Licenses to narrowband technology by the January 1, 2015 deadline. Grant of this request for a waiver and further extension of time will serve the public interest by preventing disruption to critical communications among the local law enforcement, medical, transit, and public safety entities working to protect the lives and property of residents throughout Dixie County during the limited extension period. Accordingly, Dixie County respectfully requests that the Commission grant the requested waiver and further extension of the Section 90.209(b) narrowband migration deadline until January 1, 2016.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Donald L. Herman, Jr.', written over a horizontal line.

Donald L. Herman, Jr.
Susan C. Goldhar Ornstein
Herman & Whiteaker, LLC
Its attorneys

Dated: December 9, 2014

DECLARATION OF MIKE CASSIDY

I, Mike Cassidy, do hereby declare under penalty of perjury that the foregoing is true and correct:

1. I am the County Manager for Dixie County, Florida.
2. I have read the forgoing "Request for Waiver and Further Extension." I have personal knowledge of the facts set forth therein, and I believe them to be true and correct.

Mike Cassidy
Mike Cassidy County Manager
Dixie County, Florida
Dated: 12/05/14

EXHIBIT 1

To: Mike Cassidy
Dixie County Manager

10/20/2014

From: Dwayne Black
Icom America Dixie County Project Manager

Subject: FCC Waiver Extension

In an effort to extend the current FCC Narrow-band waiver from Jan 2015 to July 2015, Icom America is providing you this letter of due diligence to support your request to the FCC and illustrate the project has had continued activity.

Under current projected timelines, the project is expected to be completed by 28 February 2015. This is approximately 2 months beyond currently approved FCC waiver.

The majority of the build, design and site leasing activities are progressing as expected.

- The majority of Systems Product has been received and being integrated into Factory Build
- Site Infrastructure Product has been received by Icom and is been shipped end Oct.
- Subscriber Product has been shipped and received by Dixie County
- Tenant /Lease agreements have been completed as expected
- Site Infrastructure product expected to be installed NLT 31 December 2014

The delay to the project schedule is attributed to the extended time to obtain FCC Frequency Approval. This unexpected delay has had a cascading effect on ordering the frequency specific product, such as combining and filtering equipment, this equipment has a long lead-time as it is made to order. This slip in that timeline has now caused a slip to the completion timeframe of the whole project.

The Filing process began 16 July 2014

- Application acceptance into the FCC ULS Database (File 0006432745) on 21 Aug 2014
- Pending Status and "In Engineering Review" noted on 4 September 2014
- Had multiple discussions on status and risk of frequency modification at this status with our Frequency Coordinator; assured risk was minimal and decided to order product in "pending" status
- Opened Inquiry with FCC (Case File 2386686) on still "pending" status on 15 October 2014
- Voicemail Reply received on 16 October 2014 from FCC:
"Good afternoon this message is for Leslie Elsberry. This is Alison calling from the Federal Communications Commission regarding case number 2386686. This was checking application status of pending file number 0006432745. Looks like the processors were just assigned this group of applications with a similar receipt date of August twenty first. So unfortunately we're limited on any current information but we should have more information or know more about the filing status in just a few days so if you wanna try back. I'd say mid next week or even towards the later part of next week. If the filing has not granted at that time then certainly give us a call and we can open up another inquiry to check for further status tracks in the meantime"

EXHIBIT 1

though if you have any questions or if you discuss this response feel free to give us a call 8774803201."

- Frequency Product was ordered 12 September 2014.
- Product expected receipt at factory is 27 October 2014
- 5 day Factory Acceptance Testing (FAT) event is anticipated to be able to perform 8 December 2014
- Product is expected to ship and be received approximately 4 weeks after FAT completion
- Product Installation at sites is anticipated to take 3 weeks
- System operation, optimization and integration anticipated to take 5-10 days
- System Acceptance anticipated to take 3 days

Given an aggressive schedule with no further delays, this timeline sets an estimated completion date of 28 Feb 2015.

Although we do not anticipate completion/acceptance to be completed any later than 31 March 2015, I would recommend requesting an extension for 12 months (January 2016) to cover any unforeseen delays causing additional FCC coordination.

Please feel free to call me at 425.450.6075, if you have questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D Black', with a long horizontal line extending to the right.

DWAYNE BLACK
Icom America, Dixie County Project Manager