



Federal Communications Commission
Washington, D.C. 20554

November 5, 2012

Robert B. Famiglio
Famiglio & Associates
P.O. Box 1999
Media, PA 19063

Re: Mobile Communications, Inc. Waiver of FCC Rule Section 90.209(b)(5) Request for Extension of Time to Comply

Dear Mr. Famiglio:

This letter refers to the above-referenced waiver request. On October 11, 2012, Mobile Communications, Inc. (MCI) submitted a request¹ for a waiver until July 1, 2013, of the Commission's VHF/UHF narrowbanding deadline, which requires private land mobile radio (PLMR) licensees in the 150-174 MHz and 421-512 MHz bands to operate using channel bandwidth of no more than 12.5 kHz or equivalent efficiency by January 1, 2013.² MCI seeks the extension for PLMR Stations WNKP441, KNIM872, WPMQ521, WPGN419, WPDI754, and WPLI212. For the reasons set forth below, we grant the waiver request.

Background. MCI is a small business operating primarily as a specialized mobile radio operator of both conventional and trunked radio systems in the greater Philadelphia, Pennsylvania area. It has two full-time employees with a sole shareholder and manager of daily operations.

MCI began transitioning its operations to narrowband and modifying its licenses to include narrowband emission designators in a timely manner. However, due to the sudden death earlier this year of its sole shareholder, Mr. Irvin Fisher, MCI's narrowbanding efforts remain incomplete. MCI has limited resources and expertise to facilitate the narrowband transition after the recent death of its principal.³ Further, the executor of Mr. Fisher's estate is in the process of selling MCI's assets and transferring its licenses to a prospective buyer, Commpaths LLC (Commpaths). MCI and Commpaths both desire to complete the purchase in a timely manner, while seeking Commission approval. Consequently, MCI seeks a 6-month extension of the narrowbanding deadline, until July 1, 2013.

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;⁴ or (ii) in view of unique or

¹ See Mobile Communications, Inc. Waiver of FCC Rule Section 90.209(b)(5) Request for Extension of Time to Comply (filed October 11, 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).

³ Waiver Request at 3.

⁴ 47 C.F.R. § 1.925(b)(3)(i).

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.⁵ 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.⁶ 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.”⁷

Based on the record before us, we conclude that MCI has presented sufficient facts to meet the high standard for grant of the requested waiver. If we were to strictly apply the narrowbanding rules, MCI would be required to expend significant financial and administrative resources to narrowband its existing VHF and UHF wideband facilities by January 1, 2013 or cease providing service to its customers. We conclude that strict enforcement of the narrowbanding deadline under these circumstances would be inequitable, unduly burdensome, or contrary to the public interest. In reaching this conclusion, we place significant weight on the showing that MCI has made with respect to the factors identified in our *Narrowbanding Waiver Guidance Notice*.

MCI has shown diligence in planning and implementing its transition to narrowbanding. MCI began transitioning its operations to narrowband by installing twelve narrowband repeaters, providing an initial migration pathway for its subscribers. MCI states that but for the death of Mr. Fisher, the narrowbanding migration already begun would have been timely completed.⁸ Under these circumstances, we conclude that the 6-month waiver period requested by MCI is no more than is reasonably necessary to complete narrowbanding.

Based on the foregoing, we conclude that grant of the requested waiver is warranted. Accordingly, we grant MCI a waiver of the Commission’s January 1, 2013 VHF/UHF narrowbanding deadline until July 1, 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 Waiver, filed on October 11, 2012 by Mobile Communications, Inc. IS GRANTED.

⁵ 47 C.F.R. § 1.925(b)(3)(ii).

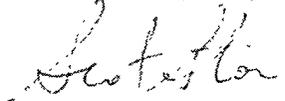
⁶ Wireless Telecommunications Bureau, Public Safety And Homeland Security Bureau, And Office Of Engineering And Technology Provide Reminder Of January 1, 2013 Deadline For Transition To Narrowband Operations In The 150-174 MHz And 421-512 MHz Bands And Guidance For Submission Of Requests For Waiver And Other Matters, *Public Notice*, 26 FCC Rcd 9647 (2011) (*Narrowbanding Waiver Guidance Notice*).

⁷ *Id.* at 9649.

⁸ Waiver Request at 7.

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

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Scot Stone".

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau