



WT 99-87

Federal Communications Commission
Washington, D.C. 20554

November 28, 2012

South Texas Project Nuclear Operating Company
Attn: Gary Plummer
P.O. Box 289
Wadsworth, TX 77483

Re: Request for Waiver of Commission Rules Regarding the Spectral Efficiency of Private Land Mobile Radio Services in the 150-174 and 450-470 MHz Bands, Requiring 12.5 kHz Channel Bandwidth or Equivalent Technology by January 1, 2013

Dear Mr. Plummer:

This letter refers to the above-referenced waiver request. On November 15, 2012, South Texas Project Nuclear Operating Company (STPNOC) submitted a request¹ for a waiver until April 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 STPNOC seeks the extension for PLMR Stations KEE464, WNIL334, WPED353, WPED361, WPER404, WPMQ518, and WPMX721. For the reasons set forth below, we grant the waiver request.

Background. STPNOC is one of the newest and largest nuclear power facilities in the nation. STPNOC's mobile communications system is designed to communicate both inside and outside of its complex. It consists of a 12-channel UHF conventional voice two-way PLMR system, a single channel UHF Prompt Notification Siren System, and a single channel VHF simulcast Paging System. STPNOC has completed narrowbanding the PLMR and siren systems, and seeks a waiver only with respect to the paging system, the narrowbanding of which was delayed by equipment delivery dates and nuclear refueling activities.

STPNOC has replaced and/or reprogrammed approximately 500 PLMR mobile and portable radios to meet the narrowband requirement. However, due to delays in equipment delivery from the manufacturer and other external influences beyond STPNOC's control, it recognizes that it will be unable to finalize the completion of its radio system to narrowbanding prior to the January 1, 2013 deadline. Consequently, STPNOC seeks a 3-month extension of the narrowbanding deadline, until April 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;³ or (ii) in

¹ See South Texas Project Nuclear Operating Company Request for Extension of Narrowbanding Deadline, Docket No. 99-87 (filed November 15, 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 47 C.F.R. § 1.925(b)(3)(i).

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.⁴ 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.⁵ 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.”⁶

Based on the record before us, we conclude that STPNOC has presented sufficient facts to meet the high standard for grant of the requested waiver. If we were to strictly apply the narrowbanding rules, STPNOC would be required to expend significant financial and administrative resources to narrowband its existing VHF wideband facilities by January 1, 2013. We conclude that strict enforcement of the narrowbanding deadline under these circumstances would not serve the underlying purpose of the rule and that a waiver would be in the public interest. In reaching this conclusion, we place significant weight on the showing that STPNOC has made with respect to the factors identified in our *Narrowbanding Waiver Guidance Notice*.

STPNOC has shown diligence in planning and implementing its transition to narrowbanding. STPNOC states that it has completed the transition of the UHF PLMR System and UHF Prompt Notification System.⁷ Due to the complexity of modifying a nuclear power plant radio system, the VHF simulcast paging system remains to be narrowbanded. The completion of the STPNOC paging system to narrowband will insure overall plant coverage. Further, the paging transmitters arrived coincidentally with the STPNOC nuclear refueling efforts, a time when the paging system cannot withstand any downtime or risk of failure.⁸ Under these circumstances, we conclude that the 3-month waiver period requested by STPNOC 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 STPNOC a waiver of the Commission’s January 1, 2013 VHF/UHF narrowbanding deadline until April 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.

⁴ 47 C.F.R. § 1.925(b)(3)(ii).

⁵ 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*).

⁶ *Id.* at 9649.

⁷ Waiver Request at 2.

⁸ *Id.* at 6.

§ 1.925(b)(3), that the Request for Waiver, filed on November 15, 2012 by South Texas Project Nuclear Operating Company, Texas IS GRANTED.

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". The signature is written in a cursive style with a large initial "S".

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau