

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

FILED/ACCEPTED

DEC 20 2012

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
GARY WAFFORD,)
LINDSAY TWO-WAY)
)
)
Request For Extension Of Mandatory)
Narrowbanding Deadline)
)
Implementation of Sections 309(j) and 337 of the)
Communications Act of 1934 as Amended)

WT Docket No. 99-87

To: The Commission

PETITIONERS' REQUEST FOR EXTENSION

Gary Wafford and Lindsay Two-Way ("Petitioners"), through counsel and pursuant to Section 1.925 of the Commission's Rules, 47 C.F.R. §1.925, and the Commission's Public Notice of July 13, 2011,¹ hereby submit their request for a limited extension of the Commission's January 1, 2013 deadline for all VHF and UHF Part 90 operations to migrate to narrowband (maximum 12.5 kHz bandwidth or equivalent efficiency).² In support thereof, the following is shown:

¹ 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, released July 13, 2011 ("*Narrowbanding Extension Public Notice*").

² 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*, WT Docket No. 99-87, RM-9332, 18 FCC Rcd 3034 (2003) ("*Second R&O*"); 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 Rule Making and Order*, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 2-545 (2004) ("*Third MO&O*"); Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Order*, WT Docket No. 99-87, RM-9332, 25 FCC Rcd 8861 (2010) ("*Narrowbanding Waiver Order*"); see also 47 C.F.R. §§90.203(j), 90.209(b).

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I. BACKGROUND

Petitioners provide private carrier service for eligible entities under Part 90. Petitioners' services are used by the oil and natural gas industries, among others. Exhibit 1, attached hereto, lists Petitioners' land mobile stations licensed pursuant to Part 90 of the Commission's Rules and impacted by the Commission's narrowbanding rules. Petitioners operate in an area of Oklahoma known as Tornado Alley and their operations are often affected by severe storms, causing equipment damage and outages. Lightning damage can reprogram memory chips or destroy whole radios. Lightning strikes do not have to be direct hits to cause damage; strikes that are miles away can damage equipment due to their intensity.

Petitioners intend to complete the narrowband transition as soon as possible but are unable to complete narrowbanding by the January 1, 2013 deadline. On this basis, Petitioners request a waiver of the Commission's Rules to permit additional time for Petitioners to complete their narrowbanding effort.

II. PETITIONERS' EXTENSION REQUEST

Petitioners were not aware until recently of the imminent deadline to complete narrowbanding and have not taken steps, other than the purchase of narrowband-capable repeaters described above, to achieve narrowband operation. Petitioners note that the Commission believed the narrowband mandate was of sufficient importance to notify every public safety licensee by letter, but neglected to do so for affected non-public safety licensees. Petitioners do not have frequent contact with the Commission, and do not see Public Notices. While there is certainly the capability to sign up for such services, as a small business, sorting through dozens of FCC items each day, less than one percent of which apply to the Petitioners, is an expense that cannot be borne.

Apparently, the Commission believed that public safety entities had a similar problem. Yet, the Commission only chose to directly notify public safety licensees. Petitioners believe that they should have been afforded the same treatment as public safety licensees. Nevertheless, once Petitioners became aware of the mandatory deadline, they took steps to implement the mandate as soon as possible.

The Commission's *Narrowbanding Extension Public Notice* contains a list of questions which the Commission requests that applicants seeking extension provide information on in their extension requests. The following represents Petitioners' responses to those questions and issues.

A. Steps Already Taken To Complete The Narrowband Transition

To lower electricity costs, Petitioners began acquiring repeaters capable of narrowband operation several years ago. Petitioners purchased repeaters from several different manufacturers; none of those repeaters remain operational due to damage suffered from harsh Oklahoma weather. After a thunderstorm interrupted the power supply, two of Petitioners' repeaters reprogrammed themselves and transmitted on the wrong frequency, burning up the transmit cavity. Two other repeaters lost receiver sensitivity; four more burned up their power amplifiers after a lightning strike occurred while they were transmitting. Such incidents continued even after Petitioners added lightning arrestors and surge suppressors. Petitioners hope to find equipment capable of surviving operation in Tornado Alley, but expect it will take at least one storm season to test equipment for durability.

B. System Size And Complexity

Petitioners' UHF and VHF radio systems are complex, with over 500 mobile radios used by customers in the field. Petitioners have over 20 base station repeaters.

What makes the system complex is that, as a private carrier system, the end users are independent businesses. Thus, there is a significant complexity in working with each user to replace their radios. This is exceeding difficult in a rural area where the replacement of an expensive radio, at no perceived benefit to the end user (from their perspective) means difficulty in retaining that entity as a customer, at a time when cellular companies are offering virtually free units. Thus, the narrowbanding mandate risks putting private carrier operators like Petitioners literally out of business. Therefore, this process must be handled delicately with customers.

C. Whether System Equipment Must Be Replaced Or Upgraded

Petitioners' base and repeater systems are not capable of narrowband operation and must be replaced. Approximately two-thirds of Petitioners' mobile radios are capable of narrowband operation.

D. Planned System Upgrades During Narrowbanding

In the near future, Petitioners plan on transitioning to digital operation with 6.25 kHz efficiency.

E. Funding Sources, Government Approval, Multi-Year Budgeting

As Petitioners are not government entities, they will bear the brunt of all rebanding costs. Narrowbanding will require a multi-year budgeting process as it costs several thousand dollars each to replace repeaters.

F. Narrowbanding Scheduling Dependency On Neighboring Licensees

Petitioners' narrowbanding schedule does not depend on any neighboring licensees.

G. Plans To Minimize Impact On Co-Channel And Adjacent Channel Licensees

While Petitioners does not believe any adjacent or co-channel licensees would be affected by continued wide-band operation, Petitioners hope to minimize interference as much as possible. Petitioners check their base stations at least once per month for deviation, tone encode level, center frequency for transmit and receive, and power levels to ensure they do not cause interference.

In addition, Exhibit 2, attached hereto, represents a list of adjacent channel licensees within proximity of Petitioners' operations. Petitioners pledge to work with each impacted licensee to minimize interference. Should any adjacent channel licensee have a question about this request, they may contact Gregory Oshel of Shulman Rogers at goshel@shulmanrogers.com.

III. CONCLUSION

A grant of an extension of time to complete narrowbanding for Petitioners would not frustrate the Commission's Rules as the Petitioners expect to move to narrowband operation by the end of 2013. Petitioners face several unique difficulties in achieving narrowband operation that justify a waiver. First, as mentioned earlier, Petitioners operate in an area of Oklahoma known for tornados and lightning strikes. There can over 4,000 lightning strikes in a square mile and a single hour, wrecking havoc on radio equipment. Petitioners must test equipment for suitability under these conditions before making large purchases and deploying equipment. Second, much of Petitioners' equipment, such as mobile radios, is used by customers in the field and is therefore not under Petitioners' direct control. Petitioners must schedule a time with their customers to replace or upgrade radios. This can be a delicate process, as Petitioners do not wish to disrupt their customers' operations and give the customers a reason to switch to a different carrier or communications system. Finally, Petitioners consist of an individual and a small

business with limited financial resources. As they are not eligible for any government funding, the narrowbanding process will cause significant financial strain.

WHEREFORE, Petitioners respectfully request that the FCC act expeditiously to grant Petitioners a waiver of the Commission's Rules, and extend the narrowbanding deadline for Petitioners' impacted stations until December 31, 2013.

Respectfully submitted,

**GARY WAFFORD,
LINDSAY TWO-WAY**

A handwritten signature in black ink that reads "Alan S. Tilles, Esquire". The signature is written in a cursive style with a long, sweeping underline.

By: Alan S. Tilles, Esquire
Its Attorney

Shulman Rogers Gandal Pordy & Ecker, P.A.
12505 Park Potomac Ave., Sixth Floor
Potomac, Maryland 20854
(301) 231-0930

Date: December 20, 2012

Exhibit 1

Licensee

Lindsay 2-Way

Lindsay 2 Way Consolidated Inc

Lindsay 2 Way Consolidated Inc

Lindsay Two-Way Consolidated, Inc.

Lindsay2-Way Consolidated, Inc.

Wafford, Gary

Call Sign

WPYT791

WQAC630

WQAS452

WQCR925

WQJA671

WPPG591

Licensee

AAR of Oklahoma Inc
 Acconia Wind Energy USA
 Altom's of Norman
 American Fidelity Property Co
 APAC Oklahoma Inc
 ARK Wrecking
 Arrowhead Yacht Club Marina
 Barrett, John
 Cable One Inc
 Carl Karcher Enterprises d/b/a Carl's Jr
 Chesapeake Operating Inc
 Chickasaw Nation
 Choctaw Nation of Oklahoma
 Citizens Pottawatomie Nation
 Clearwater Paper Corp
 Clements Food Co Inc
 CNL Income Frontier City
 Cookson Hills Electric Cooperative Inc
 Custer Co. Rural Water District 3
 Dayton Tire Co
 DCP Midstream LP
 Deaconess Health System d/b/a Deaconess Hospital
 Devon Energy Corp
 Dickey, Glenn
 Echo Services Inc
 Edmond Public Schools
 Embassy Suites Norman
 Equine Medical Associates Inc
 Farmers Cooperative Assn
 Faz Associates LLC
 Froman Propane
 G&G Electronics Inc
 Gallardia Golf & Country Club
 Garber Coop
 General Mills Operations Inc
 Ham & Phillips Service Co
 Hefner Middle School
 Hobby Lobby, Inc
 Ike Neufeld & Sons
 Jane Phillips Medical Center
 Jenks Public Schools
 Jimmy Austin OU Golf Club
 Jones, Garland
 K&K Berdin Inc
 Kickapoo Casino
 Kiowa Casino Operating Authority
 Lake Region Electric Cooperative
 Leons Radio
 Lino's LLC
 Long John Silver's
 Magnum Foods d/b/a Little Caesar's
 Magnuson Hotel and Meridian Convention Center
 Mahorney, Ray
 Mc Loud Telephone Co
 McDonald's Restaurants of Oklahoma
 Miller, Sammy
 Modern Communications Systems Inc
 Northeast Rural Services Inc
 Nubs Well Servicing Inc
 Oak Tree Country Club
 Odel Enterprises d/b/a Backyard Burger
 Oklahoma Gas & Electric Co
 Oklahoma Publishing Co
 Phillips 66 Communications Inc
 Prestage Farms of Oklahoma
 Quattlebaum, Marvin
 Raiston Purina Co
 Rite Way Construction
 Roudebush, Robert E
 S&H Tank Service
 SaI Enterprises d/b/a The Pet Café
 Self Radio
 Sheet Metal Workers No 124
 Southern G Holdings LLC
 Southwestern Gunite Co
 Southwestern Medical Center LLC
 Stuart S Gemco of Oklahoma
 Sunoco Partners Marketing & Terminals LP
 Talbott, Jimmy
 TalkRadio, LLC
 Ted-Mac Inc
 Total Communications Inc
 United Parcel Service
 Valor Telecommunications of Texas, L.P., d/b/a Windstream Communications Southwest
 Weinberg, William
 Wendoma LLC
 Wendorm LLC
 Wilsons Communications Enterprises
 WTR Inc
 Wynnewood Refining Company
 YKIT LLC d/b/a Taco Mayo
 York International
 Yum Restaurant Service Group

Exhibit 2**Licensee Street Address**

6611 S Meridian ATTN Mark Vann
 10157 N 2010 Rd ATTN. Red Hills Wind Project
 7 Rustic Hills ATTN Montez B Altom
 2000 Classen Blvd #226A ATTN Sherry Kraus
 14106 E 36th St N ATTN. Bob Hinton
 1800 S 49TH W Ave ATTN Chris Lebow
 PO Box 600 ATTN Joe Harwood
 PO Box 26
 1314 N 3rd St, 3rd Floor ATTN Nancy Morris
 401 W Carl Karcher WAY PO Box 4349 ATTN R&M
 PO Box 548806 ATTN Manager
 1500 N Country Club Rd ATTN. Alan Cochran/Wylie Pitts
 601 N 16th PO Box 1210 ATTN RD Hendrix
 1609 Gordon Cooper Drive ATTN: J.T Summerlin
 PO Box 1016 ATTN Admin Asst
 6601 N Harvey ATTN: Edward Clements
 11501 NE Expressway ATTN: Radio Manager
 PO Box 539 ATTN. General Manager
 PO Box 217
 PO Box 24011 ATTN. Ron Ferguson
 6175 Highland Avenue ATTN Communications
 5501 N Portland Ave ATTN: Security Department
 1200 Smith St #3300 ATTN Sean Graham
 RT 3 BOX 242
 1400 N Harvey Rd PO Box 1829 ATTN Steven G Hinkle
 612 W Campbell ATTN John Fuller
 2501 Conference Dr ATTN: Robert Henley
 2625 S I-35
 301 S 1st St
 3252 Roanoke ATTN Gregory Owings
 PO Box 1166 ATTN. Cary Froman
 102 N Main St ATTN: George Reust
 5300 Gallardia Blvd ATTN Wayne Willis
 PO Box 849 ATTN Bill Sims
 1157 Doughboy Dr ATTN Technical Manager
 PO Box 3907 ATTN. Nancy Rumph
 8400 N MacArthur Blvd ATTN. Lise Finley
 7701 SW 44th St ATTN. Richard Rozwalka
 RT 1 BOX 135
 3500 SE Frank Phillips Blvd ATTN Greg Harper
 205 E B St ATTN. Stephen Matthews
 1 Par Dr ATTN: Eddie Roach
 RT 1 BOX 69
 PO Box 7327 ATTN: Kevin Berdin
 25230 E Hwy 62 ATTN Radio Manager
 1910 Hwy 36 County Rd ATTN: Michael Schrader
 PO Box 127 ATTN Tony Hallum
 3901 S Hattie PO Box 94748 ATTN Leon Matula
 327 W State Hwy 152, STE 101 ATTN Robert Angelino
 PO Box 11988 ATTN. Forrest Ragsdale
 7205 N Robinson ATTN Colin Gilmartin
 737 S Meridian Ave ATTN. Gary Burleson
 PO Box 817
 19101 SE 59TH St ATTN. Steve Weatherby
 2600 Corporate Exchange Dr Suite 300 ATTN: Beth Cotner
 14848 120th St
 806 E HWY 7 ATTN Robert Storie
 212 S Main ATTN Brad Meyer
 PO Box 206 ATTN: Joe D. Sullivan
 700 Country Club Dr PO Box 1189
 983 Johnson Ave NW ATTN: Nick Aber
 PO Box 321 Mail Code GB10 ATTN. John Grunsted
 PO Box 25125 ATTN Daria Butler
 PO Box 6000 ATTN Wireless Regulatory
 911 Texas St PO Box 509 ATTN: Greg Stephens
 PO Box 423
 13900 N Lincoln Blvd PO Box 13900 ATTN. David Grubbs
 PO Box 3748 ATTN Pete Dinsmore
 2504 Apache Pass
 PO Box 773 ATTN Jerry Sublette
 1204 N Interstate Dr, STE 100 ATTN: Gary Godwin
 111 S Hall St PO Box 76 ATTN John Self
 1401 N W 1st ATTN Perry Sneed
 12377 Merit Drive, Suite 1700 ATTN J Douglas Ramsey
 27108 E 84 St
 5602 SW Lee Blvd ATTN Engineering
 4157 S 88th East Avenue ATTN Gary Stuart
 1 Floor Daniel Dr, Bldg A, Level 3 ATTN: Jeff Sweeney
 RT 5 Box 144
 3158 S 108th E Ave #270 ATTN Brian Toliver
 6119 Cache Rd PO Box 6224 ATTN Taryn Tongson
 2701 N Van Buren ATTN Bill Wyatt
 911 Grade Lane Bldg 113 ATTN: Todd Pittman
 11101 Anderson Drive ATTN Sandra Western, 2523-85F03-B
 11333 E Pine St Suite 147 ATTN Jim Allen
 1 Commercial Dr ATTN James Molinaro
 27 Central Ave ATTN: Andrew Brush
 104 Helen Circle ATTN: Phillip Wilson
 3158 S 108TH E AVE STE 276 ATTN Chris Laverty
 906 S Powell PO Box 305 ATTN Dan Looney
 213 W 10th St ATTN. Harold Welliver Jr
 5005 Interstate Dr ATTN: Allen Gaines
 5200 Commerce Crossings PO Box 35260 ATTN Business, Tax, and Licensing

Licensee City, State, ZIP Code

OKLAHOMA CITY, OK 73159
 HAMMON, OK 73650
 NORMAN, OK 73072
 OKLAHOMA CITY, OK 73106
 TULSA, OK 74116
 TULSA, OK 74107
 KETCHUM, OK 74349
 Martha, OK 73556
 PHOENIX, AZ 85004
 ANAHEIM, CA 92801
 Oklahoma City, OK 73154-8806
 ADA, OK 74820
 DURANT, OK 74701
 Shawnee, OK 74801
 Lewiston, ID 83501
 OAKLAHOMA CITY, OK 73116
 Oklahoma City, OK 73131-6416
 STIGLER, OK 74462
 CUSTER, OK 73639
 OKLAHOMA CITY, OK 73124
 Beaumont, TX 77705
 OKLAHOMA CITY, OK 73112
 Houston, TX 77002
 WEATHERFORD, OK 73096
 SEMINOLE, OK 74868
 EDMOND, OK 73003
 NORMAN, OK 73069
 Edmond, OK 73013
 CLINTON, OK 73601
 KANSAS CITY, MO 64111
 CLAREMORE, OK 74018-1166
 GUYMON, OK 73942
 OKLAHOMA CITY, OK 73142
 Garber, OK 73738
 VINITA, OK 74301
 ENID, OK 73702
 OKLAHOMA CITY, OK 73132
 OKLAHOMA CITY, OK 73179-4808
 FAIRVIEW, OK 73737
 BARTLESVILLE, OK 74006
 JENKS, OK 74037
 Norman, OK 73019
 HOLLIS, OK 73550
 EDMOND, OK 73083
 HARRAH, OK 73045
 Devol, OK 73531
 Hulbert, OK 74441
 OKLAHOMA CITY, OK 73129
 MUSTANG, OK 73064
 LEXINGTON, KY 40579
 OKLAHOMA CITY, OK 73116
 OKLAHOMA CITY, OK 73108
 VELMA, OK 73091
 NEWALLA, OK 74857
 COLUMBUS, OH 43231
 Lindsay, OK 73052
 DUNCAN, OK 73533
 GROVE, OK 74344
 FOX, OK 73435
 EDMOND, OK 73083
 PIEDMONT, OK 73078
 OKLAHOMA CITY, OK 73101
 OKLAHOMA CITY, OK 73125
 Bartlesville, OK 74003-6000
 Texhoma, OK 73949
 Leedey, OK 73654
 EDMOND, OK 73013
 ENID, OK 73702
 ALTUS, OK 73522
 LINDSAY, OK 73052
 NORMAN, OK 73072
 MONTAGUE, TX 76251
 OKLAHOMA CITY, OK 73106
 Dallas, TX 75251
 BROKEN ARROW, OK 74014
 Lawton, OK 73505
 TULSA, OK 74145
 Sugar Land, TX 77478
 ENID, OK 73701
 Tulsa, OK 74146
 LAWTON, OK 73505
 ENID, OK 73703-1724
 Louisville, KY 40213
 Little Rock, AR 72212
 TULSA, OK 74116-2030
 FLORIDA, NY 10921-1027
 CORTLAND, NY 13045-2611
 ENID, OK 73703
 TULSA, OK 74146
 Wynnewood, OK 73098
 EDMOND, OK 73003
 Norman, OK 73069
 Louisville, KY 40229