

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	WT Docket No. 12-332
Request for Extension of Initial)	
Construction Requirements)	
)	WT Docket No. 06-150
Service Rules for the 698-746, 747-762)	
and 777-792 MHz Bands)	
)	

To: Wireless Bureau

Supplement to
NTCH, Inc.'s Request for Extension of
Interim Construction Benchmark

NTCH, Inc. hereby supplements its April 19, 2013 Request for Extension of Interim Construction Benchmark in two respects. First, NTCH has reorganized its 700 MHz holdings by assigning nine of the call signs in its original request to its wholly-owned subsidiary, WGH Communications, Inc. This pro forma reorganization has no substantive effect on the construction process or timetable, but because the April 10 Public Notice made it clear that B Block extensions are specific the entities to whom they are granted, NTCH is hereby requesting that its April 19 Request apply to itself (as the licensee of B Block station WQJQ781) and to its subsidiary as the licensee of B Block stations WQJQ734, WQJQ735, WQJQ748, WQJQ750, WQJQ752, WQJQ770, WQJQ744, WQJQ758, and WQJQ778 which are now licensed to WGH Communications. Appropriate copies of this request will be filed in the ULS with each of the subject licenses.

In addition, an important development has occurred since the original NTCH request. On April 22, Dielectric, a major manufacturer of antennas for broadcast and wireless stations, sent out a notice that it is ceasing operations in this space in a couple of months. This company was NTCH and now WGH's source of antennas for its planned 700 MHz stations. NTCH had placed a large order for approximately 40 antennas months ago in an effort to ensure that the original June 13 build-out deadline could be met. Dielectric advised by email on April 22 that it would no longer be able to deliver this order and, presumably, many other similar orders for its antennas.

NTCH is currently searching for a suitable alternative source for antennas, but in the meantime this unexpected development makes it impossible for it to get antennas from an

alternative supplier by early June. Dielectric has been a trusted supplier of communications antennas for decades, and both wireless operators and broadcast licensees were caught completely by surprise by its announcement. Obviously, this event is beyond NTCH's control and could not reasonably have been anticipated. That being the case, an additional and very compelling ground supports NTCH's request for an extension of time to meet the interim build-out threshold.

Because of the imminence of the deadline, NTCH respectfully requests action as promptly as possible on this request, for itself and its subsidiary.

Respectfully requested,

_____/s/_____

Donald J. Evans
Counsel to NTCH, Inc. and
WGH Communications, Inc.

April 30, 2013
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To: Wireless Bureau

**NTCH, Inc.’s Request for Extension of
Interim Construction Benchmark**

April 19, 2013

NTCH, Inc., licensee of the 700 MHz B Block Stations listed in Attachment A, hereby requests an extension of time to complete the first stage build-out required of Block B 700 MHz licensees. As will be set forth below, NTCH is effectively precluded from offering commercial service over these stations until the Commission resolves the pending issues surrounding interoperability in the 700 MHz band.

Section 1.946(e) of the Commission's rules provides that extensions of time to construct will be granted when a licensee shows that a failure to meet the construction or coverage deadline is due to causes beyond its control. This is certainly the case here. NTCH therefore requests that the Commission extend the period for the initial build-out of this station until December 13, 2013 in the expectation that the Commission will have resolved the issues by then.

Background

The Wireless Bureau issued a Public Notice last week granting a blanket extension of time to construct Block B facilities until December 13, 2013.¹ The Bureau had received numerous extension requests from B Block licensees who explained that the two distinct band classes that have been allocated for the lower 700 MHz have created huge impediments to "meaningful access to a wide range of advanced devices." *B Block Extension Order* at p.1. The Bureau recognized that uncertainty regarding the interoperability issue is impeding the ability of licensees to hit their interim benchmarks, and granted a six month extension on that basis. Although the impediments identified by the previous petitioners clearly apply to the entire B Block (other than the large carriers who are themselves creating the interoperability problem), the Bureau made the extension apply only to existing licensees, not transferees and assignees.

In anticipation of acquiring spectrum in this band, NTCH has consistently argued in various Commission rulemaking and adjudicative forums that interoperability is critical to the B Block's successful roll-out by competing carriers.² Last November, NTCH reached an agreement to acquire the twelve B Block licenses from Verizon Wireless that are listed in Attachment A. The assignment application was duly submitted and approved, but due to

¹ *Wireless Telecommunications Bureau Extends 700 MHz B Block Licensee Interim Construction Benchmark Deadline Until December 13, 2013*, DA 13-689, rel. April 10, 2013. ("*B Block Extension Order*")

² See, for example, NTCH, Inc.'s Petition to Deny Verizon-SpectrumCo Assignment Application (File No. 0004993617), and NTCH, Inc.'s Comments in Docket WT Dockets No. 12-69 and WT Docket No. 11-186.

complications involving another deal between the parties, the assignment was not consummated until April 16, 2013 – a few days *after* the B Block Extension Order was released. This quirk of the calendar meant that NTCH was not an “existing licensee” for purposes of the *Order*’s application.³

Pending the consummation – and mindful of the upcoming June 13, 2103 deadline – NTCH had leased the spectrum from Verizon Wireless under a spectrum manager lease. Pursuant to that lease, NTCH has already made huge strides in acquiring and constructing tower sites, ordering transmitters which should be delivered in the next few weeks, contracting for switching services, and generally doing everything possible to get these stations operational in the near term. What it cannot do itself is solve the interoperability issue.

Without interoperability, there is no 700 MHz roaming partner to fill in the service gaps. Handset orders must be on hold because it would be imprudent to order large (or even small) volumes of handsets which may immediately become obsolete when the Commission rules on the interoperability issue. The lack of interoperability across the band not only limits equipment options both for base stations and handsets, but it cripples the ability of 700 MHz operators – especially new entrants like NTCH – from being able to offer the ubiquitous nationwide mobile access that was envisioned by the Commission when it first established cellular service thirty years ago. NTCH must echo here the concerns that the other B Block licensees have raised: while the interoperability cloud hangs over this band, commercial operation for non-AT&T carriers is basically not viable.

The fact that the Commission has granted a blanket extension of the interim build-out date to almost all other B Block licensees only exacerbates the problem for NTCH. With an industry-wide deadline looming, vendors and others in the matrix of service and equipment suppliers needed to get a new cellular system off the ground have been able to breathe a sigh of relief. Now that NTCH is the only B Block licensee who remains subject to the June 13, 2013 deadline (other than the large carriers expressly identified by the Commission in the *B Block Order*), it is impossible to instill in the supply chain the urgency needed to accomplish a June 13 build-out. Nobody wants to accelerate their entire production schedule for a single carrier.

³ Arguably, NTCH’s status as a lessee of the spectrum as of April 10, 2013 qualifies it for the blanket treatment adopted by the *Order*. If so, the Bureau need only confirm that that is the case.

All of these circumstances are beyond the licensee's control. Accordingly, NTCH requests that the Commission grant it the same relief it has granted other B Block licensees who happened to hold their licenses a week earlier than NTCH. There is no basis to distinguish NTCH's situation from the other B Block licensees. Moreover, NTCH has been undertaking, and will continue to undertake, extensive construction activities intended to bring these stations to full commercial operation very soon after the interoperability matter is resolved.

Contingent Waiver Request

Because the Commission's rules contemplate and provide for extensions of time to construct facilities upon a proper showing of circumstances beyond a licensee's control, it is not clear that a waiver of the build-out requirements of Section 27.14(g) of the rules is needed. But if so, NTCH requests such a waiver. A waiver is supported by the same factual predicate that justifies an extension of the construction deadline: (1) the purpose of the rule (presumably to ensure timely service to people) is not served in any way by requiring construction and the offering of service while the ability to roam and coordinate with other licensees remains unresolved, and (2) requiring the building of a spectral bridge to nowhere would be inequitable, unduly burdensome and contrary to the public interest since no useful service would result and significant expense would be incurred.

Conclusion

For the reasons set forth above, there are ample grounds to extend the time for meeting the initial build-out threshold for the B Block licenses in Attachment A until a reasonable time after the major impediment has been eliminated. NTCH therefore respectfully requests such an extension and any required waiver associated with such an extension.

Respectfully submitted,
NTCH, Inc.

By: _____ /s/
Donald J. Evans
Its Attorney

April 19, 2013

Attachment A

CALL SIGN	MARKET NUMBER/NAME	FREQUENCY/BLOCK
WQJQ734	CMA 161 – Lubbock, TX	704-710 MHz and 734-740 MHz / Block B
WQJQ735	CMA 188 – Amarillo, TX	704-710 MHz and 734-740 MHz / Block B
WQJQ748	CMA 255 – Odessa, TX	704-710 MHz and 734-740 MHz / Block B
WQJQ750	CMA 281 – Laredo, TX	704-710 MHz and 734-740 MHz / Block B
WQJQ752	CMA 295 – Midland, TX	704-710 MHz and 734-740 MHz / Block B
WQJQ770	CMA 469 – Maryland 3 - Frederick	704-710 MHz and 734-740 MHz / Block B
WQJQ744	CMA 234 – Athens, GA	704-710 MHz and 734-740 MHz / Block B
WQJQ758	CMA 362 – Florida 3 - Hardee	704-710 MHz and 734-740 MHz / Block B
WQJQ778	CMA 545 – Nevada 3 - Storey	704-710 MHz and 734-740 MHz / Block B
WQJQ781	CMA 558 – New Mexico 6 - Lincoln	704-710 MHz and 734-740 MHz / Block B



COMMUNICATION TECHNOLOGIES

A Division of SPX Corporation

April 19, 2013

Dear Valued Customer:

After careful consideration, SPX has decided to discontinue the broadcast television and radio and wireless antenna operations of its Dielectric Communications business unit worldwide, due to extremely difficult global economic conditions in the broadcast marketplace, and SPX's ongoing efforts to further focus its future growth strategy on its Flow Technology business. We have made the impacted Dielectric employees in the U.S. aware of this difficult decision.

While you are likely anxious to understand more specifics in how the discontinuation of Dielectric's broadcast and wireless antenna operations may impact your company, we respectfully request your patience and understanding over the coming weeks as we work through the many complex steps associated with this decision. As a result, please be aware that Dielectric broadcast and wireless antenna personnel will be unavailable during the week of April 22nd as we focus on coordinating next steps. We anticipate that by the early part of the following week of April 29th that we will be able to directly respond to your inquiries.

Please note that Dielectric broadcast and wireless antenna will continue to operate in a limited capacity through the end of June 2013. Our primary focus will be on completing outstanding orders while also conducting the necessary steps to close the business.

We will continue to accept orders on a limited basis for in stock inventory items. However, orders for such items may only be accepted if payment is received up front and in full and delivery is taken on or before May 31st.

Again, we will do our best to respond to all inquiries as quickly as possible starting the week of April 27th. Many thanks again for your patience and understanding.

Sincerely,

Mark Fichter
GM Dielectric Communications, Broadcast and Wireless Antenna Operations