

Before the
 Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)	
)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	

ORDER

Adopted: February 12, 2009

Released: February 12, 2009

By the Commission:

1. In the *Second Report and Order* in this proceeding,¹ the Commission, among other things, reconfigured the 700 MHz public safety band for the purpose of establishing a nationwide, interoperable, broadband public safety communications network.² Specifically, the Commission designated the lower half of the 700 MHz public safety band (763-768/793-798 MHz) for broadband communications, and consolidated narrowband operations in the upper half (769-775/799-805 MHz).³ Consequently, the Commission required existing narrowband operations in the spectrum blocks corresponding to television channels 63 and 68, and in the upper one megahertz of channels 64 and 69, to be relocated to the new consolidated narrowband segment by the DTV transition deadline of February 17, 2009.⁴ For the reasons discussed below, on our own motion we stay the February 17, 2009 deadline for consolidating existing narrowband allocations to the new consolidated narrowband segment.

2. The Commission originally adopted the February 17, 2009 narrowband relocation deadline because it found it “important that the commercial Upper 700 MHz Band D Block licensee and the Public Safety Broadband Licensee not be constrained by the presence of narrowband operations in the public safety broadband allocation with regard to implementing a build-out plan for the nationwide

¹ See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket 03-264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules, WT Docket No. 06-169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, Declaratory Ruling on Reporting Requirement under Commission’s Part 1 Anti-Collusion Rule, WT Docket No. 07-166, *Second Report and Order*, 22 FCC Rcd 15289 (2007) (*Second Report and Order*) recon. pending.

² *Id.* at 15407-08 ¶¶ 325-326.

³ *Id.* at 15294 ¶ 10.

⁴ *Id.* at 15410 ¶ 332.

broadband network.”⁵ The Commission also found that “focusing the resources necessary to implement the relocation of narrowband operations during the time leading up to when the TV channels are fully cleared will enable the public safety community, as of the February 17, 2009 deadline, to devote its full attention to the important matter of deploying broadband communications capabilities with a nationwide level of interoperability.”⁶ In related actions, the Commission established a process whereby following the D Block auction, the winning bidder for the D Block license and the Public Safety Broadband Licensee would commence negotiations of a Network Sharing Agreement (NSA) and concurrently develop a narrowband relocation plan within 30 days.⁷ Finally, the Commission also required that the Upper 700 MHz Band D Block licensee pay the costs associated with relocating public safety narrowband operations to the consolidated channels.⁸

3. On September 25, 2008, the Commission adopted a *Third Further Notice*, in which it proposed to extend the February 17, 2009 narrowband relocation deadline.⁹ The Commission explained that “[i]mplicit in our decision to adopt February 17, 2009, as the relocation deadline were the assumptions that Auction 73 would yield a national D Block licensee and that the NSA would be successfully negotiated and approved with sufficient time to effect the narrowband relocations prior to February 17, 2009 – the deadline by which the public safety broadband frequency bands must be vacated by current analog television operations.”¹⁰ Because those assumptions did not materialize, the Commission observed that “an extension of the current February 17, 2009, deadline for completing the relocation of all narrowband operations to the consolidated narrowband channels appears warranted.”¹¹ Accordingly, the Commission proposed to “extend the narrowband relocation deadline to twelve months from the date upon which narrowband relocation funding is made available by the D Block licensee(s),” which it further proposed would occur “no later than the date upon which the executed NSA(s) is submitted to the Commission for approval.”¹² Action on the *Third Further Notice*, including the proposed extension of the narrowband relocation deadline, remains pending.

4. In sum, the predicate assumptions for establishing February 17, 2009 as the narrowband relocation deadline have not materialized, and final disposition of a revised deadline remains pending in this proceeding. Accordingly, on our own motion, we stay the February 17, 2009 deadline for relocating existing narrowband operations to the consolidated narrowband channels (769-775/799-805 MHz) until a new deadline is established in a subsequent order in this proceeding.

5. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), and Section 1.3 of the Commission’s Rules, 47 C.F.R. § 1.3, that the February 17, 2009 deadline for consolidating existing narrowband operations to

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 15412 ¶ 340.

⁸ *Id.* at 15411 ¶ 336.

⁹ See Service Rules for the 698-746, 747-762 and 777-792 Bands; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, WT Docket No. 06-150, PS Docket No. 06-229, *Third Further Notice of Proposed Rulemaking*, 23 FCC Rcd 14301, 14442 ¶ 437 (2008) (*Third Further Notice*).

¹⁰ *Id.* at ¶ 436.

¹¹ *Id.*

¹² *Id.* at ¶ 437.

the upper half of the 700 MHz Public Safety band (769-775/799-805 MHz) IS STAYED until a new effective deadline is adopted in a subsequent order in this proceeding.

6. IT IS FURTHER ORDERED that the effective date of this Order is the date upon which this Order is released by the Commission.¹³

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹³ This Order addresses a Commission-imposed deadline that is to become effective on February 17, 2009, hence the need for making the Order effective immediately upon release.