

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

In the Matter of )  
 )  
Waiver of FCC Rule Sections 1.946 (c) and (d) ) File No. \_\_\_\_\_  
for Wireless Site-based and Mobile-only Systems )

To: Chief, Wireless Telecommunications Bureau

**PETITION FOR WAIVER**

The Enterprise Wireless Alliance (“EWA” or the “Alliance”), in accordance with Section 1.925 of the Federal Communications Commission (“FCC” or “Commission”) rules,<sup>1</sup> urgently requests the Commission to waive until August 31, 2020, the requirement that site-based and mobile-only wireless systems complete construction of facilities with buildout deadlines between March 15, 2020 and August 31, 2020. Granting temporary waiver relief would be consistent with other public interest actions the Commission has taken in response to the extraordinary disruption being caused by the coronavirus pandemic and would relieve the FCC of having to act on a large number of individual waiver requests that otherwise could be filed.

The nation finds itself in an unprecedented situation. The natural and man-made disasters it has weathered in the past typically have a significant impact on discrete parts of the country, whether communities, cities, or even states. Citizens in other regions invariably come to their aid, always by sharing resources and often by going to the stricken area to provide assistance. During these worst of times, America is at its best.

Those instinctive, generous actions are not possible today. Much of the population has been advised by health experts and by the government to self-quarantine by remaining at home

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<sup>1</sup> 47 C.F.R. § 1.925.

as much as possible and to maintain social distancing when outside their homes. An increasing number of Americans have actually contracted the virus and are in varying states of medical distress. The result has been a dramatic reduction in all business activity in this country, in particular activity that requires humans to engage with one another to accomplish tasks. Because the pandemic is an international problem, it also has engendered significant supply chain delays that affect many products on which the American economy relies, including wireless telecommunications equipment. Activities that were routine and easily achievable, as well as products that were routinely available even one month ago, now present entirely unexpected challenges.

The Commission processes many thousands of applications each year for site-based and mobile-only systems licensed primarily, but not exclusively, under Parts 90 and 101 of the FCC rules. These systems are used by every facet of the nation's business and governmental communities. They enable them to conduct their operations more efficiently and effectively. Some applications are for new systems; others seek modifications to add frequencies and/or locations. The FCC rules typically have construction deadlines by which the new or modified facilities need to be placed into permanent operation.<sup>2</sup> The rules define the deadline as a specific amount of time after grant of the license. A failure to complete construction by the deadline, and to notify the FCC within the prescribed period that the licensee has done so, results in the automatic cancellation of the license or those portions of the license that are subject to the construction deadline.

Because new and modified licenses are issued on a daily basis, construction deadlines for site-based and mobile-only systems also arise daily. A licensee deploying a multi-site system

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<sup>2</sup> See, e.g., 47 C.F.R. §§ 90.155, 90.631, 90.633, 101.63.

might have multiple deadlines within a week, depending on when the FCC processed each of its applications.

During normal times, complying with these timelines for placing spectrum into operation is not a problem except in the rarest of instances. These are not normal times. Constructing a wireless system requires equipment that often comes from multiple vendors, some of whose supply chains already have been delayed or are expected soon to be seriously disrupted. It requires humans to prepare the equipment for installation, to deliver it to the location where it is to be deployed, and to place it into operation. It may require someone to climb a tower to install antennas and lines. In some cases, it requires users of subscriber devices to bring their radios to a location where they can be reprogrammed or a programmer to be dispatched to the place where the radios are located.

Multiple people are involved at every step of the process and, at this time, people are in short supply. Some are hospitalized. Some have the virus without requiring hospitalization but are ill and quarantined. Some are self-quarantined until it can be determined whether they carry the virus. Others have no indication of illness, but have been directed to stay home to help flatten the curve of the epidemic. Those who are available are attending to our most critical communications systems, particularly those used by public safety entities and medical providers. And unlike typical disaster situations, anything other than essential travel is actively discouraged to limit the spread of the virus. Programmers, technicians, tower climbers, and other qualified personnel cannot rush in to fill these spots when local professionals are not available as they did, for example, after 9-11 and Hurricane Katrina.

The Commission has recognized already that the pandemic has a direct effect on the ability of licensees to meet construction deadlines. It has stated the following in regard to television stations involved in completing their transitions to post-auction channels:

We recognize that the construction and delivery delays that are occurring as a result of the COVID-19 pandemic, as well as efforts undertaken by the stations themselves to protect the health of their employees and their families, result from circumstances outside of a station's control.<sup>3</sup>

The FCC has invited any television station that anticipates delay to request a waiver of its phase 9 deadline and has advised that it will be assigned to phase 10 with its later deadlines.<sup>4</sup>

These same issues will arise with some, and perhaps a significant number of site-based and mobile-only systems that have construction deadlines in the next few months, a volume of systems significantly greater than the number of television stations in phase 9 of the repacking process. Of course, each could be handled in an individual construction extension request that the licensee would need to prepare and the FCC would need to evaluate and process. However, in EWA's opinion, that would not be the optimal use of FCC resources at a time when the Commission's attention, as it should be, is focused on actions to ensure "that nobody loses broadband and telephone service when they need it most."<sup>5</sup> These site-based and mobile-only systems, for the most part, are not involved in the delivery of those services. They are vital for business operations, but not necessarily critical to the safety of the public at this time. Those that are critical should have first priority for the physical and human resources needed to deploy facilities whether they are facing imminent construction deadlines or not.

It is not possible to predict the length or breadth of this national emergency. EWA certainly hopes that both the duration and scope will be limited. It also hopes that many of its members and others deploying the types of systems described herein will have the people and the equipment to meet any construction deadlines up to and including August 31, 2020, on a timely basis. Nevertheless, delays appear inevitable, particularly in certain parts of the country.

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<sup>3</sup> *Guidance for Stations in Phase 9 of the Post-Incentive Auction Transition as a Result of the Novel Coronavirus (COVID-19) Pandemic*, MB Docket No. 16-306 Public Notice, DA 20-282 (rel. Mar. 17, 2020).

<sup>4</sup> *Id.*

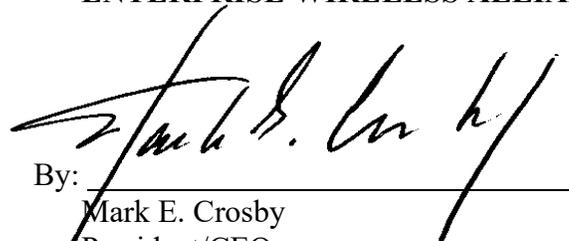
<sup>5</sup> Pai, A. (2020, Mar. 24) Stepping Up to the Coronavirus Challenge; <https://www.fcc.gov/news-events/blog/2020/03/24/stepping-coronavirus-challenge>.

Granting an approximately four-month extension by waiver to all site-based and mobile-only licensees will not discourage those that are able to construct from doing so, but will serve the public interest by prioritizing construction based on need rather than arbitrary deadlines, while also avoiding unnecessary demands on FCC resources

For the reasons described herein, EWA requests that the FCC waive until August 31, 2020, the requirement that site-based and mobile-only wireless systems complete construction of facilities with buildout deadlines between March 15, 2020 and August 31, 2020.

Respectfully submitted,

**ENTERPRISE WIRELESS ALLIANCE**

  
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