

**2014 EXTENDED IMPLEMENTATION ANNUAL CERTIFICATION AND
WAIVER REQUEST FOR EXTENSION OF CONSTRUCTION DEADLINE**

Lower Colorado River Authority (LCRA) hereby files construction extension requests for each unconstructed frequency covered by its previously approved extended implementation plans. LCRA respectfully requests a waiver of Section 90.629 for an extension beyond the January 20, 2015 construction period previously authorized by the FCC. LCRA hereby requests an extension until December 31, 2019 to complete construction of these frequencies.¹

In addition, on April 11, 2014, the FCC granted LCRA's application File No. 0006197001 to add 936.6500 MHz, 938.0000 MHz, 938.4750 MHz, 939.7375 MHz, and 939.9375 MHz to WPWC615 at Location 5 in Austin, TX, with a construction deadline of April 11, 2015. LCRA seeks to incorporate these frequencies into its slow growth plan and requests an extension of the construction deadline for these frequencies until December 31, 2019.

Pursuant to Section 90.629(c) of the Federal Communications Commission's (FCC or Commission) rules, LCRA has also submitted its annual certifications for the approved extended implementation plans covering its 900 MHz wide-area system and requested amendment as described below. Please see the attached chart for the status of the frequencies covered by LCRA's extended implementation plans.

I. BACKGROUND

A. LCRA

LCRA is a governmental agency originally established by a charter of the State of Texas to manage floodwater and to safeguard the residents and property situated on the lower portion of the Colorado River. LCRA has since expanded its floodwater control operations to include numerous other utility services, such as sewage treatment, water sales, and electrical generation and transmission. In addition, LCRA plays an increased role in environmental stewardship in the region and in the economic development of rural

¹ Because the new proposed construction date of December 31, 2019 is beyond the expiration date of WPQA513, WPQE347, and WPRJ768, LCRA is filing a modification application for these call signs (purpose code MD) to extend the construction deadline instead of as request for extension of time (purpose code EX). Upon grant of the modification applications, LCRA understands that the new construction date will be reflected as a special condition on the license or that the Universal Licensing System (ULS) records will be revised to show the new construction deadline. This is consistent with the FCC's grants of LCRA's previous extension requests (*see e.g.*, File No. 0004572253).

communities. LCRA's service area covers 50,000 square miles, stretching across the Colorado River and abutting Mason to the west, Houston to the east, Temple to the north, and San Antonio to the south. Within this area, LCRA serves approximately one million customers. LCRA's underlying mission is to provide public services that improve the quality of life for people in central Texas.

In addition, and pursuant to section 90.179 of the FCC's rules, LCRA engages in non-profit shared use of its 900 MHz Private Land Mobile Radio Service system with a variety of public safety entities in the lower Colorado River region, resulting in highly efficient use of the spectrum. Shared use of LCRA's system has given these entities access to state-of-the-art wireless communications capability that would probably not be available to them otherwise. As such, LCRA's system serves a vital role in the community.

B. LCRA's Extended Implementation Plans

Pursuant to Section 90.629 of the FCC's rules, applicants requesting frequencies for either trunked or conventional operations may be authorized a period of up to five years for constructing and placing a system in operation under certain conditions.

On June 14, 2004, LCRA filed a modification application requesting slow growth implementation authority of five years for twenty-three 900 MHz Industrial/Land Transportation frequencies licensed at four sites under call sign WPXU562 (FCC File No. 0001770321). On September 24, 2004, the FCC granted the application and approved the extended implementation plan for these channels licensed at Liberty Hill (Location 1), Delhi (Location 4), Copperas Cove (Location 5), and San Antonio (Location 6) (herein "Extended Implementation Plan 1").

The FCC also granted LCRA slow growth implementation authority under a second plan for various sites as part of an upgrade to LCRA's 900 MHz wide-area system. LCRA's second extended implementation plan for its upgrade calls for the installation of 186 frequencies at 39 sites throughout its service area. As part of LCRA's proposed enhancements to its radio systems, LCRA filed a set of 16 applications for modification of license and a request for slow growth authority (herein "Extended Implementation Plan 2").² Out of this set of modification applications, the FCC granted LCRA's request for extended implementation authority for all of the base station facilities on a rolling basis

² The FCC granted the modification applications and request for slow growth authority for the following: WPJX852, WPLZ918, WPLZ920, WPLZ929, WPLZ933, WPMI700, WPMZ642, WPNS694, WPQA513, WPQE347, WPRJ768, WPWC615, WPXU562, WPYF305, WPHY768 and WPYM794 (collectively, these call signs comprise LCRA's "Extended Implementation Plan 2").

between November 2005 and January 2006. LCRA requested until September 30, 2009, to complete full construction and operation of these facilities. In addition, the FCC granted LCRA's request for extended implementation authority until September 30, 2009, for 28 corresponding mobile frequencies paired with those 900 MHz base station frequencies (FCC File No. 0002461009).

On January 10, 2011, LCRA filed a single extended implementation certification (purpose code "G" for compliance with yearly station commitments) covering both of its slow growth plans. LCRA also filed individual extension requests and modification applications to extend the construction deadline until January 20, 2015 for the relevant sites and frequencies covered by the slow growth plans. The FCC granted all of LCRA's extension requests and modification applications to extend the construction deadline until January 20, 2015 for all of the frequencies covered by the slow growth plans. In 2013, LCRA filed a single extended implantation certification in which it notified the Commission that it was in compliance with its planned yearly station construction commitments, as set forth in LCRA's 2012 extended implementation annual certification.

II. 2014 ANNUAL CERTIFICATION AND REQUEST FOR WAIVER

For purposes of administrative efficiency, LCRA hereby files a single extended implementation certification for 2014 covering both of its slow growth plans. Consistent with LCRA's extended implementation schedule, LCRA hereby notifies the Commission that it is in compliance with its planned yearly station construction commitments, as set forth in LCRA's 2013 extended implementation annual certification.

However, and as explained below, LCRA requests amendment to its plan to extend the construction deadline for the remaining unconstructed frequencies until December 31, 2019. In addition, on April 11, 2014, the FCC granted LCRA's application File No. 0006197001 to add 936.6500 MHz, 938.0000 MHz, 938.4750 MHz, 939.7375 MHz, and 939.9375 MHz to WPWC615 at Location 5 in Austin, TX, with a construction deadline of April 11, 2015. LCRA seeks to incorporate these frequencies into its slow growth plan and requests an extension of the construction deadline for these frequencies until December 31, 2019.

As explained in its previous requests for extension until January 20, 2015 that were granted by the FCC, LCRA noted that it was beginning the process of migrating from its current Enhanced Digital Access Communications System (EDACS) to a new "OpenSky" wireless communication system. OpenSky is a Harris digital radio technology that will be used for LCRA's next generation radio system. LCRA's migration to OpenSky will utilize the 900 MHz frequencies covered by LCRA's extended implementation plan. LCRA

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explained that it planned to deploy this new system and migrate its customers, including other public safety entities, to this new system over a multi-year period beginning in Fiscal Year 2012 and ending in Fiscal Year 2015. Because of this technology migration and the need to operate both systems during this migration period, LCRA requested and was granted additional time to construct its existing 900 MHz system.

LCRA has since installed infrastructure at 61 sites and approximately half of the OpenSky channels have been activated since 2011. The other half are currently supporting a minimum capacity EDACS system that LCRA needs to continue operating until the user migration is complete. LCRA has reached substantial completion of the user migration, however unforeseen circumstances have kept a portion of its users on EDACS. LCRA has encountered RTU drivers that are incompatible with OpenSky data radios. As a result, this will require tower and unlicensed microwave additions before these remaining users can migrate from EDACS to OpenSky channels. LCRA will continue to activate OpenSky channels throughout 2015 as it de-commissions EDACS and adds channels to meet user loading requirements.

A second unforeseen issue involves increased OpenSky sensitivity to co-channel and adjacent channel interference. LCRA received complaints during migration that it believes are associated with frequency re-use and adjacent channel use, a conclusion supported by the manufacturer. To resolve this situation, LCRA is planning a system wide site re-tune to increase the re-use spacing where possible. The frequencies that have not yet been built will be necessary replacements for existing sites with nearby co-channel and adjacent channel use. LCRA is requesting five (5) years to coordinate these changes with the approximately 10,000 active users on the system. LCRA intends to divide the task into site batches matching its user groups to localize the impact during channel re-tuning. This batch approach will allow LCRA to accurately perform the necessary modifications while maintaining its system reliability standards.

LCRA proposes the following schedule for re-tuning its 61 sites:

2015: 6 sites
2016: 10 sites
2017: 15 sites
2018: 15 sites
2019: 15 sites

LCRA submits that the grant of its request to amend the extended implementation schedule would be in the public interest due to the important role of its 900 MHz radio system in supporting public safety and critical infrastructure industry (CII) operations. In

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2008, the FCC adopted a *Report and Order* retaining the current site-based licensing regime for the 199 channels allocated to the Business and Industrial Land Transportation (B/ILT) pool in the 900 MHz band.³ In doing so, the FCC acknowledged the “vital communications role that 900 MHz B/ILT spectrum plays in enabling traditional B/ILT licensees to safeguard our nation’s critical infrastructure industries.”⁴ The FCC noted that 900 MHz B/ILT spectrum is “used by CII licensees to protect industrial facilities from tampering or attack, and to respond to emergency situations and outages.”⁵ The FCC also explained that 900 MHz B/ILT spectrum is “used by a range of licensees in a variety of ways to facilitate their efficient operations, to enable the cost-effective production of goods and services offered to the public, and to promote the safety of employees.”⁶

As described above, LCRA engages in non-profit shared use of its 900 MHz Private Land Mobile Radio Service system with a variety of public safety entities in the lower Colorado River region, resulting in highly efficient use of the spectrum. Thus, LCRA submits that approval of its amended implementation schedule would be in the public interest.

As such, LCRA respectfully requests an extension of the construction deadline until December 31, 2019 for the 900 MHz frequencies covered by its extended implementation plans that were previously approved by the Commission.

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Should the Commission have any questions or need any additional information, we request that the Commission staff contact our counsel on this matter, Kevin M. Cookler, Lerman Senter PLLC, 2000 K Street, N.W., Suite 600, Washington, DC 20006, T: 202-416-6749, E: kcookler@lermansenter.com.

³ Amendment of Part 90 of the Commission’s Rules to Provide Flexible Use of the 896-901 MHz and 935-940 MHz Band Allotted to the Business and Industrial Land Transportation Pool, *Report and Order*, WT Docket No. 05-62, 23 FCC Rcd 15856 (2008).

⁴ *Id.* at 15864, ¶ 13.

⁵ *Id.*

⁶ *Id.*