

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

In the Matter of)
)
Federated Wireless Expedited Request for) GN Docket No. 15-319
Emergency Waiver of Citizens Broadband Radio)
Service Incumbent Protection Rules)

ORDER

Adopted: September 10, 2024

Released: September 10, 2024

By the Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. By this Order, the Wireless Telecommunications Bureau (Bureau), Mobility Division, conditionally grants Federated Wireless’ (Federated or Petitioner)¹ request for a precautionary, limited, and conditional emergency waiver of sections 96.67(c)(2) and (3) of the Commission’s rules governing the Citizens Broadband Radio Service.² Federated requests that the Commission grant emergency waiver relief of sections 96.67(c)(2) and (3) to relieve them of the requirement for Environmental Sensing Capabilities (ESCs) to detect and protect federal incumbent users in the 3550-3700 MHz band (3.5 GHz band) from harmful interference for Dynamic Protection Areas (DPAs) that may be impacted by Tropical Storm Francine, including DPAs East 3 and East 22-24 (the DPAs, together with the affected ESCs in such DPAs, the Impacted Systems). Tropical Storm Francine is expected to strengthen into a hurricane Tuesday, September 10, 2024, and make landfall Wednesday, September 11, 2024, over Louisiana.³ A storm surge warning is in effect for portions of the upper Texas, Louisiana, and Mississippi coastlines. Francine is expected to bring heavy rainfall and the risk of flash flooding for much of Louisiana, Mississippi, and the Texas Coast through Thursday, September 12, 2024.⁴ For the reasons discussed below, we grant Petitioner’s Waiver Request subject to the conditions described herein.

¹ See Federated Wireless Expedited Request for Emergency Waiver of CBRS Incumbent Protection Rules, GN Docket No. 15-319 (filed September 9, 2024) (Waiver Request), <https://www.fcc.gov/ecfs/document/10909039037191/1>; see also State of Louisiana, Office of the Governor, *Governor Landry Declares State of Emergency* (Sep. 9, 2024), <https://gov.louisiana.gov/news/4630>.

² 47 CFR § 96.67(c)(2)-(3).

³ See Waiver Request at 1; National Hurricane Center and Central Pacific Hurricane Center, Key Messages for Tropical Storm Francine Advisory 7, 10:00 AM CDT Tue Sep 10, 2024, https://www.nhc.noaa.gov/graphics_at1.shtml?key_messages.

⁴ National Hurricane Center and Central Pacific Hurricane Center, Key Messages for Tropical Storm Francine Advisory 7, 10:00 AM CDT Tue Sep 10, 2024, https://www.nhc.noaa.gov/graphics_at1.shtml?key_messages.

II. BACKGROUND

2. In 2015, the Commission adopted rules for shared commercial use of the 3.5 GHz band.⁵ The Commission established the Citizens Broadband Radio Service and created a three-tiered access and authorization framework to accommodate shared federal and non-federal use of the band.⁶ Access and operations are managed by a Commission-approved, automated frequency coordinator, known as a Spectrum Access System (SAS). SASs coordinate operations between federal and non-federal users by relying on ESCs in DPAs to detect and protect federal incumbent users in the 3.5 GHz band from harmful interference. When there are federal incumbent users operating in the band, ESCs detect their signals and activate the DPA. When the DPA is activated, federal incumbent users are given priority over the other two tiers of users: Priority Access Licensees (PALs) and General Authorized Access (GAA) users. In the case that an ESC cannot accurately determine whether federal incumbents are active in the band, they must automatically activate the DPAs.⁷

3. Federated seeks a temporary conditional waiver of sections 96.67(c)(2) and (3) of the Commission's rules to relieve it of the requirement to detect the presence of a signal from a federal system in the 3.5 GHz Band and adjacent frequencies and to communicate information about the presence of such a signal to one or more approved SASs.⁸ This waiver would allow Federated to treat the subject DPAs as "inactive" for the duration of the waiver authority and thus avoid the need for the ESCs to automatically activate the DPAs in areas affected by Tropical Storm Francine. Federated seeks a waiver of these requirements in the interest of providing uninterrupted service to approximately 1,500 Citizens Broadband Radio Service Devices (CBSDs) that provide critical broadband, voice, and data services to thousands of customers in areas that may be impacted by Tropical Storm Francine.⁹

III. DISCUSSION

4. Section 1.925(b)(3) of the Commission's rules states that the Commission may grant a waiver when either (i) "[t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest," or (ii) "[i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."¹⁰ Further, section 1.3 allows the Commission, on its own motion, to waive rules for good cause shown.¹¹

5. Here, we find that Petitioner's showing, when considered with the conditions established herein, meets the second prong of the Commission's waiver standard. Federated asserts that intense winds and rainfall could cause widespread power outages.¹² If such outages occur, the Impacted Systems will lose commercial power and will be unable to operate normally.¹³ Federated also asserts that the

⁵ See *Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, GN Docket No. 12-354, Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 3959, 3975, paras. 44-45 (2015) (*2015 Report and Order*).

⁶ *Id.*

⁷ See *Promoting Investment in the 3550-3700 MHz Band*, GN Docket Nos. 15-319, 17-258, Order, 33 FCC Rcd 4987, 4990-91, paras. 6, 9 (2018).

⁸ 47 CFR § 96.67(c)(2)-(3). Additionally, to the extent necessary, we also waive applicable sections of 96.15(a)(2), (a)(3), (b)(3), 96.45(b), 96.53(a), (e)-(g), and 96.57(d).

⁹ See Waiver Request at 1-2.

¹⁰ 47 CFR § 1.925(b)(3).

¹¹ 47 CFR § 1.3.

¹² See Waiver Request at 1.

¹³ See *id.*

availability of backhaul may also be impacted.¹⁴ Federated contends that these power outages may cause DPAs in the affected areas to be activated, impacting approximately 1,500 CBSDs, potentially disconnecting thousands of customers—including consumer, residential and enterprise customers, schools, and oil and gas companies—from critical broadband, voice, and data services.¹⁵ According to Federated, “[m]any of these customers will be relying on these services to stay apprised about ongoing dangers in the aftermath of the storm, while others will leverage connectivity to aid in the restoration of critical services, such as water and electricity.”¹⁶ Accordingly, we grant a waiver of section 96.67(c)(2) and (3) of the Commission’s rules, subject to the conditions set forth herein, and consistent with the ESC waiver orders that the Bureau issued in response to previous severe weather events¹⁷ to allow the Federated SASs to treat the subject DPAs as “inactive” for the duration of this waiver and thereby obviate their ESCs from the obligation to detect the presence of a signal from a federal system in the 3.5 GHz Band and adjacent frequencies and to communicate information about the presence of such a signal to one or more approved SASs.

6. Specifically, we find the following conditions are required: (1) this waiver only applies to periods where the subject ESC sensors are unable to communicate with the Federated SASs due to a power outage or backhaul outage; (2) this waiver is limited to the earlier of either September 24, 2024, or when commercial power and backhaul service is restored to the subject ESC sensors; (3) Federated must provide confirmation to the Commission, the Department of Defense (DoD), and the Navy within three business days of power restoration to the subject ESC sensors and restoration of backhaul service; (4) extension requests must be justified through demonstration of the specific steps taken to reactivate the subject ESC sensors and the remaining steps necessary to reactivate, and such requests must be filed no later than three business days before expiration of this waiver; and (5) the ESC operator must immediately activate the subject DPAs upon notification from the Commission, the National Telecommunications and Information Administration, or the DoD.

7. In consideration of the emergency presented by Tropical Storm Francine, we find that these are unique circumstances that make application of the rules inequitable, unduly burdensome, and contrary to the public interest. For these reasons, we find it is in the public interest to conditionally grant Petitioner’s request for an emergency waiver of sections 96.67(c)(2) and (3), on a time-limited basis and subject to conditions described herein.

¹⁴ *Id.*

¹⁵ *Id.* at 1-2.

¹⁶ *Id.* at 2.

¹⁷ See *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 22-999 (rel. Sept. 22, 2022); *Federated Wireless, CommScope, Inc., and Google LLC’s Expedited Requests for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 22-1042 (rel. Sept. 30, 2022); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 22-1165 (rel. Nov. 9, 2022); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 23-453 (rel. May 30, 2023); *Google LLC’s Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 23-789 (rel. Aug. 30, 2023); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 24-652 (rel. July 8, 2024); *Google LLC Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 24-677 (rel. July 12, 2024); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 24-777 (rel. Aug. 6, 2024); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 24-814 (rel. Aug. 14, 2024).

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 1.3 and 1.925 of the Commission's rules, 47 CFR §§ 1.3, 1.925, that the request filed by Federated Wireless for emergency waiver of sections 96.67(c)(2) and (3) of the Commission's rules, 47 CFR §§ 96.67(c)(2) and (3) is GRANTED to the extent described, and with the conditions specified, herein.

9. IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 1.3 and 1.925 of the Commission's rules, 47 CFR §§ 1.3, 1.925, that the Wireless Telecommunications Bureau GRANTS ON ITS OWN MOTION a waiver of sections 96.15(a)(2), (a)(3), 96.45(b), 96.53(a), (e)-(g), and 96.57(d) of the Commission's Rules, 47 CFR §§ 96.15(a)(2), (a)(3), 96.45(b), 96.53(a), (e)-(g), 96.57(d), to the extent described, and with the conditions specified, herein.

10. This action is taken under delegated authority pursuant to sections 0.131, and 0.331 of the Commission's rules, 47 CFR §§ 0.131, and 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Roger Noel
Chief, Mobility Division
Wireless Telecommunications Bureau