

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

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

ORDER

Adopted: September 13, 2024

Released: September 13, 2024

By the Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. By this Order, the Wireless Telecommunications Bureau (Bureau), Mobility Division, conditionally grants Google LLC's (Google 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 Google 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 were impacted by Hurricane Francine, including DPAs East 22-24, and the DPAs that may be impacted based on Francine's projected path, East 3, East 21, East 24, East 25, Pensacola, and Pascagoula (the DPAs, together with the affected ESCs in such DPAs, the Impacted Systems). Francine made landfall in the United States as a Category 2 hurricane Wednesday, September 11, 2024, bringing with it extreme rainfall, life-threatening flooding, and destructive winds to much of the Louisiana, Mississippi, and Texas Coast.3 According to the National Oceanic and Atmospheric Administration, Francine weakened to a tropical depression by Thursday morning, September 12, 2024, but the risk of heavy rainfall and flooding will continue across large portions of the Southeast through Saturday, September 14, 2024.4 For the reasons discussed below, we grant Petitioner's Waiver Request subject to the conditions described herein.

1 See Google LLC Expedited Request for Emergency Waiver of CBRS Incumbent Protection Rules, GN Docket No. 15-319 (filed September 12, 2024) (Waiver Request), https://www.fcc.gov/ecfs/document/10912284938213/1; see also State of Louisiana, Office of the Governor, Governor Landry Declares State of Emergency (Sep. 9, 2024), https://gov.louisiana.gov/news/4630; The White House, President Joseph R. Biden, Jr. Approves Louisiana Emergency Declaration (Sept. 10, 2024), https://www.whitehouse.gov/briefing-room/presidential-actions/2024/09/10/president-joseph-r-biden-jr-approves-louisiana-emergency-declaration-5/.

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 Post-Tropical Cyclone Francine Advisory 19, 4:00 AM CDT Fri Sep 13, 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. Google 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 Google 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 Francine. Google seeks a waiver of these requirements in the interest of providing uninterrupted service to hundreds of Citizens Broadband Radio Service Devices (CBSDs) that provide critical broadband, IP telephone, and television service to thousands of customers in areas that may be impacted by 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. Google reports that one of its ESC Sensor sites, E22, has lost commercial power and may exhaust available backhaul sources.¹² If further such outages occur, the Impacted Systems will lose commercial power and will be unable to operate normally.¹³ Google contends that these power outages may cause DPAs in the affected areas to be

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.

activated, impacting hundreds of CBSDs, potentially disconnecting thousands of customers—including critical broadband, IP telephone, and television services to homes and businesses.¹⁴ According to Google, “[m]any customers, including those who have electric service or electricity through the use of generators, rely on these services to receive updates about ongoing dangers and essential services.”¹⁵ 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 events¹⁶ to allow the Google 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 Google SASs due to a power outage or backhaul outage; (2) this waiver is limited to the earlier of either September 27, 2024, or when commercial power and backhaul service is restored to the subject ESC sensors; (3) Google 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 Hurricane 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.

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¹³ See Waiver Request at 1.

¹⁴ *Id.* at 2.

¹⁵ *Id.*

¹⁶ 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); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 24-915 (rel. Sep. 10, 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 Google LLC 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