

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

In Re Application of )  
 )  
CITY OF TUCSON, ARIZONA ) File No. A042230  
 )  
Request for Waiver and Application for )  
Authorization to Operate on an Exclusive )  
Basis on Additional 800 MHz Channels in )  
the Tucson area )

ORDER

Adopted: April 25, 2000

Released: April 27, 2000

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. On July 6, 1999, the City of Tucson (Tucson) filed a request for waiver (Waiver Request) of Sections 90.623(a) and 90.625(a) of the Commission's Rules<sup>1</sup> to permit it to use, on an exclusive basis, ten additional conventional 800 MHz channels for mobile data operations in the Tucson area.<sup>2</sup> Subsequently, on August 13, 1999, Tucson filed an associated application.<sup>3</sup> For the reasons discussed herein, we grant the Waiver Request.

II. BACKGROUND

2. Currently, Tucson operates a nine-channel conventional 800 MHz system which it uses for computer-aided dispatch operations.<sup>4</sup> Tucson's current mobile data system uses frequency agility architecture which enables a mobile unit to search out and lock onto a new base station channel as it leaves the coverage area of a particular channel and the signal quality

<sup>1</sup> 47 C.F.R. §§ 90.623(a), 90.625(a).

<sup>2</sup> Letter, dated July 6, 1999, from Joseph Jakoby, License Coordinator, City of Tucson, to Federal Communications Commission (Tucson Letter).

<sup>3</sup> FCC File Number A042230 (filed Aug. 13, 1999).

<sup>4</sup> Tucson Letter at 3.

deteriorates.<sup>5</sup> Tucson wants to expand its operations by adding ten additional channels<sup>6</sup> to support such mobile data functions as electronic mail; display of maps, blueprints and digital fingerprints; mug shots; and the filing of incident reports from the field.<sup>7</sup> Tucson states that it needs the larger bandwidth afforded by the additional channels for transmitting IP-based text and graphics.<sup>8</sup> Tucson further states that it needs the additional channels to be authorized in the conventional mode rather than in the trunking mode because trunking is not the most efficient solution for a data-only system with heavy throughput requirements.<sup>9</sup> Tucson represents that mobile data loading for the subject channels would be a minimum of 650 units at the time of license grant and at least 950 mobile units in five years.<sup>10</sup>

3. Section 90.623(a) of the Commission's Rules provides that a licensee may not be assigned more than five conventional 800 MHz channels in a given area.<sup>11</sup> Section 90.625(a) of the Commission's Rules provides that a conventional 800 MHz system must have seventy mobile stations per channel in order for the channel to be assigned for a licensee's exclusive use.<sup>12</sup> Thus, Tucson requests a waiver of Section 90.623(a) in order to obtain ten new conventional channels in the Tucson area and a waiver of Section 90.625(a) in order to have exclusive operation on the additional channels. Tucson's Waiver Request was placed on public notice on January 18, 2000.<sup>13</sup> No comments were filed.

### III. DISCUSSION

4. Section 1.925 of the Commission's Rules requires a party seeking waiver of specific rule requirements to demonstrate either that (a) the underlying purpose of the rule will

---

<sup>5</sup> *Id.* at 1.

<sup>6</sup> The requested frequencies are available because of an arrangement between Tucson and Nextel Communications, Inc. (Nextel) whereby Nextel, as part of its relocation of certain 800 MHz channels, filed applications to delete certain site-specific 800 MHz stations and/or channels, and to modify certain site-specific station licenses to authorize operations on specified channels on a secondary, non-interference basis to public safety entities in the Tucson area. *See* Letter, dated July 1, 1999, from Robert H. McNamara, Nextel to Licensing and Technical Analysis Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, FCC; *see also* Letter, dated September 14, 1999, from Roger Noel, Chief, Licensing and Technical Analysis Branch, Commercial Wireless Division, Wireless Telecommunications Bureau to Robert H. McNamara, Nextel.

<sup>7</sup> Tucson Letter at 1, 2.

<sup>8</sup> *Id.* at 2.

<sup>9</sup> *Id.* at 1.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> 47 C.F.R. § 90.623(a).

<sup>12</sup> 47 C.F.R. § 90.625(a). With the ten new channels that Tucson requests, its system would have a total of 19 channels, requiring 1,330 mobile stations to meet the requirement of 70 mobile units per channel.

<sup>13</sup> Wireless Telecommunications Bureau Seeks Comment on Request for Waiver by the City of Tucson, Arizona, for Authorization of Ten Additional 800 MHz Conventional Channels for Mobile Data Operations, *Public Notice*, DA 00-83 (WTB PSPWD rel. Jan. 18, 2000).

not be served or would be frustrated by application to the instant case, and that a grant of the waiver is in the public interest; or (b) in view of unique or unusual factual circumstances of the instant case, application of the rule would be inequitable, unduly burdensome or otherwise contrary to the public interest, or the applicant has no reasonable alternative.<sup>14</sup> For the reasons discussed below, we conclude that Tucson has made the requisite showing that a waiver of Sections 90.623(a) and 90.625(a) is warranted.

5. We find that the underlying purpose of the rules would not be served by their application to the instant case. The purpose of the five-channel limit for conventional systems is to encourage trunked operations, which generally yield greater spectrum efficiency.<sup>15</sup> The Commission was concerned that, without such a limit, applicants would request more channels than they needed, resulting in licensed channels going unused while subsequent applicants were denied frequencies.<sup>16</sup> Similarly, the purpose of loading requirements is to ensure that licensed channels are fully utilized rather than warehoused.<sup>17</sup> Tucson contends that its proposed system could achieve more than twice the throughput of a trunking system.<sup>18</sup> Tucson further states that a trunking system is “not the most efficient solution for a data only system with heavy throughput requirements.”<sup>19</sup> In addition, Tucson states that all frequencies will be in operation within eight months of the grant of a license.<sup>20</sup> Based on the record in this proceeding, we believe that Tucson’s proposed mobile data operations are consistent with the purpose of the rules because the requested channels will be fully utilized and not warehoused. Indeed, we are persuaded that in this case, a data-only system operating in the conventional mode meets the intent of the rules to require spectrum-efficient systems.

6. In addition, we conclude that grant of the waiver would be in the public interest. One innovative use for which Tucson will use its data system is to investigate leads and suspect information at the crime scene, rather than have its investigators return to the police station.<sup>21</sup> Additionally, the Tucson Police Department wants to expand the type of information available to police officers in the field.<sup>22</sup> It intends to implement an automated field reporting system that

---

<sup>14</sup> 47 C.F.R. § 1.925(b)(3).

<sup>15</sup> Amendment of Part 90 of the Commission’s Rules to Release Spectrum in the 806-821/851-866 MHz Bands and to Adopt Rules and Regulations which Govern Their Use, *Second Report and Order*, PR Docket No. 79-191, 90 FCC 2d 1281, 1293 ¶¶ 27-28 (1982).

<sup>16</sup> *Id.* at 1294 ¶ 29.

<sup>17</sup> *See, e.g.*, Amendments to Part 90 of the Commission’s Rules Concerning Private Land Mobile Radio Services, *Notice of Proposed Rule Making*, WT Docket No. 97-153, 12 FCC Rcd 13468, 13474-75 ¶ 14 (1997); Page America of New York, Inc., *Memorandum Opinion and Order*, 8 FCC Rcd 4167, 4168 ¶ 7 (1993).

<sup>18</sup> Tucson Letter at 1.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 2.

<sup>21</sup> *Id.* at 1.

<sup>22</sup> *Id.*

permits the wireless transmission of incident reports.<sup>23</sup> Tucson states that this will allow mobile units to send additional information to a central location or to dispatchers, evidence technicians, forensic specialists and detectives.<sup>24</sup> Tucson indicates that there are at least twenty different mobile data functions that it would like to implement if the waiver is approved giving it the additional bandwidth that it needs.<sup>25</sup> Moreover, Tucson states that the University of Arizona Police Department has committed to share the proposed system and other public safety agencies have expressed an interest in sharing the system.<sup>26</sup> We believe that Tucson's proposed operations will further the public interest. We also are persuaded that Tucson's proposed communications goals cannot be met without a waiver of the rules to permit the authorization of more than five channels and the exclusive use of the ten additional channels that Tucson requests. We believe that grant of the requested waiver will promote effective and efficient public safety communications.

#### IV. CONCLUSION

7. We believe that the underlying purpose of Sections 90.623(a) and 90.625(a) would not be frustrated by the operations Tucson proposes, because the spectrum will be fully and efficiently utilized. Further, Tucson has shown that the public interest will be served by the enhancements it intends to make to its present communications system. Therefore, we conclude that its Waiver Request should be granted.

#### V. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the City of Tucson's request for waiver, filed July 6, 1999, to permit use, on an exclusive basis, of ten additional conventional 800 MHz channels in the Tucson area IS GRANTED.

9. IT IS FURTHER ORDERED that the associated application FCC File No. A042230, filed August 13, 1999, shall be referred to the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch for processing consistent with this *Order*.

---

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 2.

<sup>26</sup> *Id.*

10. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau