

Before the
Federal Communications Commission
Washington, D.C. 25554

In the Matter of Application of )
BP EXPLORATION, INC. ) FCC File No. 0001338238
Request for Waiver To Allow The Use Of )
20 kHz Bandwidth At Processing Plants In Alaska )

ORDER

Adopted: December 18, 2003

Released: December 23, 2003

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

I. INTRODUCTION

1. We have before us an application filed for modification of the license for Station WPVN968, Prudhoe Bay, Alaska, held by BP Exploration, Inc. ("BP") and an associated request for waiver of Section 90.35(c)(30) of the Commission's Rules to allow operation of existing channels with 20 kHz authorized bandwidth in Alaska's North Slope region. For the reasons discussed herein, we grant BP's waiver request.

II. BACKGROUND

2. The license for Station WPVN968 authorizes BP to operate base/mobile facilities in the 450-470 MHz band at ten locations in Alaska's North Slope region. In addition, BP holds licenses for Stations KA9082, KRK792, KXK265, and WPWM790 which combined authorize it to operate a system of over one thousand mobile and portable units throughout this region. BP intends to add mobile relay stations to its existing system in order to improve radio coverage and reliability throughout its area of operation. BP proposes to accomplish this upgrade by modifying its license for Station WPVN968.

3. Specifically, BP proposes to modify the license for Station WPVN968 to allow mobile relay stations to operate with 20 kHz authorized bandwidth on seven "offset" frequencies. Accordingly, BP seeks a waiver of the bandwidth restrictions of Section 90.35(c)(30) of the Commission's Rules. BP requires a waiver because Section 90.35(c)(30) limits operation on these "offset" frequencies to a maximum authorized bandwidth of 11.25 kHz.

1 FCC File No. 0001338238, filed August 15, 2003.

2 See attachment to FCC File No. 0001338238 (Waiver Request).

3 Id.

4 Id. BP proposes to operate mobile relay stations with emission 20K0F3E on the following "offset" frequencies: 460.9375 MHz, 461.0125 MHz, 461.0875 MHz, 461.2125 MHz, 461.2625 MHz, 461.9375 MHz, 461.9875 MHz.

5 Id.

6 47 C.F.R. § 90.35(c)(30).

4. BP states that it desires to use the seven “offset” frequencies as mobile relay stations because these frequencies are already programmed into its existing mobile and portable units.<sup>7</sup> BP notes, however, that approximately half of its mobile and portable units can only operate at 20 kHz authorized bandwidth, while the other half can operate at either 11.25 kHz or 20 kHz authorized bandwidth.<sup>8</sup> Without a waiver of Section 90.35(c)(30), BP states that it would need to replace all existing mobile and portable units which are incapable of 11.25 kHz operation.<sup>9</sup> Furthermore, BP notes that if it were to operate its mobile relay stations on alternate frequencies which permit 20 kHz operation, it would need to retune all of its approximately 1050 mobile and portable units.<sup>10</sup>

5. BP contends that grant of the waiver would serve the public interest because, in addition to its daily operations, the system is crucial to its accident prevention and emergency response capabilities.<sup>11</sup> BP asserts that the North Slope of Alaska is a sparsely populated area in which the UHF land mobile radio band is lightly used, so there is no immediate need for narrowband equipment.<sup>12</sup> BP states that grant of the requested waiver would enable it to convert its system to narrowband operation by January 1, 2008, rather than January 1, 2013 as currently provided in the Commission's Rules.<sup>13</sup>

6. On September 30, 2003, the Wireless Telecommunications Bureau, Public Safety and Private Wireless Division<sup>14</sup> placed BP's application and waiver requests on public notice.<sup>15</sup> The Commission received no comments and no reply comments.

### III. DISCUSSION

7. The Commission will grant a waiver of its rules if the petitioner demonstrates that (i) the 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) in 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.<sup>16</sup> We believe that BP has shown that a waiver is warranted.

8. We conclude that the underlying purpose of Section 90.35(c)(30) would not be frustrated and would be served if this rule were waived under the circumstances that BP has presented. The purpose of

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<sup>7</sup> See Waiver Request. BP is licensed to operate mobile units with 20 kHz authorized bandwidth on all of the proposed mobile relay “offset” frequencies pursuant to its license for Station KA9082.

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

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

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

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*; see 47 C.F.R. § 90.209(b)(5) note 3.

<sup>14</sup> The Commission reorganized the Wireless Telecommunications Bureau effective November 13, 2003, and the relevant duties of the Public Safety and Private Wireless Division were assumed by the Public Safety and Critical Infrastructure Division. See Reorganization of the Wireless Telecommunications Bureau, *Order*, FCC 03-291, ¶ 2 (rel. Nov. 25, 2003).

<sup>15</sup> See Wireless Telecommunications Bureau Seeks Comment on Request for Waiver by BP Exploration, Inc. to Allow the Use of 25 kHz Bandwidth on Offset Frequencies at Four Petroleum Processing Plants in Alaska, *Public Notice*, DA 03-2986 (WTB PSPWD rel. Sept. 30, 2003).

<sup>16</sup> See 47 C.F.R. § 1.925(b)(3).

Section 90.35(c)(30) is to limit the bandwidth of new stations and modifications to existing stations on “offset” frequencies in order to advance the Commission’s goal of more efficient use of radio spectrum, which, in turn, will make more channels available for an ever increasing user base. BP’s mobile and portable units, however, are currently authorized to operate on “offset” channels with a 20 kHz authorized bandwidth.<sup>17</sup> Therefore under existing rules, BP’s mobile and portable units will be able to operate on their current channels with a 20 kHz authorized bandwidth until January 1, 2013.<sup>18</sup> We note BP’s representation that grant of its waiver request will enable it to convert its system to narrowband operation before that date. In addition, given that the North Slope of Alaska is one of the most remote and sparsely populated regions in the United States, we acknowledge BP’s claim that there is no immediate need for application of this rule in that area.

9. We also conclude that granting BP’s waiver request is in the public interest. Grant of the waiver request will allow BP to perform critical operations involving the safety of the general public, such as protection of life and property, more effectively and efficiently. We find it significant that BP will be operating new mobile relay equipment on the same channels and with the same bandwidth that it currently operates its existing mobile and portable equipment. Accordingly, we conclude that granting of the waiver request associated with the captioned application is in the public interest. We therefore grant BP’s request for a waiver of Section 90.35(c)(30) of the Rules to the extent that its new mobile relay operations under the license for Station WPVN968 cause no interference to any existing licensee. Consequently, we reserve the discretion to revisit the continuation of such authority should we receive complaints from other licensees in the future.

#### IV. ORDERING CLAUSES

10. Accordingly, 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, that the waiver request filed by the BP Exploration, Inc., on August 15, 2003, IS GRANTED, on the condition that its operations cause no harmful interference to any existing license.<sup>19</sup>

11. 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 Critical Infrastructure Division  
Wireless Telecommunications Bureau

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<sup>17</sup> See License for Station KA9082.

<sup>18</sup> See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, WT Docket No. 99-87, 18 FCC Rcd 3034, 3041 ¶ 18 (2003). Specifically, the FCC amends its rules to impose a deadline for migration to 12.5 kHz technology for non-public safety PLMRS systems operating on those bands, beginning January 1, 2013 and for public safety systems operating on those bands, beginning January 1, 2018. *Id.*

<sup>19</sup> The Public Safety and Critical Infrastructure Division will process application FCC File No. 0001338238 in accordance with this *Order*.