

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

In the Matter of Applications of	)	
	)	
COUNTY OF BELTRAMI	)	FCC File No. 0001273917
	)	
Request for Waiver On Assignment and Use of the	)	
Frequencies in the 450-470 MHz Band for Fixed	)	
Operations	)	

**ORDER**

**Adopted: September 24 , 2004**

**Released: September 29, 2004**

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

1. *Introduction.* We have before us an application and waiver request filed by the County of Beltrami, Minnesota (“Beltrami County” or “the County”).<sup>1</sup> Beltrami County requests a waiver of Section 90.261(c) of the Commission’s Rules,<sup>2</sup> which limits the use of UHF frequencies for fixed systems to one frequency pair per system. Beltrami submits that meeting its requirement will require use of three UHF frequencies per system for fixed relay.<sup>3</sup> For the reasons discussed herein, we grant Beltrami County’s waiver request.

2. *Background.* Beltrami County covers 2505 square miles of land and 550 square miles of water in northern Minnesota.<sup>4</sup> The County is in the process of upgrading its county-wide radio system, which serves law enforcement and emergency management personnel.<sup>5</sup> Beltrami County has been granted licenses for the southern region of the county but lacks coverage in the remote northern regions.<sup>6</sup> As part of its effort to improve coverage in the northern regions, Beltrami County filed the above-captioned application for a new land mobile station with fixed sites at Kelliher and Jelle, Minnesota on April 14, 2003. The County proposes to operate four VHF frequencies in the 150-174 MHz band for repeater operations and three UHF frequencies in the 450-470 MHz band for fixed relay.<sup>7</sup> The UHF fixed relays will be used to link the repeater stations back to the Sheriff Department and Emergency

<sup>1</sup> FCC File No. 0001273917 (filed Apr. 14, 2003, amended Nov. 10, 2003, Apr. 29, 2004, June 14, 2004).

<sup>2</sup> 47 C.F.R. § 90.261(c).

<sup>3</sup> See Letter dated Oct. 31, 2004 from Roger Paskvan, System Engineer, Office of Sheriff of Beltrami County, to Federal Communications Commission (Waiver Request).

<sup>4</sup> According to the 2000 Census, Beltrami County’s population is 36,650, so the population density is sixteen people per square mile.

<sup>5</sup> Waiver Request at 1.

<sup>6</sup> *Id.*

<sup>7</sup> Beltrami County proposes to use frequencies 154.025 MHz, 158.775 MHz, 155.655 MHz for mobile relay operations (FB2), frequencies 150.775 MHz, and 154.775 MHz for mobile operations (MO), and frequencies 465.125 MHz, 453.100 MHz and 453.775 MHz for fixed relay operations (FX2). See FCC File No. 0001273917.

Management center in Bemidji, Minnesota.<sup>8</sup>

3. The application was returned on October 20, 2003, because it did not comply with Section 90.261(c) of the Commission's Rules, which limits fixed systems in the 450-470 MHz band to one frequency pair with 5 MHz spacing. Beltrami County amended the application on November 10, 2003 to add a request for waiver of Section 90.261(c), and supplemented the waiver request on April 29, 2004. On May 5, 2004, Commission staff contacted the County's frequency coordinator to request additional information, which the County amended its application to provide on June 14, 2004.

4. Beltrami County requests a waiver of Section 90.261(c) of the Commission's Rules in order to operate the three 450-470 MHz band frequencies as fixed relays.<sup>9</sup> Section 90.261(c) of the Commission's Rules limits all fixed systems to one 450-470 MHz channel pair with 5 MHz spacing.<sup>10</sup> Beltrami County maintains that the waiver is needed because other methods for linking the repeater stations back to Bemidji, Minnesota are infeasible.<sup>11</sup> For instance, the County states that employing microwave frequencies to link the repeater stations to Bemidji would require much shorter path lengths and many more towers.<sup>12</sup> It also indicates that fiber links are not available in many portions of Beltrami County.<sup>13</sup> Furthermore, the Associated Public-Safety Communications Officials (APCO) frequency advisor for Minnesota states that the waiver would have little or no impact on availability UHF frequencies for land mobile operations in Beltrami County.<sup>14</sup>

5. *Discussion.* To obtain a waiver of the Commission's Rules, a petitioner must demonstrate either that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case and that grant of the waiver would be in the public interest;<sup>15</sup> or that, 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 Beltrami County has demonstrated that grant of a waiver is warranted under the circumstances presented.

6. The purpose of Section 90.261 is to provide some needed spectrum for fixed operations while, at the same time, ensuring that the 450-470 MHz band is used primarily for mobile operations.<sup>17</sup>

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<sup>8</sup> See Letter dated May 6, 2004 from Roger Paskvan, consulting engineer for Beltrami County, to Federal Communications Commission (Paskvan Letter).

<sup>9</sup> See Waiver Request at 1.

<sup>10</sup> 47 C.F.R. § 90.261(c). Beltrami proposes to comply with the 5 MHz spacing required by Section 90.261(c) by using frequencies already authorized under Call Sign WPYB806. See Letter dated June 11, 2004 from Roger Kochevar, Minnesota APCO Frequency Advisor, to Federal Communications Commission.

<sup>11</sup> Paskvan Letter at 1-2.

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

<sup>13</sup> *Id.* at 2.

<sup>14</sup> See Letter dated June 1, 2004 from Roger Kochevar, Minnesota APCO Frequency Advisor, to Federal Communications Commission (APCO Letter).

<sup>15</sup> 47 C.F.R. § 1.925(b)(3)(i).

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

<sup>17</sup> Amendment of Part 90 Concerning Secondary Fixed Operations in the 450-470 Mhz Band, *Report and Order*, PR Docket No. 91-66, 7 FCC Rcd 3498, 3498 ¶ 2 (1992) (citing Amendment of Parts 89, 91, 93, and 95 (Formerly 10, 11, 16, and 19) of the Commission's Rules to Reduce the Separation Between the Assignable Frequencies in the 450-470 Mc/s Band, *Second Report and Order*, Docket No. 13847, 11 F.C.C. 2d 648 (1968); Amendment of Parts 89, 91, 93, and 95 (Formerly 10, 11, 16, and 19) of the Commission's Rules to Reduce the Separation Between the

Based on the record before us, we conclude that grant of Beltrami County's request would not frustrate this purpose. The data submitted with the request demonstrates that over one hundred 450-470 MHz band channel pairs would remain available for land mobile operations in the area.<sup>18</sup>

7. We also conclude that grant of the subject request is in the public interest. We note that Beltrami County's request supports the Commission's strategic goal for Homeland Security by ensuring that essential public health and safety personnel have effective communications services available to them in emergency situations.<sup>19</sup> Granting the waiver request will allow Beltrami County to expand coverage into the northern regions of the County permitting proper radio communications that are needed during critical times.

8. Beltrami County also has demonstrated that other options for implementing fixed relays – such as microwave frequencies or fiber lines – are infeasible under the circumstances.<sup>20</sup> While cost alone does not make application of the Commission's Rules inequitable, unduly burdensome, or contrary to the public interest, we find, in this context, when cost is coupled with the unique geographic challenges posed by the climate and terrain of northern Minnesota, it constitutes a relevant factor in our determination of whether a waiver is appropriate.<sup>21</sup>

9. *Conclusion.* Based on the circumstances presented in the record, we conclude that Beltrami County has met the requirements for grant of a waiver of the Commission's Rules. Accordingly, we grant its request for a waiver of Section 90.261(c) to permit use of three UHF frequencies for fixed relay.

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 Beltrami County, Minnesota, on October 31, 2003, with respect to FCC File Number 0001273917 IS GRANTED, and application FCC File No. 0001273917 SHALL BE PROCESSED in accordance with this *Order*.

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Assignable Frequencies in the 450-470 Mc/s Band, *Further Notice of Proposed Rule Making*, Docket No. 13847, 10 F.C.C. 2d 885 (1967)); Milwaukee Metropolitan Sewerage District, *Order*, 19 FCC Rcd 2623, 2624 ¶ 6 (WTB PSCID 2004).

<sup>18</sup> See Frequency Search Results attached to APCO Letter.

<sup>19</sup> See FCC Homeland Security Action Plan (July 10, 2003), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-236428A2.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-236428A2.doc). The FCC's Homeland Security Action Plan is part of the FCC's comprehensive homeland security initiative designed to evaluate and strengthen measures for protecting the Nation's communications infrastructure; facilitate rapid restoration of that infrastructure in the event of disruption; and, develop policies that promote access to effective communications services by public safety, public health and other emergency personnel in emergency situations.

<sup>20</sup> See Paskvan Letter at 1-2.

<sup>21</sup> See Wilderness Valley Telephone Co., *Order*, 15 FCC Rcd 11751, 11753 ¶ 6 (WTB PSPWD 2000).

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

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