

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

In the Matter of Application of)	
)	
CITY OF McMinnville)	FCC File No. 0002111492
)	
To Renew License for Aeronautical Advisory)	
Station WCT8, McMinnville, Oregon, and)	
Request for Waiver of Section 87.217 of the)	
Commission's Rules)	

ORDER

Adopted: December 28, 2005

Released: December 30, 2005

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

1. *Introduction.* On June 3, 2005, the City of McMinnville (McMinnville) submitted a request for waiver (Waiver Request)¹ of Section 87.217 of the Commission's Rules² to allow the continued use of frequency 123.000 MHz for the aeronautical advisory (unicom)³ station licensed to McMinnville Municipal Airport in McMinnville, Oregon. We grant the Waiver Request for the reasons set forth below.

2. *Background.* Since at least 1990, McMinnville has been licensed to operate Aeronautical Advisory Station WCT8, McMinnville, Oregon, on frequency 123.000 MHz at McMinnville Municipal Airport. Section 87.217 of the Commission's Rules provides that unicom stations at airports with a full-time control tower or Federal Aviation Administration (FAA) Flight Service Station (FSS) must operate on frequency 122.950 MHz.⁴ Consequently, McMinnville's authorization to operate on frequency 123.000 MHz was granted on the express condition that the license would have to be modified to frequency 122.950 if a full-time FSS became operational at the airport. On April 4, 2005, McMinnville filed the above-captioned application to renew its license for Station WCT8.⁵ Because the FAA had begun operating a FSS at McMinnville, however, the application was returned and the licensee instructed to change the frequency to 122.950 MHz. On June 7, 2005, McMinnville amended its renewal application to request a waiver so that it could continue to operate on frequency 123.000 MHz.⁶ McMinnville

¹ Letter dated June 3, 2005 from Rich Spofford, Project Manager, City of McMinnville, to Federal Communications Commission, (Waiver Request).

² 47 C.F.R. § 87.217.

³ Unicom stations are used to provide safety-related and other information to aircraft, primarily general aviation aircraft. Unicom transmissions are limited to the necessities of safe and expeditious operation of aircraft, including runway conditions, types of fuel available, wind conditions, weather information, dispatching, and other necessary safety information. However, unicom stations may also transmit, on a secondary basis, information pertaining to the efficient portal-to-portal transit of an aircraft, such as information concerning available ground transportation, food, and lodging. *See* 47 C.F.R. § 87.213.

⁴ 47 C.F.R. § 87.217(a)(1).

⁵ Public notice of the filing was provided on April 13, 2005. *See* Wireless Telecommunications Bureau Site-by-Site Accepted for Filing, *Public Notice*, Report No. 2119 at 3 (rel. April 13, 2005).

requested a waiver on the grounds that the FAA plans to close the FSS in the fall of 2005.⁷

3. *Discussion.* Section 1.925 of the Commission's Rules provides that we may grant a waiver if it is shown that (a) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and grant of the requested waiver would be in the public interest; or (b) in light of unique or unusual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁸ We find that grant of the waiver requested by McMinnville is warranted under the circumstances presented. Specifically, we conclude that the underlying purpose of the subject rules would not be served by application to the instant case and grant of the requested waiver would be in the public interest. In this connection, we note that McMinnville indicates that the continued use of 123.000 MHz would significantly increase the aviation safety of individual pilots.

4. We conclude that grant of McMinnville's request to continue to be authorized to use frequency 123.000 MHz even though there was an operating FSS on the airport at the time it filed its renewal application and associated waiver request is warranted. McMinnville states that it learned in February 2005 of an FAA decision to consolidate FSS operations and close the FSS in McMinnville.⁹ With the closing of the FSS, we see no need to require the use of 122.950 MHz at the McMinnville airport. In addition, we also find McMinnville's further contentions who states that changing the frequency will cause confusion to pilots and could pose a hazard to aviation safety to the increasing air traffic, as well as cause a loss of revenue to airport businesses, en toto to be decisionally significant factors under the circumstances presented.¹⁰

5. Accordingly, IT IS ORDERED, pursuant to Section 1.925 of the Commissions Rules, 47 C.F.R. § 1.925, the request for waiver filed by City of McMinnville on June 7, 2005, IS GRANTED. IT IS FURTHER ORDERED that application 0002111492 SHALL BE PROCESSED consistent with this *Order* and the Commission's Rules.

6. 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 and 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Chief, Public Safety and Critical Infrastructure Division
Wireless Telecommunications Bureau

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⁶ Public notice of the filing was provided on June 15, 2005. See Wireless Telecommunications Bureau Site-By-Site Accepted for Filing, *Public Notice*, Report No. 2175 at 1 (rel. June 15, 2005).

⁷ See David Bates, *Feds to Close Mac Flight Station*, McMinnville News-Register, Feb. 5, 2005.

⁸ 47 C.F.R. § 1.925(b)(3). See also *WAIT Radio v FCC*, 418 F. 2d 1153, 1159 (D.C. Cir. 1969).

⁹ Waiver Request at 1.

¹⁰ *Id.*