

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

In the Matter of Application of)	
)	
CITY OF LA VERNE)	FCC File No. 0001910294
)	
Request for Waiver of Section 90.209 to Allow)	
Use of 20 kHz Bandwidth Emissions)	

ORDER

Adopted: May 10, 2006

Released: May 12, 2006

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 City of La Verne, California (La Verne).¹ La Verne requests a waiver of the Commission's Rules to allow operation with a 20 kHz authorized bandwidth on 470-512 MHz offset channels in the Los Angeles, California area until it is able to obtain funding to change over to narrowband operations.² As set forth below, we grant La Verne's waiver request in part and deny it in part.

2. *Background.* The City of La Verne is a small city (approximately eight square miles and 33,000 residents) in Los Angeles County. It operates a private land mobile radio system of base and mobile stations and holds licenses for six Public Safety Pool stations.³ La Verne proposes to expand its operations by adding 470-512 MHz band offset channels (*i.e.*, channels offset from 25 kHz channels) 482/485.0750 MHz, 482/485.2500 MHz and 482/485.5750 MHz to its existing base station at Wheeler Avenue in La Verne (Wheeler Ave.) and to a new site at Carbon Canyon in Chino Hills (Carbon Canyon).⁴ La Verne is currently licensed to operate radios on these frequency pairs at certain other locations in and around the city of La Verne.⁵

3. Although our rules limit the authorized bandwidth on these offset frequencies to 12.5 kHz,⁶ La Verne is licensed to operate on these frequencies with a 20 kHz bandwidth.⁷ La Verne requests a waiver of the Commission's Rules in order to operate on these frequencies at the new locations with a 20

¹ FCC File No. 0001910294.

² See attachment to FCC File No. 0001910294 (Waiver Request).

³ Stations KDB406, KDJ426, KTZ447, WIL293, WIL702 and WNQJ896.

⁴ See FCC File No. 0001910294.

⁵ See licenses for Stations WIL293 and WIL702.

⁶ See 47 C.F.R. §§ 90.173(m), 90.209(b)(5).

⁷ Until 1995, these offset channels were not ordinarily available for licensing. When the offset channels were made available, the authorized bandwidth was limited to 12.5 kHz. See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Report and Order and Further Notice of Proposed Rule Making*, 10 FCC Rcd 10,076, 10,094 ¶ 27 (1995) (*Refarming Report and Order*). La Verne was authorized to operate on these frequencies with a 20 kHz bandwidth prior to that time, however, having received a waiver in 1992.

kHz bandwidth.⁸ It maintains that the waiver is necessary because most of its current radios operate only in a 20 kHz mode.⁹ La Verne also notes that its mutual aid cooperators such as the Los Angeles County Fire Department operate with wideband radios.¹⁰ La Verne states that it hopes to migrate its operations to a narrowband system “over the next few years.”¹¹

4. *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;¹² 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.¹³ Based on the record before us, we believe that La Verne has made the requisite showing for partial grant of a waiver. Specifically, we conclude that a waiver is warranted with respect to the Wheeler Ave. site, but not the Carbon Canyon site.

5. The purposes of the bandwidth limitation on the offset frequencies are to reduce the possibility of interference to licensees operating on adjacent wideband channels,¹⁴ and to maximize spectrum use by encouraging the implementation of narrowband or spectrally efficient technology.¹⁵ Our engineering analysis indicates that the La Verne's proposed Wheeler Ave. operations will create only a *de minimis* extension of the coverage area of its existing 20 kHz operations on these frequency pairs. This expansion is unlikely to create new interference to licensees operating on adjacent wideband channels. Thus we conclude that granting a waiver of the authorized bandwidth requirements with respect to the Wheeler Ave. site and associated mobile units will not frustrate the underlying purposes of the rule. In addition, because La Verne already operates on these frequencies with a 20 kHz bandwidth in most of this area, allowing this expansion does not discourage licensees from adopting narrowband technology. We also conclude that a waiver grant is in the public interest, because it will improve the coverage of La Verne's public safety communications system.¹⁶

6. With respect to La Verne's proposed Carbon Canyon operations, however, our engineering analysis indicates that the proposed operations will significantly extend La Verne's coverage area over heavily populated areas to the south and east of the City of La Verne. We believe that such a significant increase in the coverage area would frustrate the underlying purposes of the bandwidth limitation because La Verne's 20 kHz bandwidth operations at this location could cause interference to licensees operating

⁸ See Waiver Request at 1. La Verne also seeks to add frequency pair 506/509.2125 MHz, which is not an offset frequency and therefore does not require a waiver for the proposed use. See FCC File No. 0001910294.

⁹ See Waiver Request at 1.

¹⁰ *Id.*

¹¹ *Id.* We note that most private land mobile radio licensees operating on frequencies below 512 MHz will be required to migrate to narrowband (12.5 kHz or narrower bandwidth) technology by January 1, 2013. See Implementation of Sections 309(j) and 337 of the Communications Act as Amended, *Third Memorandum Opinion and Order, Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, 19 FCC Rcd 25045 (2004).

¹² 47 C.F.R. § 1.925(b)(3)(i).

¹³ 47 C.F.R. § 1.925(b)(3)(ii).

¹⁴ See *Refarming Report and Order*, 10 FCC Rcd at 10,094 ¶ 27.

¹⁵ See *id.*; *Chevron USA, Inc., Order*, 19 FCC Rcd 15,292, 15,296 ¶ 13 (WTB PSCID 2004).

¹⁶ See, e.g., *City of El Segundo, Order*, 20 FCC Rcd 10,105, 10,107 ¶ 7 (WTB PSCID 2005); *City of Miami Beach, Florida, Order*, 18 FCC Rcd 2589, 2592 ¶ 10 (WTB PSPWD 2003).

on adjacent wideband channels. Although La Verne has submitted letters of concurrence from nearby adjacent-channel licensees, La Verne fails to demonstrate how its proposed 20 kHz wideband operation on offset channels ordinarily limited to 12.5 kHz bandwidth would protect communications on adjacent channels from harmful interference. If La Verne is permitted to extend the coverage area of its wideband operations on 12.5 kHz offset channels, this will increase the area over which adjacent-channel wideband channels become vulnerable to interference. Furthermore, La Verne fails to demonstrate that its circumstances are unique or unusual; or that it would be inequitable, unduly burdensome, or contrary to the public interest for it to comply with the rules by selecting channels not subject to the 12.5 kHz bandwidth limitation.¹⁷

7. *Conclusion and Ordering Clauses.* We grant La Verne's waiver request in part, and deny it in part. Specifically, we grant the request with respect to the Wheeler Ave. site, because the proposed operations will create a minimal expansion of La Verne's current coverage. We deny the request with respect to the proposed Carbon Canyon site, however, because the proposed operations would frustrate the underlying purposes of the bandwidth limitation.

8. Accordingly, pursuant to Sections 4(i) and 309(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309(a), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the waiver request filed by City of La Verne with respect to application FCC File Number 0001910294 IS GRANTED IN PART AND DENIED IN PART to the extent described herein, and application FCC File No. 0001910294 SHALL BE PROCESSED consistent with this *Order* and the Commission's rules.

9. 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

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

¹⁷ We note that La Verne is authorized to operate on several VHF frequencies not subject to a 12.5 kHz bandwidth limitation. See licenses for Stations KDB406, KDJ426, KTZ447 and WNQJ896.