

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

In the Matter of Application of )
NORCOM COMMUNICATIONS CORP. ) File No. 0002063770
for an Industrial/Business Pool Station in Selden, )
New York )

ORDER

Adopted: August 10, 2006

Released: August 11, 2006

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

1. Introduction. We have before us an application filed by the Norcom Communications Corp. (Norcom) to operate an Industrial/Business Pool Station in the 470-512 MHz band in Selden, New York.1 Norcom requests a waiver of Section 90.305(a) of the Commission's Rules2 to permit it to relocate its currently licensed base stations for Stations WPQE399 and WPPF468, Hauppauge, New York, to a location more than fifty miles from the geographic center of the New York/Northeastern New Jersey urbanized area.3 For the reasons set forth below, we grant Norcom's request for waiver.

2. Background. Pursuant to Section 90.305(a) of the Commission's Rules, base stations operating in the 470-512 MHz band must be located within fifty miles of the geographic center of the urbanized areas listed in Section 90.303 of the Commission's Rules.4 This mileage restriction was established to protect over-the-air broadcast operations on television (TV) channels 14-20 from harmful interference by land mobile radio systems operating in the 470-512 MHz band.5 On March 1, 2005, Norcom filed an application to relocate the base stations for Industrial/Business Pool Land Mobile Stations WPQE399 and WPPF468 from Hauppauge to Selden, New York, a distance of approximately eight miles.6 Norcom states that it must relocate the base stations because the current site was found to be structurally unsound, and an environmental hazard because the markings include lead paint.7 Stations WPQE399 and WPPF468 operate on TV Channels 14 and 15 in the New York/Northeastern New Jersey urbanized area.8 Because the proposed base station would be more than fifty miles from the geographic center of the New York/Northeastern New Jersey urbanized area, Norcom requests a waiver of Section

1 FCC File No. 0002063770 (filed Mar. 1, 2005, amended May 2, 2005).

2 47 C.F.R. § 90.305(a).

3 Request for Waiver, filed May 2, 2005 (Waiver Request).

4 47 C.F.R. § § 90.303, 90.305(a).

5 See Further Sharing of the UHF Television Band by Private Land Mobile Radio Services, Notice of Proposed Rule Making, Gen. Docket No. 85-172, 101 F.C.C. 2d 852 (1985).

6 FCC File No. 0002063770.

7 See Waiver Request at 4.

8 Station WPQE399 is currently licensed to operate on frequency pairs 472/475.5625 MHz, 477/480.7875 MHz and 478/481.4875 MHz. See license for Station WPQE399. Station WPPF468 is currently licensed to operate on frequency pair 477/480.8875 MHz. See license for Station WPPF468. Norcom proposes to add that frequency pair to the license for Station WPQE399. See FCC File No. 0002063770.

90.305(a) of the Commission's Rules.<sup>9</sup>

3. *Discussion.* A request for a rule waiver in the Wireless Telecommunications Services may be granted if it is shown that (a) the underlying purpose of the rule 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 (b) in view of unique or unusual factual circumstances of the instant case, application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>10</sup> We conclude that Norcom has made a sufficient showing that grant of the requested waiver is warranted under the first prong of the waiver standard set forth in Section 1.925 of the Commission's Rules.

4. The purpose of the fifty-mile limitation is to ensure that television stations and land mobile stations do not interfere with one another.<sup>11</sup> Sections 90.305(a) and (b) of the Commission's Rules provide that private land mobile radio (PLMR) base stations operating in the 470-512 MHz band (which also constitutes TV channels 14 through 20) may be located only within fifty miles of the geographic centers of certain cities listed in Section 90.303, and associated mobile units shall operate within thirty miles of the base station, thus creating a circular area with a radius of eighty miles (eighty-mile area) within which PLMR stations may operate without interference from television stations.<sup>12</sup> The rules specify effective radiated power and antenna height limits to ensure that PLMR stations will not interfere with existing full-power television stations.<sup>13</sup>

5. Against this backdrop, we have performed our own engineering analysis to determine whether Norcom's proposed operation is likely to cause interference to protected full-service TV facilities. Specifically, we have confirmed that the proposed Norcom base station will satisfy all the protection criteria of Section 90.307 of the Commission's Rules with respect to full service co-channel and adjacent-channel TV stations. In addition, we have determined that the service contour will extend approximately twenty miles from the proposed Norcom base station.<sup>14</sup> Given that the base station is proposed to be located 51.1 miles from the geographic center for New York/Northeastern New Jersey, the radius of the circular area within which the mobiles will operate will not extend beyond 71.1 miles from the associated coordinates. Therefore, despite the fact that the base station is located beyond the fifty-mile limit, the service area for the proposed Norcom base station will remain within the eighty-mile area where land mobile operations are primary. The Commission has stated that it is more inclined to consider favorably requests for waiver of Section 90.305(a) when the applicant proposes to contain its area of operations within eighty miles of the geographic center of the urban area in question, because such operation would not adversely impact television stations (given that television stations already are required to protect PLMR stations operation within that area).<sup>15</sup> Accordingly, because Norcom would fully protect all television stations that are entitled to protection, we conclude that the underlying purpose of the rule would not be served by application to this case. In addition, we conclude that the public interest is served by facilitating Norcom's move from its present antenna structure to one that is not a

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

<sup>10</sup> 47 C.F.R. § 1.925(b)(3) (formerly 47 C.F.R. § 90.151).

<sup>11</sup> See Further Sharing of the UHF Television Band by Private Land Mobile Radio Services, *Notice of Proposed Rulemaking*, Gen. Docket No. 85-172, 101 F.C.C. 2d 852 (1985).

<sup>12</sup> 47 C.F.R. §§ 90.305(a), 90.305(b).

<sup>13</sup> 47 C.F.R. §§ 90.307, 90.309.

<sup>14</sup> This is based on a service contour for a land mobile station operating between 450-470 MHz of 39 dBu. See 47 C.F.R. §§ 90.187, 90.205. The distance to this contour was calculated, based on the proposed effective radiated power (290 watts) and antenna height above mean sea level of 182 meters. See FCC File No. 0002063770.

<sup>15</sup> See Goosetown Enterps., Inc., *Memorandum Opinion and Order*, 16 FCC Rcd 12792, 12797 ¶ 13 (2001).

structural or environmental hazard.

6. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the Request for Waiver filed on May 2, 2005 by Norcom Communications Corp. IS GRANTED, and application FCC File No. 0002063770 SHALL BE PROCESSED in accordance with this *Order* and the Commission's Rules.

7. 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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