

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

In the Matter of)	
)	
Cam Jo, Inc., DBA Clearwater Yellow Cab Pascot & Tarpon Springs)	
)	
Application for Authority To Operate an Industrial Land Transportation Station in St. Petersburg, Largo, Port Richey, Tampa, and Oldsmar, Florida)	FCC File No. 0002706334
)	
and)	
)	
Request for Waiver of 900 MHz Application Filing Freeze)	
)	

ORDER

Adopted: February 26, 2007

Released: February 26, 2007

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* We address a request for waiver filed by Cam Jo, Inc., DBA Clearwater Yellow Cab Pascot & Tarpon Springs (Cam Jo).¹ Cam Jo seeks a waiver of the 900 MHz application freeze² prohibiting the filing of new license applications. Cam Jo requests a waiver to permit the processing of its application for frequencies formerly authorized to Cam Jo under 900 MHz Trunked, Industrial Land Transportation Station WPIF405 in the St. Petersburg/Tampa, Florida, area. For the reasons stated below, we grant the request for waiver and permit the processing of Cam Jo's application.

2. *Background.* On March 3, 2000, the Commission authorized Cam Jo to operate the facilities authorized under Call Sign WPIF405. Cam Jo operates the station to provide taxi cab and other car/livery services in the greater St. Petersburg/Tampa, Florida, metropolitan area.³

3. On September 17, 2004, the Wireless Telecommunications Bureau (Bureau) instituted a freeze on new 900 MHz applications because it feared that the exceptionally large number of applications it had received could compromise its ability to accommodate displaced systems during the 800 MHz band reconfiguration process designed to resolve interference to public safety communications.⁴ The Bureau stated that it would continue to accept applications for license modification and would entertain requests for waiver of the 900 MHz application freeze.⁵ The Commission subsequently released a *Notice of*

¹ See FCC File No. 0002706334, Application for Wireless Telecommunications Bureau Radio Service Authorization (filed Aug. 8, 2006, amended Sept. 5, 2006) (Waiver Request).

² See Wireless Telecommunications Bureau Freezes Applications in the 900 MHz Band, *Public Notice*, 19 FCC 18277 (WTB 2004) (*900 MHz Freeze PN*); see also Amendment of Part 90 of the Commission's Rules to Provide for Flexible Use of the 896-901 MHz and 935-940 MHz Bands Allotted to the Business and Industrial Land Transportation Pool, WT Docket No. 05-62, *Notice of Proposed Rulemaking and Memorandum Opinion and Order*, 20 FCC Rcd 3814 (2005) (*900 MHz NPRM*).

³ Waiver Request at 1.

⁴ See *900 MHz Freeze Notice*, 19 FCC Rcd at 18277-78.

⁵ *Id.* at 18278 n.7.

Proposed Rulemaking seeking comment on geographic licensing in the 900 MHz band, which reaffirmed the freeze and reiterated that it would consider requests for waiver of the freeze.⁶

4. On December 6, 2004, the Commission sent Cam Jo a license renewal reminder letter.⁷ Cam Jo, however, failed to file a license renewal application.⁸ On March 3, 2005, the authorization for Call Sign WPIF405 expired by its own terms. On August 8, 2006, Cam Jo filed the subject application, which seeks a new permanent authorization to cover its operation of the existing facilities.⁹ Cam Jo requests a waiver of the freeze on new 900 MHz license applications to permit the processing of its application.¹⁰

5. *Discussion.* To obtain a waiver of the Commission's Rules, a petitioner must demonstrate either that (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest;¹¹ 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.¹² We conclude that Cam Jo has demonstrated that its waiver request would not frustrate the underlying purpose of the freeze.

6. The purpose of the 900 MHz Freeze is to preserve adequate spectrum resources during band reconfiguration as well as to preserve the spectrum landscape until the Commission resolves the geographic licensing issues raised in the *900 MHz NPRM*.¹³ With regard to the Freeze, Cam Jo seeks a waiver pursuant to the rules just cited and the *900 MHz NPRM*.¹⁴ Cam Jo contends that the purpose of the freeze would not be frustrated by grant of its request, that such a grant would serve the public interest, and that it would also avoid the imposition on Cam Jo of inequitable and otherwise undue burdens.¹⁵

7. Specifically, Cam Jo contends that the freeze was intended to ensure that Nextel Communications, Inc. (now Sprint Nextel), has the ability to obtain necessary spectrum in order to “house some of its systems while the 800 MHz band is reconfigured to abate unacceptable interference to public safety, critical infrastructure, and other ‘high site’ 800 MHz systems.”¹⁶ Cam Jo explains that its application only asks the Commission to reauthorize facilities that were already authorized and

⁶ See *900 MHz NPRM*, 20 FCC Rcd at 3836 ¶ 67.

⁷ See FCC Renewal Reminder Letter (Dec. 6, 2004).

⁸ See Waiver Request at 1.

⁹ File No. 0002706334 (filed Aug. 8, 2006, amended Sept. 5, 2006). In a separate application dated Feb. 10, 2006, Cam Jo requested Special Temporary Authority (STA) to operate the subject 900 MHz Service facilities; this application was granted Feb. 16, 2006, with the assignment of call sign WQEK250. File No. 0002478956. In an application filed Aug. 11, 2006, Cam Jo filed to renew the STA which was granted Aug. 18, 2006. File No. 0002710304. Recently, in an application filed Feb. 12, 2007, Cam Jo sought to renew the STA again, which application was granted Feb. 13, 2007. File No. 0002910685.

¹⁰ Waiver Request at 0-1, 3.

¹¹ 47 C.F.R. § 1.925(b)(3)(i).

¹² 47 C.F.R. § 1.925(b)(3)(ii).

¹³ See *900 MHz Freeze PN*, 19 FCC Rcd 18277; *900 MHz NPRM*, 20 FCC Rcd at 3836 ¶ 67

¹⁴ Waiver Request at 0-1 (*citing* 47 C.F.R. § 1.925 and *900 MHz NPRM*, 20 FCC Rcd at 3836 ¶ 67.)

¹⁵ *Id.* at 0.

¹⁶ *Id.* at 0 (*citing* *900 MHz Application Freeze PN*).

operational at the time the Commission imposed the Freeze.¹⁷ Because this spectrum was already encumbered and, thus, would not be available for use in connection with Nextel's re-banding efforts, but for Cam Jo's inadvertent failure to renew the subject license, Cam Jo claims it is "exactly the type of applicant contemplated by" the 900 MHz NPRM.¹⁸ In addition Cam Jo contends that, in other cases where incumbent licenses have expired, the Commission has permitted the reauthorization of such licenses, even in the face of an ongoing application freeze.¹⁹

8. In support of its request, Cam Jo claims a waiver of the freeze in this instance would be in the public interest because Cam Jo operates this station in St. Petersburg, Largo, Port Richey, Tampa, and Oldsmar, Florida, as the provider of important taxi-cab and other car/livery services in those areas.²⁰ Cam Jo explains that it provides transportation services to the disabled, senior citizens, veterans, and Medicaid recipients throughout that metropolitan area.²¹ In addition, because it offers what it contends are "unique livery and para-transit services," Cam Jo notes that the Florida counties of Hillsborough, Pasco, and Pinellas have in the past and would in the future likely rely upon Cam Jo to provide such specialized services as part of those counties' emergency evacuation plans.²² Finally, Cam Jo explains that its radios are necessary for Cam Jo's drivers to maintain voice and data communications with Cam Jo's dispatch center so that the status of the taxi-cabs and other car services is known at all times.²³

9. Cam Jo also asserts a denial of its waiver request would be inequitable and otherwise unduly burdensome. First, because spectrum in the St. Petersburg/Tampa metropolitan area is congested, Cam Jo contends it is rather unlikely that it would be able to find alternate spectrum that would be suitable for such "exclusive use type" operations. Second, even if it were able to locate alternate spectrum, Cam Jo submits that its transition to that spectrum would require the costly replacement of Cam Jo's mobile repeater system.²⁴

10. As noted above, Cam Jo was licensed for Station WPIF405 until that license expired in March 2005. Thus, Cam Jo was authorized to operate Station WPIF405 prior to the Commission's decision to institute the 900 MHz Freeze. Cam Jo does not appear to seek to modify any of its formerly licensed channels. Because grant of the underlying application will restore the channels and the exact operating parameters of the previous authorization, we believe that grant of this waiver and our processing of the related application will not interfere with the spectrum needs associated with the 800 MHz proceeding. Given that Cam Jo was an established 900 MHz licensee before the 800 MHz reconfiguration decision, it would not have been affected by the application freeze had it filed a timely renewal application. Thus, grant of the waiver will not interfere with the purpose of the 900 MHz Freeze.²⁵

¹⁷ Waiver Request at 1.

¹⁸ *Id.* at 1.

¹⁹ *Id.* at 3 (*citing* In the Matter of Industrial Communications & Electronics, Inc., Station WNMD402 Reinstatement Application, File Nos. 659450, 694673, 695532, 694674, *Order on Reconsideration*, 13 FCC Rcd 8417 (WTB CWD 1998)).

²⁰ Waiver Request at 1.

²¹ *Id.*

²² *Id.* at 2.

²³ *Id.*

²⁴ *Id.* at 2-3.

²⁵ *See, e.g.*, Disneyland Resort, File Nos. 0002018531 and 0002018534, *Order*, 21 FCC Rcd 536 (WTB PSCID 2006).

11. Grant of the waiver request serves the public interest. The waiver permits the processing of an application that seeks to preserve a vital radio communications system that is used continually by Cam Jo and the drivers of its taxi cabs and other vehicles. Furthermore, grant of this waiver of the 900 MHz Freeze is important for the continued safe operation of Cam Jo's vehicle fleet in the St. Petersburg/Tampa metropolitan area, the transportation services it provides to the disabled, senior citizens, and others in need of its specialized services, and the availability of Cam Jo to help several Florida counties in emergencies.

12. For the aforementioned reasons, we grant Cam Jo's request for waiver of the 900 MHz Freeze and we permit the processing of its application. To the extent Cam Jo has operated on the subject frequencies without Commission authorization during periods after the expiration of the license for Station WPIF405 when Cam Jo did not have an STA, our decision is without prejudice to any Enforcement Bureau action.²⁶

13. Accordingly, IT IS ORDERED, pursuant to Sections 1 and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the waiver request filed by Cam Jo, Inc., DBA Clearwater Yellow Cab Pascot & Tarpon Springs, on August 8, 2006, and amended September 5, 2006, with FCC File No. 0002706334 IS GRANTED.

14. IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), that application FCC File No. 0002706334, filed by Cam Jo, Inc., DBA Clearwater Yellow Cab Pascot & Tarpon Springs on August 8, 2006, and amended September 5, 2006, SHALL BE PROCESSED in accordance with this *Order*.

15. This action is taken under delegated authority pursuant to Sections 0.131(a) and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131(a), 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Katherine M. Harris
Deputy Chief, Mobility Division
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²⁶ See 47 C.F.R. § 1.903 (authorization required). Notwithstanding our decision in this particular case, we caution that a licensee must abide by the Commission's filing deadlines. All licensees are responsible for filing renewal applications and related petitions in a timely manner. Thus, we admonish Cam Jo to conform to this requirement in the future and to take any necessary steps to avoid future occurrences, because the Commission does not routinely grant such waiver requests.