

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

In the matter of)	
)	
BAYBRIDGE COMMUNICATIONS)	File No. 0003193277
)	
Application For New License in the Microwave Industrial/Business Radio Pool)	
)	
Request for Waiver of Section 101.603(a)(7) of the Commission's Rules)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: June 26, 2009

Released: June 26, 2009

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

I. INTRODUCTION

1. In this *Memorandum Opinion and Order*, we address Baybridge Communications' (Baybridge) application for a new Microwave Industrial/Business Pool Station¹ and accompanying request for waiver² of Section 101.603(a)(7) of the Commission's Rules³ to permit Baybridge to use the station as the final RF link in connection with the delivery of broadcast programming material to the transmitter site of Station KDIA(AM), Vallejo, California. For the reasons stated below, we grant Baybridge's Waiver Request.

II. BACKGROUND

2. Baybridge is authorized to construct a modification to AM radio station KDIA(AM) to operate on 1640 kHz at Vallejo, California.⁴ Baybridge has constructed a new transmitter site at Tubbs Island in Sonoma County, California.⁵ On October 9, 2007, Baybridge filed the instant Application and Waiver Request.⁶ No oppositions or objections were filed.

3. Section 101.603(a)(7) of the Rules⁷ prohibits the use of the 10 GHz band as the final RF

¹ File No. 0003193277 (filed Oct. 9, 2007) (Application).

² See Application, Request for Waiver of Section 101.603(a)(7) (Waiver Request).

³ 47 C.F.R. § 101.603(a)(7).

⁴ See File No. BP-20040109ADF, as modified.

⁵ Waiver Request at 1. On April 29, 2008, Baybridge filed an application for license to cover the construction permit (File No. BL-20080429ACG). That application was granted on September 26, 2008. See Broadcast Actions, Report No. 46833, *Public Notice* (MB rel. Oct. 1, 2008).

⁶ Application. The application was accepted for filing on October 17, 2007. See Wireless Telecommunications Bureau Site-by-Site Accepted for Filing, Report No. 3517, *Public Notice* (rel. Oct. 17, 2007) at 49.

⁷ 47 C.F.R. § 101.603(a)(7).

link to deliver Baybridge's broadcast signal to its transmitter site. Baybridge has concluded, however, that it must rely on spectrum in the Microwave Industrial/Business service to deliver the broadcast signal from the main studio location in Richmond, California to the transmitter site at Tubbs Island.⁸ According to Baybridge and Comsearch, Baybridge's frequency coordinator, there is no available spectrum in the 948 MHz Broadcast Auxiliary Service (BAS) band.⁹ Baybridge and Comsearch state that because the path between the main studio location and the Tubbs Island transmitter site is too long (11.8 miles),¹⁰ use of the 13 GHz, 18 GHz and 23 GHz bands would not satisfy the reliability requirements set forth by the equipment manufacturers.¹¹ Baybridge contends that these bands suffer substantial signal degradation due to terrain and weather.¹² Baybridge also states that it plans to construct the 10 GHz link for control, telephone, and data network services in any case, and thus additional use of the link for audio transmission would be spectrally efficient.¹³ Finally, Baybridge argues that the use of other spectrum would be inefficient, as it would typically require a bandwidth of 12.5 MHz, whereas the instant facility would only require a 2.5 MHz bandwidth.¹⁴ Baybridge concludes use of the 10 GHz band to deliver KDIA(AM)'s broadcast signal to the Tubbs Island transmitter site would result in the most spectrally-efficient usage, would not cause interference to other licensees, and would not suffer substantial fade due to terrain and weather factors.¹⁵

III. DISCUSSION

4. Section 1.925(b)(3) of the Commission's Rules requires parties seeking a waiver to demonstrate that:

(i) The underlying purpose of the rule(s) 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

(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.¹⁶

The Part 101 rules were simplified and streamlined to "encourage more efficient use of the microwave spectrum by permitting more intensive use of microwave equipment,"¹⁷ and to "lead to economies of

⁸ Waiver Request at 1.

⁹ Waiver Request at 2; Statement of Greg Macey, Senior Manager, Microwave Engineering, Comsearch (Oct. 8, 2007) (Comsearch Statement).

¹⁰ In the Waiver Request, Baybridge alleges that the path length is 33 miles. Waiver Request at 2. Our analysis shows that the path length is 19.08 km (11.8 miles). Notwithstanding the discrepancy, staff analysis confirms that use of the 13 GHz, 18 GHz and 23 GHz bands would not satisfy the reliability requirements set forth by equipment manufacturers.

¹¹ Waiver Request at 2; Comsearch Statement.

¹² *Id.* at 2.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ 47 C.F.R. § 1.925(b)(3)(i)-(ii).

¹⁷ Common Carrier and Private Operational Fixed Services, *Report and Order*, WT Docket No. 94-148, CC Docket No. 93-2, and RM-7861, 11 FCC Rcd 13449, 13452 (1996).

scale in microwave equipment production and lower equipment prices to licensees.”¹⁸ Section 101.603(a)(7) of the Commission’s Rules ensures that private operational fixed stations are used for private, internal purposes and prevents broadcasters from causing congestion when Part 74 Broadcast Auxiliary Service frequencies are available.

5. We conclude that Baybridge has justified a waiver under the second prong of the waiver standard. Baybridge has shown that no reasonable alternative exists to its use of frequencies in the 10 GHz band. Specifically, Baybridge has shown that BAS frequencies in the 944-952 MHz band are not available and that no other frequencies are available that would provide a reliable communications link between its main studio and its transmitter site.¹⁹ Furthermore, in light of the fact that Baybridge had plans to use the station for control, telephone, and data network services, we believe that allowing Baybridge to use the same station to transmit programming to the transmitter site would be spectrally efficient. We conclude, in view of the foregoing, that, pursuant to Section 1.925(b)(3)(ii) of the Commission’s Rules,²⁰ that grant of the waiver would be in the public interest. We note that Baybridge’s waiver showing is very similar to a waiver request granted to another broadcaster in the same area.²¹ Accordingly, we believe that Baybridge should be granted a waiver of Section 101.603(a)(7)²² of the Commission’s Rules.²³

IV. ORDERING CLAUSES

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, that the waiver request filed by Baybridge Radio of California on October 9, 2007 IS GRANTED.

7. IT IS FURTHER ORDERED that the licensing staff of the Broadband Division SHALL PROCESS Baybridge’s pending application, File No. 0003193277, in accordance with this *Memorandum Opinion and Order* and the applicable Commission Rules.

8. 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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¹⁸ *Id.* at 13453. The simplified and streamlined rules also reduced regulatory burdens, benefiting both the public and the Commission. *Id.* at 13452.

¹⁹ See Waiver Request, Exhibit A.

²⁰ 47 C.F.R. § 1.925(b)(3)(ii).

²¹ See Pappas Radio of California, *Memorandum Opinion and Order*, 21 FCC Rcd 13528 (WTB BD 2006).

²² 47 C.F.R. § 101.603(a)(7).

²³ See also Maryland Public Broadcasting Commission, *Memorandum Opinion and Order*, 21 FCC Rcd 1647 (WTB BD 2006); Transmissions Holdings, Inc., *Order*, 14 FCC Rcd 3769 (WTB 1999).