



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

September 4, 2009

DA 09-2015

Philip C. Bidden
Sterling Helicopter
801 South Columbus Boulevard
Philadelphia, PA 19147

RE: Application FCC File No. 0003824922, Request for Waiver

Dear Mr. Bidden:

We have before us the above-referenced application, filed May 1, 2009, for renewal and modification of the license of Sterling Helicopter (Sterling) for Aeronautical Advisory (Unicom) Station KAO5, Philadelphia, Pennsylvania. Sterling seeks to modify the license to use 123.025 MHz as the unicom/common traffic advisory frequency (CTAF) at the City of Philadelphia's Penns Landing Pier 36 Heliport (Heliport). Sterling accordingly requests a waiver¹ of Section 87.217 of the Commission's Rules, which sets forth the frequencies that may be assigned to unicom.² For the reasons set forth below, we deny the request for waiver.

Unicom 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.³ A CTAF is a frequency designated for the purpose of carrying out airport advisory practices while operating to or from an airport without an operating control tower. CTAFs are a critical means by which pilots can exchange traffic and landing information at airports where there is no licensed unicom to provide that information. At airports with a unicom but no control tower or Federal Aviation Administration (FAA) flight service station (FSS), the unicom frequency is designated as the CTAF.⁴ The CTAF is identified as such in appropriate aeronautical publications.⁵

¹ Letter dated April 22, 2009 from Philip C. Bidden, General Manager, Sterling Helicopter, to Federal Communications Commission (Waiver Request).

² 47 C.F.R. § 87.217.

³ 47 C.F.R. § 87.213(b)(1). 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. 47 C.F.R. § 87.213(b)(2).

⁴ Reorganization and revision of Part 87 of the Rules governing the aviation services, *Report and Order*, PR Docket No. 87-214, 3 FCC Rcd 4171, 4212 n.5 (1988).

Section 87.217(a)(2) specifies that, at airports which do not have a full-time control tower or FSS, the only frequencies assignable to unicom are 122.700 MHz, 122.725 MHz, 122.800 MHz, 122.975 MHz, 123.000 MHz, 123.050 MHz (Sterling's current frequency), and 123.075 MHz.⁶ One of the purposes of designating spectrum for unicom is to provide a common frequency for aircraft in the vicinity of airports with no control tower or FSS.

Sterling requests a waiver to use frequency 123.025 MHz, which is designated for use by helicopters for air-to-air communications,⁷ as a unicom/CTAF frequency. It states, "123.025 is the helicopter air-to-air frequency used by all operators in this congested airspace. It is the general consensus of the operators that having to manage another frequency for heliport advisories puts them at risk."⁸ Sterling states that the requested frequency change will enhance aviation safety.⁹

Section 1.925(b)(3) of the Commission's Rules provides that we may grant a request for waiver if it is shown that (i) 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 (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.¹⁰

Based on the record before us, we conclude that grant of Sterling's waiver request is not warranted. Sterling has not demonstrated any unique and unusual circumstances that necessitate the use of the helicopter air-to-air frequency for unicom/CTAF purposes at the Heliport. We note that there are other heliport unicom¹¹ within three miles of the Heliport also using frequency 123.050 MHz. We believe Sterling's requested change to frequency 123.025 MHz could cause confusion to aviation users in the area. Additionally, the change could increase the communications on the air-to-air frequency in this congested area, and cause a danger to air safety. Accordingly, we believe that granting Sterling's requested waiver regarding the assignment and use of unicom frequencies would be contrary to the public interest and possibly inconsistent with the Commission's ongoing goal of promoting aviation safety.

When a unicom previously was granted a waiver to operate on frequency 123.025 MHz, the unicom operator coordinated the proposal with, and obtained the concurrence of, local FAA

⁵ See *Aeronautical Information Manual*, Paragraph 4-1-9(b)(1) (U.S. Department of Transportation. Feb. 14, 2008).

⁶ See 47 C.F.R. § 87.217(a)(2).

⁷ See 47 C.F.R. §§ 87.173, 87.187(j).

⁸ See Waiver Request at 1.

⁹ *Id.*

¹⁰ 47 C.F.R. § 1.925(b)(3).

¹¹ Station KEW5, University of Pennsylvania Hospital Helipad; and Station KTP9, PECO Energy Company Heliport.

and the United States Coast Guard officials prior to filing the application.¹² Moreover, that waiver was granted because aircraft in the same airspace were failing to communicate with each other because they were listening to the different frequencies assigned to two nearly adjacent unicoms.¹³ Sterling has not demonstrated similar grounds for its waiver request.

ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the waiver request filed by Sterling Helicopter in association with application FCC File No. 0003824922 on May 1, 2009 IS DENIED.

IT IS FURTHER ORDERED that application FCC File No. 0003824922 SHALL BE GRANTED IN PART only to the extent of renewing the license for Station KAO5.

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

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

¹² See Letter dated June 26, 2003 from William L. Lindsey, Manager, Airway Facilities Division, Office of the Regional Administrator, Southern Region, Federal Aviation Administration to Laura Bilberry, Assistant Director, Department of Economic Development, City of Miami; Letter dated June 26, 2003 from Lt. James W. Spidler, Commanding Officer, United States Coast Guard Air Station Miami to Laura Bilberry, City of Miami. (Both letters are on file with the application, FCC File No. 0001370318.)

¹³ See Letter dated Jan. 24, 2005 from Michael J. Wilhelm, Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau to Clarence E. Woods, City of Miami, at 2. (This letter is on file with the license for Station WQCC794.)