

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

In the Matter of
TOWN OF SANDWICH, MASSACHUSETTS
Request for Waiver of Section 90.305(a) of the
Commission's Rules
File No. 0003032616

ORDER

Adopted: August 7, 2012

Released: August 8, 2012

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. The Town of Sandwich, Massachusetts (Sandwich) filed an application and request for waiver to modify its authorization for 470-512 MHz band (T-Band) public safety Station WQDB454. Specifically, Sandwich requests a waiver because it proposes to operate a mobile relay station more than 80 kilometers (50 miles) outside Boston, Massachusetts, the maximum distance allowed under the Commission's rules. For the reasons stated below, we deny the Waiver Request and dismiss the application.

II. BACKGROUND

2. In support of its Waiver Request, Sandwich states that "the proposed station is needed to provide communications to emergency response personnel of the [fire] department." Sandwich adds that its current mobile relay station "does not provide complete radio coverage to the town," and that "there are no suitable sites that can provide the required coverage and meet the 80-Km restriction." Sandwich states that "[t]he proposed station meets the protection criteria (90.307) for co-channel TV stations (no station within 200 miles) and adjacent channel (WCBB channel 17 - 169.28 miles)."

III. DISCUSSION

3. On February 22, 2012, the President signed the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) into law. Section 6103 of the Spectrum Act provides that, not later than nine years after the date of enactment, the Commission shall reallocate T-Band spectrum "currently used

1 File No. 0003032616 (filed May 18, 2007) and accompanying Request for Waiver of Station Location Restriction (Waiver Request).

2 Waiver Request at 1; see also 47 C.F.R. § 90.305(a). The proposed station would be located 85.98 kilometers from the Boston center point coordinates. The new station would operate on frequency 484.825 MHz, which is the same frequency that Sandwich uses for an existing mobile relay station. See license for Station WQDB454.

3 Waiver Request at 1.

4 Id. at 1.

5 Id. See 47 C.F.R. § 90.307. TV Station WCBB transmits its digital signal on channel 17 from Augusta, Maine.

6 See Pub. L. No. 112-96, 126 Stat. 156 (2012) (Spectrum Act).

by public safety eligibles.”⁷ On April 26, 2012, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau (Bureaus) issued a public notice announcing a limited suspension of the acceptance and processing of certain T-Band applications.⁸ The *Suspension Notice* suspended the acceptance and processing of T-Band applications “in order to stabilize the existing spectral landscape while the Commission considers issues surrounding future use of the T-Band, solicits input from interested parties, and works to implement the directives of the Act.”⁹ In the *Suspension Notice*, the Bureaus stated that they would not accept or process applications “that would, if granted, tend to increase the degree to which the 470-512 MHz band is currently licensed,” including applications that add locations.¹⁰ On June 7, 2012, the Bureaus issued a subsequent public notice to clarify that “applications that seek to add or change locations are suspended only if the new location extends the station’s authorized interference contour in any direction.”¹¹

4. In light of the Spectrum Act and in accordance with the *Suspension Notice*, we find that Sandwich’s application would, if granted, increase the degree to which the T-Band is currently licensed because the application is for a new repeater that would expand Sandwich’s authorized interference contour. We deny Sandwich’s waiver of Section 90.305(a) because, as explained in the *Suspension Notice*, it is not in the public interest for us to expand further T-Band encumbrance, especially into areas where Part 90 of the Commission’s rules does not permit the requested T-Band operation. Section 1.934(d)(2) of the Commission’s rules provides that an application containing a waiver request is defective if the Commission denies the waiver request and the application does not contain an alternative proposal that fully complies with the rules.¹² Because Sandwich submitted no such alternative proposal, we dismiss Sandwich’s application as defective.¹³

IV. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED pursuant to Sections 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, that the Waiver Request associated with application File No. 0003032616, filed by the Town of Sandwich on May 18, 2007, IS DENIED.

6. IT IS FURTHER ORDERED that application File No. 0003032616 IS DISMISSED consistent with this *Order* and the Commission’s rules.

⁷ Spectrum Act, § 6103(a). The Act further instructs the Commission to “begin a system of competitive bidding under Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new initial licenses for the use of the spectrum.” *Id.* It also provides that “relocation of public safety entities from the T-Band Spectrum” shall be completed not later than two years after completion of the system of competitive bidding. *Id.*, § 6103(b), (c).

⁸ Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, 27 FCC Rcd 4218 (WTB/PSHSB 2012) (*Suspension Notice*).

⁹ *Id.* at 1.

¹⁰ *Id.* at 2.

¹¹ Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Clarify Suspension of the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, DA 12-892 (WTB/PSHSB rel. June 7, 2012) (*Clarification Notice*) at 1-2.

¹² 47 C.F.R. § 1.934(d)(2).

¹³ See *Suspension Notice* at 2.

7. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

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