

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

In the Matter of)	
)	
COUNTY OF BEDFORD, PENNSYLVANIA)	File Nos. 0003857496, 0004274304
)	
Request for Waiver of Sections 2.106, 90.303,)	
90.305(a), and 90.311 of the Commission's Rules)	

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 County of Bedford, Pennsylvania (Bedford or the County) filed two applications and request for waiver for authority to to operate on several 470-512 MHz band (T-Band) frequencies in the television (TV) Channel 18 band (494-500 MHz).¹ Specifically, Bedford seeks a waiver to operate more than 80 kilometers outside Pittsburgh, Pennsylvania, the maximum distance allowed under the Commission's rules.² For the reasons stated below, we deny the Waiver Request and dismiss the applications.

II. BACKGROUND

2. In support of its Waiver Request, Bedford states, "although Bedford holds a number of UHF licenses in the 450-470 MHz range, there are not enough channels to allow implementation of the new system."³ The County states that "[c]onsidering any band other than UHF could require first responders to carry two or more radios, compromising the goal of county-wide interoperability."⁴ Therefore, Bedford argues that its only alternative is to "utilize UHF spectrum shared with television stations."⁵

¹ See File Nos. 0003857496 (filed June 2, 2008, amended June 7, 2010) and 0004274304 (filed June 7, 2010) and attached "Application and Request for Waiver" (Waiver Request); "System Description, Request for Waiver, Request for Extended Implementation And Shared Infrastructure" (System Description); "UHF Channel Study For Bedford County, Pennsylvania" (UHF Study); "Television Channel Study, Bedford County, Pennsylvania" (TV Channel Study); and "Supporting Statement" (Supporting Statement).

² See Supporting Statement at 1; see also 47 C.F.R. § 2.106, 90.303, 90.305(a), 90.311. Bedford's proposed base stations are located between 116.5 and 148.0 kilometers (72.4 and 91.3 miles) from the Pittsburgh, Pennsylvania city center coordinates. Bedford also seeks waiver of Section 90.313(c), which requires a licensee to show that an assigned frequency pair is at full capacity before it may be assigned an additional frequency pair. See System Description at 8; 47 C.F.R. § 90.313(c).

³ Waiver Request at 1. See also UHF Study.

⁴ Waiver Request at 1.

⁵ *Id.* at 2.

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.⁶ 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 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 for new licenses.¹⁰

4. In light of the Spectrum Act and in accordance with the *Suspension Notice*, we find that Bedford’s applications would, if granted, increase the degree to which the T-Band is currently licensed because the applications are for new licenses. We deny Bedford’s waiver of Sections 2.106, 90.303, 90.305(a), and 90.311 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 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.¹¹ Because Bedford submitted no such proposal, we dismiss Bedford’s applications as defective.¹²

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 Nos. 0003857496 and 0004274304, filed by the County of Bedford, Pennsylvania on June 2, 2008, as amended, IS DENIED.

6. IT IS FURTHER ORDERED that application File Nos. 0003857496 and 0004274304 ARE DISMISSED consistent with this *Order* and the Commission’s rules.

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

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 47 C.F.R. § 1.934(d)(2).

¹² *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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