

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

In the Matter of)	
)	
AMERICAN TIME & SIGNAL COMPANY)	FCC File No. 0005007890
)	WT Docket No. 12-17
Request for Waiver of Part 90 Rules to Permit)	
Licensing of Certain Fixed Transmitters as Mobile)	
Units)	

ORDER

Adopted: November 28, 2012

Released: November 29, 2012

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

1. *Introduction.* We have before us an application and waiver request filed by American Time & Signal Company (ATS).¹ ATS requests a waiver of the definition of a mobile unit in Section 90.7 of the Commission’s Rules² to allow licensing of certain fixed transmitters in the 450-470 MHz band as mobile units. For the reasons discussed herein, we grant ATS’s waiver request.

2. *Background.* ATS manufactures and sells wireless clock systems nationwide to schools, hospitals, and other organizations operating in a large building or campus setting that need to synchronize numerous clocks. Each system uses a system controller (master clock) that transmits brief data signals periodically to associated clocks with wireless receivers. For smaller buildings, transmitters of five or ten watts are used; for larger buildings and multi-building campuses, transmitters of twenty-five or forty watts are used. The transmitter(s) and antenna installations typically are deployed in the customer’s headquarters or other campus building, usually at heights of twenty-three meters or less, and sometimes “fill-in” transmitters are deployed to eliminate in-building or other gaps in signal coverage.

3. ATS’s license for Station WQFW336 authorizes operation of hundreds of temporary base stations nationwide on five 464 MHz frequencies.³ ATS states that it initially believed that the transmitters at its customer locations could be operated indefinitely under this license because the transmitters are moveable and may in fact be relocated over time due to signal coverage considerations or other changes in customer needs. Pursuant to Section 90.137(b) of the Commission’s Rules, however, temporary base stations that remain or are intended to remain at the same location for more than one year must be licensed as permanent base stations.⁴

4. Consequently, ATS seeks a waiver of the definition of a mobile station as set forth in Section 90.7 to the extent necessary to license fixed transmitters as mobile units (station class code MO6). It proposes to add a MO6 service area to its license for each customer location and to locate the system controller at the center coordinates of its MO6 site, and to maintain the accuracy of its licensed sites in the

¹ See FCC File No. 0005007890 (filed December 28, 2011), Request for Waiver (Waiver Request).

² 47 C.F.R. § 90.7.

³ Specific frequencies are 464.600 MHz, 464.625 MHz, 464.650 MHz, 464.675 MHz, and 464.700 MHz.

⁴ See 47 C.F.R. § 90.137(b).

Commission's records.⁵ The radius of the MO6 service area would depend on the system controller power level.⁶

5. *Discussion.* To obtain a waiver of the Commission's Rules, a petitioner must demonstrate either that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case and that grant of the waiver would be in the public interest; or that, 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.⁷ Commenters in response to a *Public Notice* seeking comment on the waiver request⁸ were split: Enterprise Wireless Alliance (EWA)⁹ and Forest Industries Telecommunications (FIT)¹⁰ oppose the request, while PCIA – The Wireless Infrastructure Association (PCIA)¹¹ and ATS¹² support it.

6. ATS suggests that application of Section 90.137(b) to its operations would not serve the underlying purpose of the rule because ATS's operations "fit the same technical and operational profile"¹³ as low power 450-470 MHz band data systems that the Commission allows to license fixed sites as mobile operations,¹⁴ and the special operating conditions that ATS is willing to accept on its license will fully satisfy the needs of the frequency coordination process and the public interest in identifying the location of fixed stations.¹⁵ It also argues that application of the rule would be unduly burdensome because licensing its numerous customer locations throughout its nationwide service area as permanent base stations would be administratively burdensome for it and its frequency coordinators, and could not be accomplished under its existing license because the Commission's Universal Licensing System (ULS) cannot accommodate so many fixed locations under one call sign.

7. We agree with EWA and FIT that ATS's facilities do not fit the same technical and operational profile as the fixed low power data systems that the Commission allows to be licensed as mobile sites on certain low power frequencies in the 450-470 MHz band.¹⁶ In that rulemaking

⁵ ATS states that it will accept special operating conditions on its license reflecting these requirements. See Waiver Request at 2.

⁶ Specifically, twelve kilometers for a 5-watt transmitter, fourteen kilometers for a 10-watt transmitter, sixteen kilometers for a 25-watt transmitter, and twenty kilometers for a 40-watt transmitter.

⁷ See 47 C.F.R. § 1.925(b)(3).

⁸ Wireless Telecommunications Bureau Seeks Comment on American Time & Signal Company Request for Waiver to Permit Licensing of Certain Fixed Transmitters as Mobile Units, *Public Notice*, WT Docket 12-17, 27 FCC Rcd 384 (WTB MD 2012).

⁹ See comments filed on February 22, 2012 by Enterprise Wireless Alliance (EWA comments); *ex parte* comments filed on April 10, 2012 by Enterprise Wireless Alliance.

¹⁰ See *ex parte* comments filed on March 30, 2012 by Forest Industries Telecommunications (FIT comments).

¹¹ See reply comments filed on March 5, 2012 by PCIA – The Wireless Infrastructure Association (PCIA reply comments).

¹² See reply comments filed on March 5, 2012 by ATS (ATS reply comments).

¹³ Waiver Request at 2.

¹⁴ See 47 C.F.R. § 90.267; Amendment of Part 90 of the Commission's Rules and Policies for Applications and Licensing Low Power Operations in the Private Land Mobile Radio 450-470 MHz Band, *Report and Order*, WT Docket No. 01-146, 18 FCC Rcd 3948 (2003).

¹⁵ See Waiver Request at 2; ATS reply comments at 3-4.

¹⁶ See EWA comments at 4-5; FIT comments at 2.

proceeding, the Commission found that this licensing procedure was appropriate for particular operations on particular frequencies with particular power limits. The Commission's reasoning and balancing of considerations in that decision is not transferable to ATS's different operations on other frequencies with higher power.

8. In order to be granted a waiver, however, a petitioner need satisfy only one prong of Section 1.925(b)(3).¹⁷ We conclude that grant of ATS's waiver request is appropriate because application of the rule under the circumstances presented would be unduly burdensome. ATS has proposed to identify each customer location in ULS and maintain the accuracy of this information. We agree with PCIA that this will provide sufficient information for frequency coordinators and other interested parties to determine the location of ATS's licensed operations.¹⁸ Requiring ATS to identify those locations by separately licensing each customer location as a permanent fixed site under multiple call signs would impose a burden out of proportion to any benefit.

9. *Conclusion.* Based on the circumstances presented in the record, we conclude that ATS has met the requirements for waiver of the Commission's rules. Accordingly, we grant the request for waiver to permit licensing of the fixed transmitters in ATS's wireless time and clock management system as mobile units. Our grant of the waiver request and processing of FCC File No. 0005007890 is without prejudice to any Enforcement Bureau action concerning prior ATS operations.

10. Accordingly, IT IS ORDERED, 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, that the waiver request filed by American Time & Signal Company on December 28, 2011, with respect to FCC File Number 0005007890 IS GRANTED, and application FCC File No. 0005007890 SHALL BE PROCESSED in accordance with this *Order*.

11. IT IS FURTHER ORDERED that the authorization for Station WQFW336 will contain the following special operating conditions: (1) Licensee is required to license each customer location as an MO6 station with a geographical center point and an operating radius not to exceed 20 kilometers; and (2) Licensee is responsible for maintaining the accuracy of its licensed sites via modifications to this license.

12. 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
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Wireless Telecommunications Bureau

¹⁷ See State of Alaska, *Memorandum Opinion and Order*, 18 FCC Rcd 16315, 16323 n.61 (WTB 2003).

¹⁸ See PCIA reply comments at 2. Even EWA appears to acknowledge this. See EWA comments at 5.