

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

In the Matter of
AVON GROVE REGIONAL EMERGENCY
MANAGEMENT
Application for New Travelers' Information
Station and Request for Waiver of Section 90.242
of the Commission's Rules
File No. 0006590493

ORDER

Adopted: July 21, 2015

Released: July 21, 2015

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

I. INTRODUCTION

1. The Avon Grove Regional Emergency Management Agency (Avon Grove) filed an application for a new Travelers Information Station (TIS) to operate on frequency 1670 kHz in West Grove, Pennsylvania. In connection with this application, Avon Grove seeks a waiver of Sections 90.242(a)(2)(i), (b)(4)(i), and (b)(4)(iv) of the Commission's rules. For the reasons described below we grant Avon Grove's waiver request.

II. BACKGROUND

2. Avon Grove provides emergency services to Southeastern Chester County, Pennsylvania, which has over 30,000 residents, not including transient travelers on US Highway 1 and Pennsylvania State Highways 41, 841, 795, and 896. In its application, Avon Grove proposes to license a new Travelers Information Station (TIS) on 1670 kHz in West Grove, Pennsylvania to broadcast "information related to travel and traffic hazards due to road construction and the resulting detours, directions for visitors to make travel more efficient and traffic information for all drivers so they may avoid congestion."

3. During emergencies, Avon Grove says its TIS station will "advise motorists within Southeastern Chester County, Pennsylvania of hazards and emergencies endemic to the area." Avon Grove argues that in an emergency and especially in an event which would disrupt electrical service to

1 See Application in File No. 0006590493 (filed Dec. 19, 2014) (Avon Grove TIS Application).

2 See attachment to Avon Grove TIS Application labeled "Field Strength - Distance" (Technical Study). See also 47 C.F.R. §§ 90.242(a)(2)(i), (b)(4)(i) and (b)(4)(iv).

3 See attachment to Avon Grove TIS Application labeled "Elig and Coord" at 1 (Waiver Request).

4 Id.

5 Id.

residents, its proposed TIS station would be “critical as a conduit to provide all manner of local information to protect life and property.”⁶

4. With its application, Avon Grove seeks a waiver of Section 90.242(b)(4)(i) of the Commission’s rules which specifies that the antenna height above ground for any TIS station shall not exceed 15.0 meters.⁷ Avon Grove tested its TIS antenna from available locations at 15 meters height but states that distortion of the signal by an adjacent tower “sharply limited the antenna’s ability [to] provide useful coverage in all directions.”⁸ Accordingly, Avon Grove seeks to mount its antenna atop an existing water tower which presently stands 34 meters above ground thereby resulting in an antenna height above ground of 39 meters.⁹

5. In support of its request for waiver, Avon Grove refers to engineering statements included with its application which purport to demonstrate that no interference will be caused to any co-channel or adjacent-channel broadcast station despite the increase in antenna height above 15 meters.¹⁰

6. Avon Grove also seeks a waiver of Section 90.242(b)(4)(iv) of the Commission’s rules which specifies that the field strength of a TIS station shall not exceed 2.0 mV/m when measured with a standard field strength meter at a distance of 1.50 kilometers (0.93 miles) from the transmitting antenna.¹¹ Avon Grove says it seeks a waiver of this rule because its calculations indicate that the 2.0 mV/m contour from its proposed TIS station will extend a distance of approximately 2.6 kilometers (1.62 miles) from the transmitter site.¹²

7. In support of this waiver request, Avon Grove argues that its proposed TIS station can operate without causing interference to standard broadcast stations even with relaxation of the field strength intensity distance limitation.¹³ It includes a study with its application which purports to demonstrate a lack of contour overlap with broadcast station WTTM (AM), Lindenwold, New Jersey. Station WTTM (AM) operates on the first-adjacent channel (1680 kHz) and is the only broadcast station Avon Grove claims needs evaluating.¹⁴

8. Lastly, Avon Grove seeks a waiver of Section 90.242(a)(2)(i) which requires TIS stations to maintain at least 15 kilometers (9.3 miles) separation from the 0.5 mV/m contour of any broadcast station operating on an adjacent-channel.¹⁵ Avon Grove again refers to engineering statements which purport to demonstrate that interference will not result from its proposed antenna being located only 13.5

⁶ Waiver Request at 1. Avon Grove proposes to operate its TIS station on a generator so that emergency communication services would be maintained to its citizens despite electrical outages characteristic of emergencies. *Id.*

⁷ 47 C.F.R. §90.242(b)(4)(i).

⁸ Waiver Request at 2.

⁹ *Id.* Avon Grove intends to use an ANXX center loaded vertical whip antenna with the radiating portion of the antenna extending five meters in length. *See* Technical Study at 1.

¹⁰ Waiver Request at 2; Technical Study at 4.

¹¹ 47 C.F.R. §90.242(b)(4)(iv).

¹² Waiver Request at 2-3. *See also* Technical Study at 1-2.

¹³ Waiver Request at 2.

¹⁴ Technical Study at 2-4 (claiming the only other station close enough to require evaluation is WTTM (AM) operating on 1680 kHz and including a map showing no contour overlap between WTTM (AM) and its proposed TIS station).

¹⁵ 47 C.F.R. §90.242(a)(2)(i). *See also* Waiver Request at 3.

kilometers (8.4 miles) from the 0.5 mV/m contour of adjacent-channel station WTTM (AM).¹⁶

9. On March 20, 2015, the Public Safety and Homeland Security Bureau (Bureau) released a public notice seeking comment on Avon Grove's application and associated waiver requests.¹⁷ No party responded to the public notice.

III. DISCUSSION

10. To obtain a waiver of the Commission's rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest;¹⁸ 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.¹⁹ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.²⁰ Based on the record before us, we find that the Avon Grove has shown that its request should be granted under the first prong of the waiver standard.

11. When the Commission adopted the TIS rules, its purpose in limiting the coverage area of any single TIS station was to minimize the potential for interference to broadcast stations.²¹ Specifically, the Commission stated that, considering the likelihood of interference to broadcast stations, the restrictions it adopted "should prevent interference situations from developing without unduly burdening TIS applicants."²²

12. In coordination with staff from the Media Bureau, we examined Avon Grove's technical study to determine whether Avon Grove's proposed TIS station would likely cause harmful interference to other broadcast stations.²³ First, we reviewed the Commission's records and found that the only operating or planned station close enough to warrant inclusion in the evaluation is adjacent-channel station WTTM (AM) serving Lindenwold, New Jersey. Accordingly, we find that Avon Grove's analysis correctly focuses on the potential interference to that station.²⁴ Second, because our review of Avon Grove's contour study confirms no contour overlap between Station WTTM (AM) and the proposed TIS station, we conclude that the proposed TIS station would likely cause no harmful interference to Station WTTM (AM).²⁵

¹⁶ Waiver Request at 3; Technical Study at 2-4.

¹⁷ See Public Safety and Homeland Security Bureau Seeks Comment on Application and Request for Waiver by Avon Grove Regional Emergency Management Agency to License a New Travelers' Information Station on 1670 kHz, *Public Notice*, 30 FCC Rcd 2371.

¹⁸ 47 C.F.R. § 1.925(b)(3)(i).

¹⁹ 47 C.F.R. § 1.925(b)(3)(ii).

²⁰ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) (*WAIT Radio*), (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *WAIT Radio v. FCC*, 459 F.2d 1203, 1207 (1972) (*WAIT Radio II*), *cert. denied*, 409 U.S. 1027 (1972); *Birach Broad. Corp., Memorandum Opinion and Order*, 18 FCC Rcd 1414, 1415 (2003).

²¹ Amendment of Parts 2 and 89 of the Rules to Provide for the Use of Frequencies 530, 1606, and 1612 kHz by Stations in the Local Government Radio Services for the Transmission of Certain Kinds of Information to the Traveling Public, *Report and Order*, 67 FCC.2d 917, 924 ¶ 25 (1977) (*TIS Report and Order*).

²² *Id.*

²³ See Technical Study.

²⁴ *Id.* at 2.

²⁵ Avon Grove's contour study depicts the predicted 0.5 mV/m daytime protected groundwave contour for WTTM (AM) in relation to the predicted 0.25 mV/m interfering contour for its proposed TIS station. See Technical Study.

13. Based on this analysis, we therefore find that the underlying purpose of the rules would not be served by application to the present case and that grant of Avon Grove's waiver request – (i) its desired antenna height above 15.0 meters, (ii) the extension of its 2.0 mV/m signal beyond 1.50 kilometers and (iii) the separation of its antenna by less than 15 kilometers from WTTM (AM)'s 0.5 mV/m contour²⁶ – is warranted. In reaching this conclusion, we note that TIS stations are licensed on a secondary, non-interference basis.²⁷ Accordingly, Avon Grove may not cause interference to any broadcast station, and it also must accept interference from any broadcast station.²⁸

14. We also find that grant of Avon Grove's waiver request is in the public interest, as it will enable Avon Grove to better protect the safety and property of traveling motorists throughout southeastern Chester County by providing them with critical road condition and safety hazards information, without increasing the likelihood of harmful interference to any licensed broadcast radio station.²⁹

IV. ORDERING CLAUSE

15. Accordingly, IT IS ORDERED, pursuant to Sections 303(c) and (e) and Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 303(c), 303(e), 154(i), and Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925, that the Request for Waiver of Avon Grove Regional Emergency Management Agency filed on December 19, 2014 IS GRANTED.

16. IT IS FURTHER ORDERED, that application File No. 0006590493, filed by Avon Grove Regional Emergency Management Agency SHALL BE PROCESSED in accordance with this Order and the Commission's rules.

17. 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

Michael J. Wilhelm
Deputy Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

²⁶ *Id.* at 4.

²⁷ 47 C.F.R. § 90.242(a)(3).

²⁸ *Id.* Further, the Commission's rules provide that a TIS authorization may be suspended, modified or withdrawn by the Commission, without prior notice of right to a hearing "if necessary to resolve interference conflicts." 47 C.F.R. § 90.242(a)(4); *TIS Report and Order*, 67 FCC.2d at 924 ¶ 24.

²⁹ Waiver Request at 1.