

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

In the Matter of)
)
DROCK GAMING LLC) File No.0007192091
)
Request for Waiver to Use Airport Terminal Use)
Frequencies)

ORDER

Adopted: October 14, 2016

Released: October 17, 2016

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

1. *Introduction.* We have before us the above-captioned application and request for waiver of section 90.35(c)(61) of the Commission’s rules¹ filed by Drock Gaming LLC (Drock), seeking authority to operate an Industrial/Business (I/B) communications system using Airport Terminal Use (ATU) frequencies within 16 kilometers of McCarran International Airport in Las Vegas, Nevada.² For the reasons set forth below, we grant the request and will process the application.

2. *Background.* Within 16 kilometers of specified airports (including McCarran), 20 channels on frequency pairs 460/465.650-.8875 MHz, and their upper-adjacent interstitial channels, are available only to entities furnishing commercial air transportation service for use in connection with servicing and supplying of aircraft.³ These frequencies were set aside for ATU use so that aircraft at designated airports could readily communicate with each existing air terminal system.⁴

3. Drock operates conventional I/B Pool Station WQXC361 in the 450-470 MHz band, at its hotel and casino approximately 10 kilometers from McCarran International Airport. It filed the above-referenced application to modify its license to authorize trunked operation and add frequency pairs 460/465.7625 MHz and 460/465.8625. Drock states that the channels will be used to support the safety and welfare of its employees and resort customers.⁵ It also states that its frequency coordinator performed exhaustive searches and located no I/B channels available for its trunked system.⁶

4. *Discussion.* 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; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be

¹ 47 CFR § 90.35(c)(61).

² See File No. 0007192091 (filed March 17, 2016), Waiver of §90.35(c)(61) (Waiver Request).

³ 47 CFR § 90.35(c)(61)(i). Beyond 16 kilometers from the specified airports, the channels are available to other I/B stations on a secondary basis. 47 CFR § 90.35(c)(61)(ii), (iii).

⁴ See *Amendment of the Commission's Rules Concerning Airport Terminal Use Frequencies in the 450-470 MHz Band of the Private Land Mobile Radio Services*, Report and Order, 20 FCC Rcd 1966, 1969, para. 6 (2005) (citing *Amendment of Parts 89, 91, 93, and 95 (Formerly 10, 11, 16, and 19) of the Commission's Rules to Reduce the Separation Between the Assignable Frequencies in the 450-470 Mc/s Band*, Second Report and Order, 11 F.C.C. 2d 648, 655, para. 20 (1968)).

⁵ See Waiver Request at 1

⁶ See *id.*

inequitable, unduly burdensome, or contrary to the public interest or the applicant has no reasonable alternative.⁷

5. Based on the record before us, we conclude that Drock has presented sufficient facts to meet the standard for grant of the requested waiver. A review of the Commission's Universal Licensing System database indicates that only 14 ATU channels are in use within 16 kilometers of McCarran International Airport. Consequently, grant of the request would leave adequate spectrum available for new or expanded ATU operations. Moreover, unlike a previous request for non-standard use of ATU channels in Las Vegas,⁸ no party opposes Drock's request and the record identifies no negative effects from granting the waiver.⁹ Under the circumstances presented, it would be unduly burdensome and contrary to the public interest to deny Drock's request for unused channels that it needs to serve its communications infrastructure adequately.

6. Accordingly, IT IS ORDERED pursuant to Sections 4(i), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(g), and 303(r), that the Request for Waiver filed by Drock Gaming LLC on March 17, 2016, in conjunction with application FCC File No. 0007192091 IS GRANTED and application FCC File No. 0007192091 SHALL BE PROCESSED in accordance with this *Order* and the Commission's Rules.

7. 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

⁷ 47 CFR § 1.925(b)(3).

⁸ See *Thomas H. Murphy*, Letter Order, 22 FCC Rcd 13999, 13999 (WTB MD 2007).

⁹ On May 3, 2016, the Wireless Telecommunications Bureau sought comment on Drock's request. See *Wireless Telecommunications Bureau Seeks Comment on Drock Gaming LLC Request for Waiver to Use Airport Terminal Use Frequencies*, Public Notice, 31 FCC Rcd 4359 (WTB MD 2016). The sole commenter concurs with Drock's assertion that I/B channels are scarce in the Las Vegas area, and supports grant of the waiver request. See *Ex Parte Written Comments by Mobile Relay Associates at 2* (filed June 2, 2016).