



Federal Communications Commission
Washington, D.C. 20554

November 17, 2016

DA 16-1291

Northwest Iowa Power Cooperative
Attention: Keith Schiltz
P.O. Box 240
Le Mars, IA 51031

Re: Request for Waiver of 47 CFR § 90.35(c)(39), (43)(i)
FCC File Nos. 0007129987, 0007130807, and 0007130808

Dear Mr. Schiltz:

Introduction. We have before us applications with identical waiver requests filed by Northwest Iowa Power Cooperative (NIPCO).¹ NIPCO requests waivers of the Part 90 rules to allow operation of its load control system.² For the reasons discussed herein, we grant NIPCO's waiver requests.

Background. Pursuant to Limitation 43 of section 90.35 of the Commission's rules, frequency 154.46375 MHz is specifically designated for use on a primary basis by "multiple address fixed stations employing omnidirectional antennas used for power utility peak load shaving and shedding," *i.e.*, electricity load management,³ with a maximum power of 300 watts output.⁴ Directional antenna systems may be employed at locations more than 120 kilometers from the boundaries of any urbanized area with a population of at least 200,000 in the 1960 Census, with a maximum power output of 50 watts.⁵ Pursuant to Limitation 39 of section 90.35, the authorized bandwidth may not exceed six kilohertz.⁶

NIPCO is a generation and transmission electric cooperative supplying wholesale electric power to seven distribution cooperatives in western Iowa.⁷ It operates a load management system using ten fixed stations on frequency 154.46375 MHz, with output power ranging from 100 to 250 watts.⁸ NIPCO seeks to upgrade its legacy system, which relies on obsolete analog signaling protocols and is no longer supported by the vendor, with a system that uses a digital signaling protocol.⁹ Because the digital system requires more bandwidth than the current analog system, NIPCO requests a waiver of Limitation 39 in order to permit an authorized bandwidth of up to 11 kilohertz. In order to avoid interference to an adjacent-channel licensee that potentially could be affected by the wider bandwidth, NIPCO proposes to use a directional antenna at one location, which is within 120 kilometers of Omaha, Nebraska, which had a population over 200,000 in 1960.¹⁰ Consequently, NIPCO requests a waiver of Limitation 43 to permit

¹ See FCC File No. 0007129987, 0007130807 and 0007130808 filed on February 8, 2016.

² See Request of Northwest Iowa Power Cooperative for Waiver Request (filed Feb. 8, 2016) (Waiver Request).

³ See *Amendment of Parts 89 and 91 of the Commission's Rules and Regulations to make available four 173 MHz splinter frequencies to the Local Government and Manufacturers Radio Services for telemetry and remote control operations*, Second Report and Order, 65 F.C.C. 2d 898, 900-01, paras. 5-8 (1977).

⁴ 47 CFR § 90.35(c)(43)(i).

⁵ *Id.*

⁶ 47 CFR § 90.35(c)(39).

⁷ Waiver Request at 1.

⁸ See Call Signs WNFB706, WPGG983, and WNB899.

⁹ See Waiver Request at 1.

¹⁰ Station WNB899, location 1 (Atlantic, Iowa).

operation of a directional antenna at that location with an output power exceeding 50 watts. Attached to the applications are concurrence letters from the potentially affected adjacent-channel licensees.

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.¹¹ We conclude that a waiver is warranted under the second prong.

NIPCO indicates that the waiver is needed to allow the replacement and upgrade of its obsolete load control system for mission critical load shedding events.¹² NIPCO would need to obtain a new frequency (possibly in a different frequency band) for the replacement system if the waiver request were denied. This would require unnecessary replacement of a substantial amount of embedded equipment, and be less spectrally efficient than the proposed operations because NIPCO can operate both its legacy system and the new digital system on frequency 154.46375 MHz as it transitions to the new system.¹³ In addition, limiting the proposed directional antenna system to 50 watts output power could require the construction and operation of additional sites in order to provide the coverage needed for NIPCO's operations. We conclude that application of Limitations 39 and 43 to the present case would be unduly burdensome and contrary to the public interest.

Conclusion. Based on the circumstances presented, we grant NIPCO's requests for waiver of section 90.35 of the Commission's rules to allow NIPCO to upgrade its load control system.

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 CFR § 1.925, the waiver requests filed by Northwest Iowa Power Cooperative on February 8, 2016, ARE GRANTED, and applications FCC File Nos. 0007129987, 0007130807, and 0007130808 SHALL BE PROCESSED in accordance with this action and the Commission's rules.

This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's rules, 47 CFR §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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¹¹ See 47 CFR § 1.925(b)(3).

¹² See Waiver Request at 1.

¹³ See *id.* at 2.