

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

In the Matter of
Amendment of 47 CFR Part 90 of the
Commission's Rules to Allow an
Additional Frequency and Emission to be
Designated for Travelers' Information
Stations
PRM15PS

ORDER

Adopted: April 17, 2017

Released: April 17, 2017

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

I. INTRODUCTION

1. By this Order, we dismiss the December 1, 2015 Petition for Rule Making (Petition) filed jointly by Robert L. Coyle, Jr. and Claude B. Parker (collectively, Petitioners). The Petition asks the Commission to begin a proceeding that seeks comment on allowing Travelers' Information Stations (TIS), which operate in the AM broadcast band, to operate on FM Channel 200 (87.9 MHz) in the FM broadcast band on a primary basis. We conclude that Petitioners have not made a sufficient showing to support the commencement of a rulemaking at this time. We therefore dismiss the Petition.

II. BACKGROUND

2. Commission rules authorize Public Safety Pool-eligible entities to use TIS to transmit noncommercial, travel-related information over AM band frequencies to motorists on a localized basis. TIS are authorized to operate on a primary basis on frequency 530 kHz and on a secondary basis on all other AM band channels.

3. Petitioners propose that an FM radio band channel be designated for TIS use, given the FM band's greater listenership, higher audio fidelity, and greater immunity to atmospheric disturbances and interference, in comparison to the AM band. Petitioners state that "AM broadcast is no longer the dominant band for the listening public, and the technical superiority of FM broadcast allows for a host of improvements, audio clarity being the most obvious, and from a public safety standpoint, perhaps the most important." Petitioners cite the 2015 TIS Second Report and Order, where the Commission relaxed

1 Robert L. Coyle, Jr. and Claude B. Parker, Petition for Rule Making, Amendment of 47 CFR Part 90 of the Commission's Rules to Allow an Addition [sic] Frequency and Emission to be Designated for the Travelers Information Service [sic] (filed December 1, 2015).

2 See 47 CFR § 90.242.

3 Petition at 1.

4 47 CFR § 90.242.

5 47 CFR § 90.242(a)(3).

6 Petition at 2.

7 Id.at 6.

the TIS audio filtering requirement to permit TIS licensees to improve audio quality on a voluntary basis.⁸ Petitioners state that “[i]ncreasing the audio quality to the level of AM broadcast stations would be an improvement, ... [h]owever, ... atmospheric disturbances and propagation characteristics hinder reception of AM broadcast signals.”⁹ Petitioners state that AM operation is “susceptible to skywave interference at night and atmospheric or electrical interference at all hours;” by comparison, the FM band lacks these disturbances.¹⁰

4. Petitioners recommend creating a primary TIS allocation on FM channel 200 (87.9 MHz), which is currently available only for use by existing Class D noncommercial educational (NCE) FM broadcasting stations that must change frequency to avoid causing interference to full-service stations. FM Channel 200 licensees operate on a secondary noninterference basis with respect to TV Channel 6 (82.0-88.0 MHz) stations and adjacent channel NCE FM stations.¹¹ Petitioners argue that FM Channel 200 is ideal for TIS because only two incumbent broadcast stations operate on the channel and applications for new stations are no longer being accepted.¹² Thus, Petitioners argue, TIS operations on Channel 200 are not likely to cause co-channel interference to existing stations or require displacement of existing broadcasters.¹³ Petitioners also contend that FM equipment is readily available on the market and is more compact and easier to install and maintain than AM equipment.¹⁴

III. DISCUSSION

5. Section 1.401 of the Commission’s rules requires, in pertinent part, that “[a]ny interested person may petition for the issuance, amendment or repeal of a rule or regulation,”¹⁵ and that such “petition shall set forth the text or substance of the proposed rule, amendment, or rule to be repealed, together with all facts, views, arguments and data deemed to support the action requested, and shall indicate how the interests of petitioner will be affected.”¹⁶ “Petitions which are moot, premature, repetitive, frivolous, or which plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner.”¹⁷

6. As described below, we dismiss the Petition without prejudice. First, we find that the Petition overlooks the interference potential that TIS stations on FM Channel 200 would have on co-channel TV Channel 6 and adjacent channel stations on FM channels 201, 202, and 203.¹⁸ FM Channel 200 (87.9 MHz) is within the passband of TV Channel 6 (82-88 MHz), which has 103 TV broadcast

⁸ *Id.* at 4-5 citing *Travelers’ Information Stations*, PS Docket No. 09-19, Order on Reconsideration and Second Report and Order, 30 FCC Rcd 3179 (2015) (*TIS Second Report and Order*). The Commission modified 47 CFR § 90.242(b)(8) to give TIS licensees the option to replace 3 kHz low pass audio filters with 5 kHz filters, which allow higher audio frequency content to be transmitted over TIS for greater clarity and intelligibility.

⁹ Petition at 5.

¹⁰ *Id.* at 2.

¹¹ 47 CFR § 73.501(a) note 1.

¹² Petition at 2-3.

¹³ *Id.*

¹⁴ *Id.* at 4.

¹⁵ 47 CFR § 1.401(a).

¹⁶ *Id.* § 1.401(c).

¹⁷ *Id.* § 1.401(e).

¹⁸ 47 CFR § 73.501(a) note 1. 47 CFR § 73.509 states that the Commission will not accept applications for new or modified stations on FM Channels 200-220 if the proposed operation would involve overlap of certain signal strength contours with any other licensed stations up to 600 kHz frequency separation, or three FM channels of separation.

stations. In addition, there are 923 FM broadcast stations on frequencies 88.1, 88.3, and 88.5 MHz.¹⁹ Petitioners do not address how TIS would be coordinated to minimize potential interference to these stations or explain why TIS on FM Channel 200 should be primary with respect to these stations. Moreover, the Petition does not consider that use of FM Channel 200 is restricted by international border area exclusion zones of 402 kilometers from the Canada border and 320 kilometers from the Mexico border.²⁰

7. Second, Petitioners have not demonstrated that the current AM band allocation for TIS is insufficient for meeting the needs of the travelers served by TIS. Petitioners offer no evidence that TIS now lacks sufficient channels or capacity in the AM band to serve current and potential listeners adequately.

8. Third, even if Petitioners were able to address these issues, their proposal for rulemaking action is premature until after completion of the Incentive Auction, which includes the repacking of television stations.²¹ The Incentive Auction will result in an 84 MHz reduction of spectrum available for TV broadcast,²² and the subsequent repacking process (including the filing windows in which stations can request alternative channels)²³ will put more stations on the remaining TV channels – including TV Channel 6 – as the Commission clears higher TV broadcast bands within the UHF band for commercial wireless services.²⁴ Moreover, because FM Channel 200 is in the TV Channel 6 passband, adding TIS stations on Channel 200 would limit the Commission’s flexibility to repack TV stations on TV Channel 6.

9. Finally, we anticipate that the rule changes adopted in the recent *TIS Second Report and Order* will yield improvements in TIS audio quality. To date, the Commission has granted at least one manufacturer’s permissive change request for new audio filters to be installed in a certain model of TIS equipment,²⁵ and licensees now have the opportunity to install the new audio filters. Therefore, we regard the Petition as premature until there has been more time to evaluate the effect of the new audio filter rules, which could render the changes proposed by the Petition unnecessary.

IV. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED, pursuant to Sections 4(i), 5(c)(i), 303(c), 303(e), and 303(f) of the Communications Act of 1934, as amended, 47 USC §§ 154(i), 155(c)(i), 303(c), 303(e), and

¹⁹ See <https://www.fcc.gov/media/television/tv-query>. Search of TV Channel 6 licensed stations performed March 7, 2017. See also <https://www.fcc.gov/media/radio/fm-query>. Search of FM Channel 201-203 licensed stations performed March 7, 2017.

²⁰ 47 CFR § 73.501(a) note 1 stipulates that Channel 200 “is not available at all within 402 kilometers (250 miles) of Canada and 320 kilometers (199 miles) of Mexico.”

²¹ Pub. L. No. 112-96, 126 Stat. 156 § 6402 (2012). See also *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567 (2014) (*Incentive Auction Report and Order*).

²² The final stage rule was satisfied on Jan. 18, 2017. See *Incentive Auction Public Reporting System, Forward Auction – Announcements*, https://auctiondata.fcc.gov/public/projects/1000/reports/forward_announcements (last visited Mar. 16, 2017). See also <https://www.fcc.gov/news-events/blog/2017/02/10/incentive-auction-clock-phase-over-what%E2%80%99s-next> (last visited Mar. 16, 2017) (announcing the close of the clock phase of the Incentive Auction).

²³ *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 866-70, paras. 27-38 (MB 2017) (*Broadcast Transition Procedures Public Notice*).

²⁴ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567 (2014).

²⁵ See, e.g., FCC ID: B7MTR-6000TIS-WB. Record available by searching grant code B7M at <https://apps.fcc.gov/oetcf/eas/reports/GenericSearch.cfm>.

303(f), and Sections 0.191, 0.204(b), 0.392, and 1.401 of the Commission's rules, 47 CFR §§ 0.191, 0.204(b), 0.392, and 1.401, that the Petition for Rule Making filed by Robert L. Coyle, Jr. and Claude B. Parker, on December 1, 2015, IS DISMISSED without prejudice.

11. IS FURTHER ORDERED that this Order SHALL BE SENT by certified mail, return receipt requested, to Mr. Robert L. Coyle, Jr. and Mr. Claude B. Parker, 5929 Queensloch Drive, Apt. 109, Houston, TX 77096.

12. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

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