

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

In the Matter of )
CITY OF POST FALLS, IDAHO ) ULS File Nos. 0007771276
Request For Waiver of Section 90.531(d)(1) of the )
Commission's Rules )

ORDER

Adopted: August 30, 2017

Released: August 30, 2017

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

I. INTRODUCTION

1. In this Order, we grant the City of Post Falls, Idaho (Post Falls) a waiver of Section 90.531(d)(1) of the Commission's rules so it may operate its wideband mobile data system on channels in the portion of the 700 MHz band reserved for public safety narrowband systems.

II. BACKGROUND

2. Post Falls operates an 11-year old, 50 kilohertz bandwidth, wideband mobile data system that provides emergency communications to its police officers in the field throughout Kootenai County, Idaho. The mobile data system is "connected to each patrol vehicle" and, according to Post Falls, provides a valuable service to the community which "enhances the safety" of its officers.

3. Post Falls currently operates its wideband mobile data system on a channel in the 768-769/798-799 MHz guard band (Guard Band) that separates the 758-768/788-798 MHz broadband spectrum block licensed to the First Responder Network Authority (FirstNet) from the 769-775/799-805 MHz public safety narrowband spectrum block. The Guard Band is now licensed to FirstNet.

1 47 CFR § 90.531(d)(1).

2 See ULS application number 0007771276, filed May 11, 2017 (Post Falls Application). See also letter from R. Scot Haug, Chief of Police, City of Post Falls Police Department, to the Federal Communications Commission (May 5, 2017) (attached to Post Falls Application) (Waiver Request).

3 Waiver Request at 1. Post Falls' mobile data system is licensed under call signs WQIR243. The term "wideband" in this context refers to any operation with a channel bandwidth greater than 25 kilohertz.

4 Letter from R. Scot Haug, Chief of Police, City of Post Falls Police Department, to Federal Communications Commission, Public Safety and Homeland Security Bureau at 1 (June 26, 2017) (attached to Post Falls Application) (Haug Letter).

5 See 47 CFR § 90.532(f). Post Falls is licensed to operate on frequency pair 768.525 MHz (base transmit) / 798.525 MHz (mobile transmit). See call sign WQIR243.

6 See call sign WQQE234.

4. Pursuant to the Commission's 2016 *Report and Order* in PS Docket No. 16-269, all incumbents operating in FirstNet's licensed spectrum, including Post Falls, must vacate that spectrum by August 31, 2017, unless the incumbent obtains FirstNet's express consent to remain longer.<sup>7</sup> Consequently, on May 11, 2017, Post Falls filed an application to retune its wideband mobile data system from the Guard Band to channels in the narrowband public safety spectrum.<sup>8</sup> Section 90.531(d)(1) of the Commission's rules, however, limits public safety systems operating in the narrowband spectrum to a maximum channel bandwidth of 25 kilohertz.<sup>9</sup> Because Post Falls mobile data system operates with a channel bandwidth of 50 kilohertz, it seeks a waiver of Section 90.531(d)(1).<sup>10</sup>

5. In support of its waiver request, Post Falls contends that it has no reasonable alternative to operating its wideband mobile data system in the narrowband spectrum block.<sup>11</sup> It notes that the system provides "each patrol car" with a data throughput rate of "128k" and that it needs at least 50 kilohertz of channel bandwidth to offer this level of service.<sup>12</sup> Post Falls argues that "no [other] system will provide the reliability" its current system provides without "unduly burden[ing]" the City of Post Falls. Post Falls also states that "it is in the public interest for the City of Post Falls to continue operation of this system as it provides a valuable service to the community."<sup>13</sup>

6. Finally, Post Falls includes a letter with its application from its frequency coordinator, the Association of Public Safety Communications Officials-International (APCO), which indicates that based on its search results "there are no existing licenses on the co-channel or adjacent channels proposed in this application and it does not appear that the proposed channels would adversely reduce the availability of narrowband channels for other operations."<sup>14</sup> Post Falls also submits a concurrence letter from the Region 43 700 MHz Regional Planning Committee, which states that grant of Post Falls' application "does not negatively impact" the Region 43 700 MHz Plan.<sup>15</sup>

### III. DISCUSSION

7. 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;<sup>16</sup> or (ii) in view of unique or

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<sup>7</sup> See *Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012*, Report and Order and Notice of Proposed Rulemaking, 31 FCC Rcd 10253, 10260, para. 20 (2016) (*FirstNet Relocation Report and Order*).

<sup>8</sup> Post Falls seeks to relocate its wideband mobile data system to frequency pair 771.925 MHz (base transmit) / 801.925 MHz (mobile transmit). See Post Falls Application.

<sup>9</sup> Subject to spectrum usage efficiency requirements, a licensee operating in the narrowband segment of the band may combine up to four contiguous 6.25 kHz channels to form a 25 kHz bandwidth channel. 47 CFR § 90.531(d)(1). See also 47 CFR § 90.535.

<sup>10</sup> Haug Letter at 1.

<sup>11</sup> Waiver Request at 1.

<sup>12</sup> Haug Letter at 1.

<sup>13</sup> *Id.*

<sup>14</sup> Letter from Carol DiCaro, AFC Processor, APCO International – Spectrum Management Division, to Federal Communications Commission at 1 (June 28, 2017) (DiCaro Letter).

<sup>15</sup> Letter from Spencer Bahner, Chair, Region 43 700 MHz Regional Planning Committee, to Karl Rudolf, Chairman, Region 12 700 MHz Regional Planning Committee at 1 (March 10, 2017) (Bahner Letter).

<sup>16</sup> 47 CFR § 1.925(b)(3)(i).

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.<sup>17</sup> We conclude that Post Falls' request should be granted under the second prong of the waiver standard.

8. As an initial matter, the Commission previously determined that the relocation of incumbent operations from the FirstNet spectrum is required to ensure the effective transition of the spectrum to FirstNet<sup>18</sup> and supports FirstNet's statutory mission.<sup>19</sup> Therefore, Post Falls' request to relocate its mobile data system to the narrowband segment of the band serves the public interest because the relocation will assist FirstNet in clearing incumbents from its licensed spectrum so it can deploy the nationwide public safety broadband network as directed by Congress.

9. Moreover, we find that Post Falls has no reasonable alternative to relocating its system to the narrowband segment of the 700 MHz band, because the Commission no longer allocates channels in the 700 MHz band for wideband systems like the one Post Falls operates.<sup>20</sup> We also find that it would be unduly costly and burdensome to require Post Falls to reduce its system bandwidth to 25 kilohertz, because its wideband system needs a minimum channel bandwidth of 50 kilohertz to support current data throughput rates to each patrol car it serves.<sup>21</sup>

10. Finally, the supporting letters from APCO and the Region 43 Planning Committee demonstrate that granting Post Falls a waiver to operate its wideband mobile data system in the 700 MHz narrowband spectrum will not reduce the availability of narrowband channels in the region for other users.<sup>22</sup>

#### IV. ORDERING CLAUSE

11. Accordingly, IT IS ORDERED that the waiver request associated with ULS File No. 0007771276 filed by the City of Post Falls, Idaho, pursuant to Section 1.925 of the Commission's rules, 47 CFR § 1.925, IS GRANTED and the associated application SHALL BE PROCESSED accordingly.

12. This action is taken under delegated authority pursuant to Sections 0.131, 0.191, 0.331 and 0.392 of the Commission's rules, 47 CFR §§ 0.131, 0.191, 0.331, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

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

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<sup>17</sup> 47 CFR § 1.925(b)(3)(ii).

<sup>18</sup> See generally Public Safety Spectrum Act, Pub. L. No. 112-96 § 6206(b); See *FirstNet Relocation Report and Order* at 10255, para. 3.

<sup>19</sup> *FirstNet Relocation Report and Order* at 10254, para. 3.

<sup>20</sup> See *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Second Report and Order, 22 FCC Rcd 15289, 15296-97, paras 10-11 (2007).

<sup>21</sup> Haug Letter at 1.

<sup>22</sup> DiCaro Letter at 1; Bahner Letter at 1.