

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

In the Matter of)
KANSAS CITY POWER & LIGHT COMPANY) Call Signs WPIT599, WPIT622, WPIT626
Requests for Waiver of Sections 90.637(c)(3) and)
90.631(b) of the Commission's Rules)

ORDER

Adopted: September 12, 2019

Released: September 12, 2019

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

1. Introduction. In this Order, we address a request by Kansas City Power & Light Company (KCPL) for a waiver to permit it to use its above-captioned 896-901/935-940 MHz (900 MHz) band land mobile radio stations for fixed supervisory control and data acquisition (SCADA) operations. For the reasons set forth below, we deny the waiver request.

2. Background. KCPL is an electric utility company serving over 800,000 customers in parts of Missouri and Kansas. It is the licensee of trunked 900 MHz Industrial/Land Transportation Stations WPIT599, WPIT622, and WPIT626, which are authorized for a total of 15 base stations and 40 unique 900 MHz band channels. KCPL formerly operated this system to support field crew communications, load management, outage restoration, and monitoring and control of the electric grid. Due to consolidation with other electric utilities, KCPL now meets its land mobile radio communications needs with a VHF system rather than the 900 MHz system.

3. KCPL states that it needs to modernize and enhance its aging SCADA system, which relies on copper lines leased from a third party that intends to retire them. KCPL asserts that a new SCADA system will improve the company's ability to avoid and identify outages and other problems, improve the public's safety, and increase the efficiency of KCPL's operations. KCPL therefore proposes to redeploy its authorized 900 MHz channels in a fixed point-to-point and point-to-multipoint wireless system.

4. Except for control stations, operational fixed stations are not authorized in the 900 MHz band. Licensees may conduct ancillary fixed data transmissions on a secondary basis to primary land

1 Kansas City Power & Light Company, Request for Waiver of FCC Rule Sections 90.637(c) and 90.631(b) (filed Aug. 28, 2018) (Waiver Request). The Waiver Request is viewable under the above-captioned call signs in the Commission's Universal Licensing System.

2 Id. at 1.

3 Id. at 1-2.

4 Id. at 2.

5 See id.

6 Id.

7 47 CFR § 90.637(a).

mobile operation, but fixed transmitters do not count toward the loading requirements.⁸ Consequently, KCPL requests a waiver to permit use of its assigned 900 MHz band channels for fixed operations.

5. In 2018, the Wireless Telecommunications Bureau announced a temporary freeze on the acceptance of applications for new or expanded use of 900 MHz band frequencies.⁹ The purpose of the freeze is to preserve the current landscape of authorized operations in the 900 MHz band pending Commission action as part of its inquiry into potential rule changes to promote next-generation technologies and services in the band.¹⁰ The *Public Notice* noted that licensees have recourse via the Commission's waiver provisions to request an exception to the freeze.¹¹ In 2019, the Commission released a *Notice of Proposed Rulemaking* proposing to realign the 900 MHz band to create a 3/3 megahertz broadband segment, while reserving the remaining 2/2 megahertz of spectrum for narrowband operations.¹²

6. *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 inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹³ KCPL asserts that its request meets the first prong of the waiver standard because, among other things, a waiver would advance the Commission's policy of facilitating transition from services running on copper to new, all-Internet Protocol multimedia networks.¹⁴

7. We conclude that it would not be in the public interest to authorize a new 900 MHz fixed system on a significant number of channels in a major metropolitan area while the Commission considers proposed rule changes to realign this land mobile band to support the provision of broadband service. The public interest is better served by maintaining the current landscape of authorized operations without adding new non-conforming systems that could complicate implementation of any rule changes adopted in the pending proceeding.¹⁵ We note that it is unclear whether KCPL's contemplated fixed system would involve changes in frequencies, locations, or other technical parameters that would require waivers of the 900 MHz freeze. Nonetheless, we conclude that granting a waiver to authorize a new system that is not permitted under the existing rules while the rulemaking proceeding is pending is not in the public interest even if the proposal can be implemented without expanding any particular station's spectral or geographic footprint. Furthermore, KCPL does not suggest that other options it explored would meet its SCADA

⁸ 47 CFR § 90.637(b), (c), (c)(1), (c)(3). Trunked 900 MHz stations are authorized based on a loading criteria of 100 mobile stations per channel. 47 CFR § 90.631(a).

⁹ See *Wireless Telecommunications Bureau Announces Temporary Filing Freeze on the Acceptance of Certain Part 90 Applications for 896-901-935-940 MHz (900 MHz Band) Spectrum*, Public Notice, 33 FCC Rcd 8735, 8735-36 (WTB 2018) (*Freeze Public Notice*), recon. pending.

¹⁰ *Id.* at 8735 (citing *Review of the Commission's Rules Governing the 896-901/935-940 MHz Band*, Notice of Inquiry, 32 FCC 6421 (2017)).

¹¹ See *id.*, 33 FCC at 8736, n.4.

¹² See *Review of the Commission's Rules Governing the 896-901/935-940 MHz Band*, Notice of Proposed Rulemaking, 34 FCC Rcd 1550, 1555, para. 15 (2019) (*900 MHz NPRM*).

¹³ 47 CFR § 1.925(b)(3).

¹⁴ See Waiver Request at 4-6 (citing *Technology Transitions, et al.*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 30 FCC Rcd 9372 (2015)).

¹⁵ See *Freeze Public Notice*, 33 FCC Rcd at 8735.

needs any less effectively than the proposed 900 MHz system.¹⁶ We therefore deny KCPL's waiver request.

8. 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, that the Waiver Request filed on August 28, 2018, by Kansas City Power & Light Company IS DENIED.

9. 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

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

¹⁶ See Waiver Request at 2-3 ("The Company has investigated multiple options and determined that its existing 900 MHz channels would provide the reliability and coverage needed for its critical SCADA needs, and would be able to do so in a spectrally-efficient manner.").