

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

In the Matter of)
EVERSOURCE ENERGY SERVICE) File Nos. 0008432381, 0008750737
COMPANY)
Requests for Waiver of 900 MHz Application)
Freeze)

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 an application filed by Eversource Energy Service Company (Eversource)1 to modify its license for 896-901/935-940 MHz (900 MHz) band Business/Industrial Land Transportation Station WRAH484 by adding a site and an associated request for waiver of the current 900 MHz application freeze.2 We deny the waiver request as set forth below and will dismiss the application.3

2. Background. Eversource serves 1.4 million electric customers in 140 Massachusetts communities.4 It operates a 900 MHz supervisory control and data acquisition system that minimizes electric utility service outage duration and improves the reliability of the company's electric distribution system.5

3. In September 2018, the Wireless Telecommunications Bureau announced a temporary freeze on the acceptance of applications for new or expanded use of 900 MHz band frequencies.6 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 the inquiry into potential rule changes to promote next-generation technologies and services in the band.7 The Public Notice noted that licensees have recourse via the

1 See FCC File No. 0008432381 (filed Nov. 14, 2018), Request for Rule Waiver (Waiver Request).

2 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 (WTB 2018) (Freeze Public Notice), recon. pending.

3 Eversource subsequently filed an application for special temporary authority to operate the proposed facility during the pendency of the permanent application and waiver request. See FCC File No. 0008750737 (filed Aug. 2, 2019), Request for Special Temporary Authority at 1. Because we are denying the waiver request and dismissing the permanent application, we also will dismiss the special temporary authority application.

4 Waiver Request at 1, 3.

5 Id.

6 See Freeze Public Notice, 33 FCC at 8735-36.

7 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)).

Commission's waiver provisions to request an exception to the freeze.⁸ 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.⁹

4. In November 2018, Eversource filed an application to add a new location with a single 900 MHz channel in East Springfield, Massachusetts and requested a waiver of the 900 MHz application freeze. Eversource's predecessor-in-interest was granted a license for a 900 MHz station at the East Springfield site in 2005 under Call Sign WQCC802,¹⁰ but the company did not construct the site at that time and canceled the authorization in 2009.¹¹ In its waiver request, Eversource states that the area around that site later was identified as lacking adequate coverage.¹² It states that it submitted an application to its frequency coordinator in September 2018, but the frequency coordination process had not been completed when the 900 MHz application freeze was announced later that month.¹³ Eversource asserts that the requested channel would constitute a minimal expansion of the company's extensive 900 MHz holdings in the region.¹⁴

5. *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.¹⁵ Eversource asserts that it meets the second prong of the waiver standard.¹⁶

6. We conclude that the presented circumstances do not warrant a waiver of the 900 MHz freeze. That Eversource was in the process of submitting the instant application when the freeze was announced is not a sufficient reason to grant the requested waiver.¹⁷ Nor is a need for more capacity in an existing service area unique or unusual.¹⁸ It appears that the company was aware of a possible need for additional coverage in the area and could have added the proposed station long before the freeze was announced, but it made a business decision not to construct the licensed facility sooner. Consequently, we conclude that Eversource has not met the waiver standard. We deny the waiver request and will dismiss the application.

7. Accordingly, IT IS ORDERED, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 1.925 and 1.934 of the Commission's rules, 47 CFR §§ 1.925, 1.934, that the Waiver Request filed by Eversource Energy Service Company on November 14,

⁸ See *id.* at 8736, n.4.

⁹ See *Review of the Commission's Rules Governing the 896-901/935-940 MHz Band*, Notice of Proposed Rulemaking, 34 FCC Rcd 1550 (2019).

¹⁰ See FCC File No. 0001790144.

¹¹ See FCC File No. 0003761657.

¹² See Waiver Request at 1.

¹³ See *id.* at 1-2.

¹⁴ See *id.* at 2.

¹⁵ 47 CFR § 1.925(b)(3).

¹⁶ See Waiver Request at 3.

¹⁷ See *Merryville Investments*, Letter Order, 15 FCC Rcd 4219, 4220-21 (WTB CWD LTAB 2000); *cf. Radiofone, Inc.*, Order, 15 FCC Rcd 6854, 6854-44, para. 3 (WTB CWD PRB 1999).

¹⁸ See *Educational Broadband Corp.*, Memorandum Opinion and Order, 28 FCC Rcd 15562, 15567, para. 15 (WTB BD 2013); *Nextel Communications, Inc.*, Order, 14 FCC Rcd 11678, 11693, para. 36. (WTB 1999).

2018, in association with application FCC File No. 0008432381 IS DENIED, and applications FCC File Nos. 0008432381 and 0008750737 SHALL BE DISMISSED.

8. 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