

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

In the Matter of
City of Auburn, Washington
Request for Waiver of Section 90.242(b)(4)(iv)
of the Commission’s Rules
File No. 0008982036

ORDER

Adopted: October 13, 2020

Released October 14, 2020

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

I. INTRODUCTION

1. On February 19, 2020, the City of Auburn, Washington (Auburn) filed an application and waiver request to modify its Travelers’ Information Station (TIS) to expand its service area so that it may provide a 2 mV/m signal at 2.5 kilometers from the TIS transmitter site. A waiver is required because section 90.242(b)(4)(iv) of the Commission’s rules limits TIS station coverage to 2 mV/m at 1.5 kilometers from the TIS transmitter site. We grant the waiver as consistent with the public interest.

II. BACKGROUND

2. Auburn is currently using its TIS station to provide critical information to residents and travelers in the event of an emergency or disaster. Auburn states that it is “prone to a number of natural and technological hazards which include floods, earthquake, volcanic eruption, lahar, hazardous material spills, wildland fire, and other events.” Auburn contends that its “TIS transmission does not cover all of Auburn with a clear and understandable signal. The signal suffers due to interference from power lines, nighttime skywave propagation and other ambient noise.” Auburn requests a waiver of Section 90.242(b)(4)(iv) of the Commission’s rules to allow operating its station at ten watts of transmitter power, to provide a larger coverage pattern than what is normally allowed by the rules. Auburn estimates that if it were able to utilize the full ten watts, the resulting signal coverage would provide service to the areas which lack service now. Auburn further contends that it “considered adding additional synchronized TIS transmitters to the system but deemed that too costly and feared the communications links between transmitters would not survive a large-scale disaster.”

1 See File No. 0008982036 and accompanying Waiver Request of City of Auburn, Washington (filed February 19, 2020, amended March 3, 2020) (Waiver Justification). Auburn’s TIS operates on frequency 1700 kilohertz in the AM radio band under call sign WQIH568.

2 See 47 CFR § 90.242(b)(4)(iv) (“The field strength of the emission on the operating frequency shall not exceed 2 mV/m when measured with a standard field strength meter at a distance of 1.50 km (0.93 miles) from the transmitting antenna system.”)

3 Waiver Justification.

4 Id.

5 Waiver Justification; See 47 CFR § 90.242.

6 Id.

III. DISCUSSION

3. Section 1.925(b)(3) of the Commission's rules provides that: "the Commission may grant a request for waiver if it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested 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."⁷ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.⁸

4. We find that Auburn has met the waiver standard. Its engineering statement demonstrates that the proposed increase in power will not result in harmful interference to the closest co-channel and adjacent channel stations.⁹ Auburn also has specifically demonstrated compliance with the TIS spacing rule¹⁰ in section 90.242(a)(2)(i) of the Commission's rules.¹¹

5. With respect to the Commission's waiver criteria,¹² we agree with Auburn's contention that the purpose of section 90.242(b)(4)(iv)—to protect broadcasters from TIS interference—would not be served if applied to the instant matter because Auburn has demonstrated the lack of interference from its proposed TIS facility.¹³ In addition, strict adherence to section 90.242(b)(4)(iv) would have the unintended effect of requiring Auburn to install additional expensive TIS facilities to realize expanded coverage.¹⁴ We agree with Auburn that section 90.242(b)(4)(iv) was not intended to impose an unnecessary cost burden on agencies responsible for informing the travelling public.¹⁵

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.925 of the Commission's rules, 47 CFR § 1.925, that the Request for Waiver of the City of Auburn, Washington, filed on February 19, 2020, **IS GRANTED**.

⁷ 47 CFR § 1.925(b)(3).

⁸ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969) (*WAIT Radio*), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (*citing Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

⁹ See Statement of Doug Vernier and associated attachments, February 3, 2020, appended to the Auburn application and waiver request.

¹⁰ TIS spacing rule (47 CFR ¶ 90.242(a)(2)(i)) provides that the transmitting site of the TIS Station be located at least 15 km (9.3 miles) measured orthogonally outside the measured 0.5 mV/m daytime contour (0.1 mV/m for Class A stations) of any AM broadcast station operating on a first adjacent channel or at least 130 km (80.6 miles) outside the measured 0.5 mV/m daytime contour (0.1 mV/m for Class A stations) of any AM broadcast station operating on the same channel.

¹¹ The proposed TIS station is outside the 0.5 mV/m contour of the nearest co-channel station operating on 1700 kilohertz (KBGG, Des Moines, Iowa) by 1403 miles and outside the 0.5 mV/m contour of the nearest 1st adjacent station operating on 1690 kilohertz (KFSG, Roseville, California) by 545 miles. See File No. 0003227427, City of Auburn, Dated 11/9/2007.

¹² See 47 CFR § 1.925.

¹³ See Waiver Justification.

¹⁴ *Id.*

¹⁵ *Id.*

7. **IT IS FURTHER ORDERED** that application File No. 0008982036, filed by the City of Auburn, Washington **SHALL BE PROCESSED** in accordance with this Order and the Commission's rules.

8. 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
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau