

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

In the Matter of )  
 )  
STATE OF CONNECTICUT ) File No. 0008270081  
 )  
Request For Waiver of Section 90.621(b)(4) )  
of the Commission’s Rules )  
 )

ORDER

Adopted: March 20, 2020

Released: March 20, 2020

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

I. INTRODUCTION

1. In this *Order* we grant a request by the State of Connecticut (Connecticut) for a waiver of Section 90.621(b)(4) of the Commission’s rules<sup>1</sup> to allow it to operate two 800 MHz base stations at less than the required minimum co-channel separation distance (113 kilometers) from a base station, call sign WNIZ788, licensed to Specialized Mobile Radio, Inc. (SMR, Inc.) in New York City.<sup>2</sup>

II. BACKGROUND

2. On July 2, 2018 Connecticut filed an application seeking to add channel 855.8125 MHz to the six base stations that comprise its trunked private land mobile radio (PLMR) system licensed under call sign WPPW600.<sup>3</sup> Connecticut claims that it needs the additional channel to supplement capacity in the area of Litchfield County, Connecticut.<sup>4</sup> Connecticut explains it is currently upgrading its statewide network to a “standards based Project 25 (P25) system” and that “predicted system loading has shown that additional capacity is required to continue to meet the requirements of the user base.”<sup>5</sup>

3. Connecticut states it could not identify a channel that would provide additional capacity for its system and still maintain the required 113-kilometer spacing to another co-channel user.<sup>6</sup> Therefore, it seeks a waiver of Section 90.621(b)(4) of the Commission’s rules to operate two of its base stations on channel 855.8125 MHz at less than 113 kilometers from the co-channel base station of SMR Inc., call sign WNIZ788.<sup>7</sup>

<sup>1</sup> 47 CFR § 90.621(b)(4).

<sup>2</sup> See ULS applications file no. 0008270081 (Connecticut Application). See also document attached to Connecticut Application on July 24, 2018 labeled “Updated Waiver Request” (Waiver Request).

<sup>3</sup> Connecticut Application.

<sup>4</sup> Waiver Request at 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Locations 2 and 4 on Connecticut’s application are short-spaced to SMR, Inc.’s base station on frequency 855.8125 MHz.

4. Section 90.621(d)(4) of the Commission's rules permits an applicant to license base stations less than 113 kilometers from previously licensed co-channel base stations provided the applicant satisfies certain power and antenna height limits specified in a short-spacing table.<sup>8</sup> An applicant may license a base station at a distance less than that prescribed in the short-spacing table if it obtains a waiver to do so and includes an engineering study showing that the incumbent licensee will receive interference protection equivalent to that obtained from the short-spacing table. The table is premised on the proposed station's 22 dBu F(50,10) interference contour not overlapping the incumbent station's 40 dBu F(50,50) service contour.<sup>9</sup>

5. Connecticut submits a contour analysis performed by its frequency coordinator, the Association of Public-Safety Communications Officials International (APCO), showing that, with the directional antenna specified in Connecticut's application, the 22 dBu F(50,10) interference contours from Connecticut's two proposed short-spaced base stations will not overlap the 40 dBu F(50,50) contour of the SMR, Inc. co-channel base station.<sup>10</sup> Thus, APCO concludes that the incumbent, SMR, Inc., will "receive interference protection that meets or exceeds the limits upon which the ERP and DHAAT criteria are established."<sup>11</sup>

6. SMR, Inc. initially opposed Connecticut's application and waiver request<sup>12</sup> but withdrew its opposition after Connecticut provided SMR, Inc. with the characteristics of the directional antennas that Connecticut will use at the two short-spaced sites.<sup>13</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>14</sup> 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.<sup>15</sup> We conclude Connecticut's request for waiver of Section 90.621(b)(4) should be granted under the first prong of the waiver standard.

8. Bureau staff have independently confirmed APCO's determination that, with the directional antennas specified, Connecticut's proposed base stations' 22 dBu F(50,10) interference contour does not overlap the 40 dBu F(50,50) coverage contour of the short-spaced co-channel incumbent station. This contour analysis demonstrates that SMR, Inc. will receive interference protection equivalent to that provided by application of the short-spacing table. Based on this finding, we conclude that Connecticut's proposal to operate two base stations on channel 855.8125 MHz at less than the required minimum spacing to SMR, Inc.'s co-channel base station would not frustrate the interference-avoidance underlying purpose of Section 90.621(b)(4) of the Commission's rules. Moreover, we find the public interest will be served by the waiver because it will allow Connecticut to expand the capacity of its

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<sup>8</sup> 47 CFR § 90.621(d)(4).

<sup>9</sup> *Id.* at n. 2, Short-Spacing Separation Table.

<sup>10</sup> See APCO documents attached to Connecticut Application on July 5, 2018 labeled UPDATED NON-OVERLAPPING CONTOUR L2 and "UPDATED NON-OVERLAPPING CONTOUR L4.

<sup>11</sup> Waiver Request at 2.

<sup>12</sup> SMR Inc. Opposition to Connecticut Request for Waiver, July 9, 2018.

<sup>13</sup> Connecticut will deploy a Sinclair SE4192-SWBP4LDF antenna with a 50-degree null at Location 2 and a Sinclair SE419-SWBP4LDF(D00) antenna with a 45-degree null at Location 4. See Antenna Statement.

<sup>14</sup> 47 CFR § 1.925(b)(3)(i).

<sup>15</sup> 47 CFR § 1.925(b)(3)(ii).

system to adequately provide services to citizens during times of extreme emergency.<sup>16</sup>

**IV. ORDERING CLAUSES**

9. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(c), and Section 1.925 of the Commission's rules, 47 CFR § 1.925, that the waiver request associated with ULS File No. 0008270081 filed by the State of Connecticut IS GRANTED and the associated application SHALL BE PROCESSED accordingly.

10. This action is taken under delegated authority pursuant to Section 155(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c) and 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

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<sup>16</sup> Waiver Request at 2.