

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

In the Matter of)
City of Longmont, Colorado) File No. 0008730254
Request for Waiver of Section 90.242(b)(4)(iv))
of the Commission’s Rules)

ORDER

Adopted: January 3, 2020

Released: January 3, 2020

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

I. INTRODUCTION

1. On July 18, 2019, the City of Longmont, Colorado (Longmont, or the City) filed an application and waiver request to modify its Travelers Information Station (TIS) WQQT493 to expand its service area.1 Longmont’s TIS operates on frequency 1670 kilohertz in the AM radio band. It requests a waiver of section 90.242(b)(4)(iv) of the Commission’s rules, which imposes a 2 mV/m field strength limit at 1.5 kilometers from TIS transmitters,2 so that it may expand its 2 mV/m service contour to 4 kilometers from the transmitter.3 The City proposes to achieve the coverage expansion by increasing the 5 watt transmitter power output currently employed at its TIS station to the regulatory maximum of 10 watts.4 For the reasons discussed herein, we grant the request for waiver.

II. BACKGROUND

2. The City of Longmont is the second largest city in Boulder County, Colorado with a population of just under 100,000. The City states that its “location and proximity to the Rocky Mountains make [it] prone to flooding, especially during the snow runoff season.”5 The City’s TIS station is intended to provide critical information to residents and travelers in the event of such emergencies.6 The City coordinates its emergency response through an Emergency Operations Center which has an on-site generator that also powers the TIS station.7

3. Longmont states that the TIS station’s current signal does not cover all parts of the city and claims that the cost to add additional synchronous TIS locations to remedy the coverage deficit is not

1 See File No. 0008730254 and accompanying Waiver Request of City of Longmont, Colorado (filed July 18, 2019 amended September 19, 2019) (Waiver Request and Justification).

2 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 at 1.

4 47 CFR § 90.242(b)(4)(iii).

5 File No. 0008730254, attached Letter from Dan Eamon, Assistant Public Safety Chief, Longmont Department of Public Safety, to “Whom it may concern,” Federal Communications Commission, dated July 8, 2019.

6 Id.

7 Id.

affordable.⁸ The City therefore requests a waiver to use the available 10-watt power output of its transmitter to provide its proposed coverage extension. It states that it currently operates its transmitter at 5 watts output to comply with section 90.242 of the Commission's rules, which restricts the TIS signal intensity to 2.0 mV/m at 1.5 kilometers. It estimates that increasing the transmitter power output power to 10 watts will provide service to many of the areas of the city currently lacking coverage.⁹ In support of its waiver request, the City provides an engineering study that "predicts the resulting coverage improvements at 10-watts and documents that no interference to cochannel and adjacent broadcast stations will result from the proposed increased field intensity."¹⁰ The City thus requests an increase in the distance allowed for the 2.0 mV/m signal contour from 1.5 kilometers to 4.0 kilometers, while not exceeding the 10 watt regulatory limit on transmitter output power.¹¹

4. The City submits that the enforcement of the relevant TIS rule (section 90.242(b)(4)(iv)) will not serve to further the rule's underlying purpose, i.e., avoiding TIS stations interfering with AM broadcast stations. The City contends that strict adherence to the field strength limit would require it to install an additional TIS station or stations to provide the coverage achievable by its requested expansion of the existing station's 2.0 mV/m coverage contour. The City thus argues that the Commission did not intend section 90.242(b)(4)(iv) to be a cost burden on agencies responsible for informing the traveling public and protecting life and property.¹²

III. DISCUSSION

5. 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."¹³ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁴ Based on the information before us, we are persuaded that Longmont has demonstrated that a waiver of section 90.242(b)(4)(iv) is warranted.

6. When the Commission adopted the TIS rules, it stated that TIS "is intended to serve a 3 km zone with generally repetitive information pertinent to travelers."¹⁵ By limiting the field strength at 1.5 km from the transmitting site, limiting the maximum antenna height, and limiting the transmitter output power to 10 watts, the Commission minimized the potential for TIS to cause interference to broadcast stations.¹⁶ The Commission stated that "considering the likelihood of interference to broadcast stations,

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Waiver Justification.

¹² *Id.*

¹³ 47 CFR § 1.925(b)(3).

¹⁴ *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).

¹⁵ *Amendment of Parts 2 and 89 of the Rules to Provide for the Use of Frequencies 530, 1606, and 1612 kHz by Stations in the Local Government Radio Services for the Transmission of Certain Kinds of Information to the Traveling Public*, Docket No. 20509, Report and Order, 67 FCC 2d 917, 925 para. 27 (1977) (*TIS Report and Order*).

¹⁶ *Id.* at 924 para. 31.

these steps should prevent interference situations from developing without unduly burdening TIS applicants.”¹⁷

7. In accordance with our TIS spacing rules,¹⁸ Longmont’s TIS transmitter, operating with its proposed parameters, is not located within 130 kilometers of the predicted daytime 0.5 mV/m contour of any co-channel AM station or within 15 kilometers of the predicted daytime 0.5 mV/m of any first adjacent channel AM station.¹⁹ The spacing between the Longmont TIS transmitter and the closest co-channel broadcast station, KHPY, Moreno Valley, California, is 759 miles.²⁰ The spacing to the closest first adjacent channel broadcast station, KWOD, Kansas City, Kansas on 1660 kHz, is 510 miles, far exceeding the prescribed 130 kilometer co-channel and 15 kilometer adjacent-channel spacing limits.²¹ This gives us confidence that the proposed extension of the 2 mV/m contour of the City’s TIS station from 1.5 kilometers to 4 kilometers will not result in harmful interference to these broadcast stations.²² In addition, we find that the proposed coverage extension of Longmont’s TIS facility will serve the public interest by allowing the City to better inform travelers of road and travel conditions throughout the city and alert the traveling public more effectively in the event of emergencies stemming from hazards to which Longmont is susceptible.

8. Based on the record before us, we find that a grant of Longmont’s request for waiver would serve the public interest and that the underlying purpose of the rule would not be served by application to the present case. Therefore, we conclude that Longmont satisfies the Commission’s waiver criteria.

IV. ORDERING CLAUSES

9. 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 Longmont, Colorado, filed on July 18, 2019, IS GRANTED.

10. IT IS FURTHER ORDERED, that application File No. 0008730254, filed by the City of Longmont, Colorado, SHALL BE PROCESSED in accordance with this Order and the Commission’s rules.

11. 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

¹⁷ *Id.* at para. 25.

¹⁸ 47 CFR § 90.242(a)(2).

¹⁹ Waiver Justification: “At the proposed location and operating per FCC Rules Part 90.242, this TIS on AM frequency 1670, operating at 10 watts satisfies the standardized co-channel and 1-3 adjacent-channel separations from AM broadcast stations per the FCC standards referenced.”

²⁰ File No. 0008322055 (filed August 17, 2018), attachment.

²¹ *Id.*

²² Waiver Justification: Furthermore, consistent with Section 73.37, Attachment #2 “demonstrates that the TIS radio station, if operating with a signal of 2.0 mV/m at 4.0 km, will not cause interference to 2nd adjacent stations in Denver on 1650 [kHz] and [in Arvada on] 1690 kHz. It does this by plotting the 5.0 mV/m contours of the TIS station and the 2nd adjacent stations and showing that the 5.0 mV/m contours do not cross. Interference could be produced if 5.0 mV/m signals of 2nd adjacent AM stations cross, per FCC separation standards.”