

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

In the Matter of
The County of Lincoln, Maine
Request for Waiver of Section 90.242(b)(4)(i)
of the Commission’s Rules
File No. 0009264016

ORDER

Adopted: January 13, 2021

Released: January 13, 2021

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

I. INTRODUCTION

1. On October 30, 2020, the County of Lincoln, Maine (the County) filed an application and waiver request to modify its Travelers’ Information Station (TIS) to allow an antenna height of 32 meters at the TIS transmitter site. A waiver is required because section 90.242(b)(4)(i) of the Commission’s rules limits the antenna height to 15 meters at the TIS transmitter site. We grant the waiver request as consistent with the public interest.

II. BACKGROUND

2. In addition to broadcasting traveler’s information, the County uses its TIS station as a “redundant communication system to communicate with the public” during emergencies. The County requests authorization to increase its transmitter antenna height to 32 meters to allow sufficient signal power to overcome signal blocking by an existing 20 meter tower structure adjacent to the TIS antenna location. The County contends that “no other parameters of the station’s operation will change, including power output (10 watts maximum), signal intensity (less than 0.2 mV/m at 0.93 miles) or its separation from adjacent broadcasters.” The County represents it would lower the output power as needed to maintain compliance with the signal intensity rule.

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

1 See File No. 0009264016 and accompanying Waiver Request of Lincoln County (filed October 16, 2020 and amended October 30, 2020) (Waiver Justification). Lincoln’s TIS operates on frequency 1620 kilohertz in the AM radio band under call sign WREW773.

2 47 CFR § 90.242(b)(4)(i). (“The antenna height above ground level shall not exceed 15.0 meters (49.2 feet).”).

3 Waiver Justification at 1, Attachment A – Statement of Eligibility, compliance with § 90.242(a)(7).

4 Lincoln County, Office of Emergency Management, Casey Stevens, Director, Letter of Justification, October 7, 2020, File No. 0009264016.

5 Id.

6 Waiver Justification at 1.

7 Id.

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.”⁸ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.⁹

4. We find that the County has met the first prong of the waiver standard. Its proposal will result in its compliance with section 90.242(b)(4)(iv) of the Commission’s rules limiting signal intensity to less than 0.2 mV/m at 0.93 miles;¹⁰ and it has demonstrated compliance with section 90.242(a)(2)(i) of the Commission’s rules which specifies minimum distances a TIS must maintain to co-channel and adjacent-channel stations.¹¹ We conclude that a waiver of section 90.242(b)(4)(i) is in the public interest and will not frustrate the underlying purpose of the rule which is to protect broadcasters from TIS interference.¹²

IV. ORDERING CLAUSES

5. 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 County of Lincoln, Maine, filed on October 30, 2020, **IS GRANTED**.

6. **IT IS FURTHER ORDERED** that application File No. 0009264016, filed by the County of Lincoln, Maine **SHALL BE PROCESSED** in accordance with this Order and the Commission’s rules.

7. 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

⁸ 47 CFR § 1.925(b)(3).

⁹ *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).

¹⁰ 47 CFR § 90.242(b)(4)(iv).

¹¹ The proposed TIS station is outside the 0.5 mV/m contour of the nearest co-channel station operating on 1620 kilohertz (WNRN, Pensacola, Florida) by 1305 miles; outside the 0.5 mV/m contour of the nearest 1st adjacent station operating on 1630 kilohertz (KCJJ, Iowa City, Iowa) by 975 miles; and there are no radio stations operating on 1610 kilohertz in the USA. *See* File No. 0009264016, Lincoln County, dated 10/30/2020.

¹² Waiver Justification.