

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

In the Matter of)	
)	
Town of Tiverton, Rhode Island)	File No. 0010645349
)	
Request for Waiver of Sections 90.305(a) and)	
90.307(d) of the Commission's Rules)	

ORDER

Adopted: September 9, 2025**Released: September 9, 2025**

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

I. INTRODUCTION

1. On August 17, 2023, the Town of Tiverton, Rhode Island (Tiverton, or the Town) filed a modification application for Station WPMC285, a public safety private land mobile radio (PLMR) system which operates in the 470-512 MHz band (T-Band), accompanied by a request for waiver¹ of sections 90.305(a) and 90.307(d) of the Commission's rules.² For the reasons below, we grant the requested waiver as conditioned herein.

II. BACKGROUND

2. Tiverton operates a single-site radio system under call sign WPMC285 on frequency pair 482/485.9625 MHz in the TV Channel 16 band (482-488 MHz). The Town seeks a waiver of section 90.305(a) to add a second base station located outside the 80-kilometer (50-mile) radius area around Boston, Massachusetts in which fixed stations are normally authorized under the rules.³ Additionally, the Town seeks a waiver of section 90.307(d) for this site to operate less than 145 kilometers from adjacent channel TV Station WPXQ-TV, TV Channel 17, Newport, Rhode Island.⁴ The proposed site is located 55 kilometers (34.2 miles) from Station WPXQ-TV.

3. On May 23, 2025, the Public Safety and Homeland Security Bureau (Bureau) issued a public notice⁵ seeking comment on the application and waiver request. The Enterprise Wireless Alliance (EWA) filed comments in support of the City's requests.⁶ EWA states that "[t]he extension beyond the

¹ See File No. 0010645349 (filed Aug. 7, 2023, amended Aug. 17, 2023), attached Waiver – Expedited Action Requested, Involving TV Protection in the 470-512 MHz Band (filed Aug. 7, 2023) (TV Spacing Waiver Request); attached Request for Waiver (filed Aug. 17, 2023) (Fifty-Mile Waiver Request).

² 47 CFR §§ 90.305(a), 90.307(d) (respectively stating that the transmitter site(s) for base stations shall be located not more than 80 kilometers (50 miles) of the geographic centers of the urbanized areas listed in 47 CFR § 90.303; and the minimum distance between a land mobile base station which has associated mobile units and a protected adjacent channel television station is 145 kilometers (90 miles)).

³ File No. 0010645349; Fifty-Mile Waiver Request at 1. See also 47 CFR § 90.305(a).

⁴ TV Spacing Waiver Request at 1.

⁵ See *Public Safety And Homeland Security Bureau Seeks Comment on Requests for Waiver Filed by the Town of Tiverton, Rhode Island to Add a t-Band Base Station*, DA 25-446 (PSHSB rel. May 23, 2025).

⁶ File No. 0010645349, Comments of the Enterprise Wireless Alliance (filed June 12, 2025).

permitted T-Band market radius is *de minimis* given Tiverton's existing authorization for this same channel at a site less than 2.5 miles away, but within the 80-kilometer/50-mile radius around the T-Band market. Granting a waiver would not be precedential but would be consistent with waivers granted to other entities."⁷

III. DISCUSSION

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

5. The Town states that it "is in dire need of improved coverage and building penetration in its historical downtown business district."¹⁰ The Town states that "only land mobile sharing locations that meet the 145 km separation distance are located well to the North and East of the City of Boston."¹¹ Tiverton states that the new transmitter site "will enhance coverage of the public safety radio system within the Town and surrounding areas. The current system is lacking in coverage particularly within buildings and in hard to reach locations. This coverage 'hole' subjects first responders and the public to dangerous situations."¹² The Town argues that the distance the site being proposed exceeds the 50-mile limit of Section 90.305(a) (0.838 miles) is *de minimis*.¹³ The Town asserts that a waiver grant is in the public interest and would "provide enhanced public safety radio services to the citizens of Tiverton."¹⁴

6. Regarding the Fifty-Mile Waiver Request, we find that the Town satisfies the first prong of the waiver standard, in that it has shown that the underlying purpose of section 90.305(a) would not be frustrated by grant of a waiver in the present case. In 2001, the Commission stated that under sections 90.305(a) and (b)¹⁵, "PLMR base stations operating in the 470-512 MHz band (which also constitutes TV channels 14 through 20) may be located only within 50 miles of the geographic centers of certain cities listed in Section 90.303, and associated mobile units shall operate within 30 miles of the base station, thus creating a circular area with a radius of 80 miles (80-mile area) within which PLMR stations may operate without interference from television stations."¹⁶ The Commission stated that waiver requests that do not involve extension of the 80-mile limit are more likely to receive favorable treatment than requests

⁷ *Id.* at 2.

⁸ 47 CFR § 1.925(b)(3)(i-ii).

⁹ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969), *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 Fifty-Mile Waiver Request at 1.

¹¹ TV Spacing Waiver Request at 2.

¹² TV Spacing Waiver Request at 1.

¹³ *Id.*

¹⁴ Fifty-Mile Waiver Request at 1.

¹⁵ 47 CFR § 90.305(b) ("Mobile units shall be operated within 48 km. (30 mi.) of their associated base station or stations.").

¹⁶ See *Goosetown Enterprises, Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 12792, 12795, para. 9 (2001) (*Goosetown MO&O*) citing 47 CFR § 90.305(a)-(b).

involving extension of the limit, and that such operation would not adversely impact television stations because television stations are already required to protect land mobile stations operating within that area.¹⁷ Because the Town's base station is only 0.838 miles outside the 50-mile limit and the mobile area of operation is located within 80 miles of Boston, we find that the Town's operations would likely not interfere with TV stations entitled to protection. Thus, we find that the underlying purpose of section 90.305(a) would not be served by application of the rule in this instance. Moreover, we have waived section 90.305(a) previously under similar circumstances.¹⁸

7. The Town seeks a waiver of section 90.307(d) for the new site to operate at 55 kilometers/34.2 miles from adjacent channel TV Station WPXQ-TV, TV Channel 17, Newport, Rhode Island.¹⁹ Tiverton indicates that Station WPXQ-TV was licensed in 2019 by the FCC's Media Bureau at a distance of 113.2 km from the center of the Boston Metropolitan Area.²⁰ The Town states that "only land mobile sharing locations that meet the 145 km separation distance are located well to the North and East of the City of Boston."²¹ Tiverton provided an engineering analysis purporting to demonstrate that "the proposed license application meets the 0 dB D/U interference protection criteria. There is no overlap between the Desired and Undesired contour plots."²²

8. We have independently reviewed Tiverton's TV engineering analysis and agree with its conclusions. The generally accepted protection criterion for a contour analysis between a PLMR station and an adjacent channel TV station is zero dB at the TV station's Grade B contour.²³ Based on the non-overlap of the Town's 64 dBu interfering contour with Station WPXQ-TV's 64 dBu Grade B service contour, we agree that the Town would provide the requisite zero dB protection to the TV station.²⁴ Moreover, the Town's existing base station has operated short-spaced to Station WPXQ-TV with no reported interference issues. We conditionally grant the TV Spacing Waiver Request with a requirement that the Town's operation at this site is secondary to all full-power and other primary television stations, and it must eliminate any interference caused by its facilities to Station WPXQ-TV's viewers.

9. Finally, Tiverton has shown that a waiver is in the public interest by improving the Town's radio coverage for first responders, allowing continued use of a spectrally-efficient shared radio system, and maintaining interoperability with other T-Band public safety agencies in the greater Boston

¹⁷ *Goosetown MO&O* at 16 FCC Rcd 12797, para. 13; *see also* 47 CFR § 73.623(e) (requiring digital television stations to be located at least 250 kilometers (155 miles) from the geographic center of a co-channel land mobile allocation and 176 kilometers (110 miles) from the geographic center of an adjacent land mobile allocation), § 74.709 (requiring low power television (LPTV) stations to protect co-channel or first adjacent channel land mobile operations located within a contour radiating 130 kilometers (80 miles) from the geographic center in question).

¹⁸ *See, e.g., New Brunswick Parking Authority of New Brunswick, New Jersey*, Order, 23 FCC Rcd 6865 (PSHSB 2008) (granting a waiver of section 90.305(a) for a base station located three miles beyond the 50-mile limit from Philadelphia, Pennsylvania); *County of Monmouth, New Jersey*, Order, 25 FCC Rcd 7176, 7182-83 para. 17 (PSHSB PD 2010) (granting a waiver of section 90.305(a) because all operations would be contained within 80 miles of Philadelphia, Pennsylvania, consistent with the *Goosetown MO&O*).

¹⁹ TV Spacing Waiver Request at 1.

²⁰ *Id.* at 2.

²¹ *Id.*

²² *Id.* at 7. *See Private Land Mobile Operations in the 470-512 MHz Band*, Public Notice No. 20291 (rel. Oct. 22, 1991) at 1 (stating that any request for waiver of applicable mileage separations must demonstrate that the affected adjacent channel TV stations would receive 0 dB protection at their Grade B contours (64 dBu)).

²³ *See Private Land Mobile Operations in the 470-512 MHz Band*, Public Notice No. 20291 (rel. Oct. 22, 1991) at 1.

²⁴ TV Spacing Waiver Request at 3-4.

metropolitan area. Accordingly, we grant the Town's Fifty-Mile Waiver Request and TV Spacing Waiver Request as conditioned herein.

IV. CONCLUSION

10. Based on the information before us, we conclude that the Town has demonstrated the criteria set forth under the waiver standard, and that grant of its requests for waiver of Commission rules to enable it to modify its public safety radio system as proposed is warranted. We therefore grant the requests for waiver, subject to the following condition:

A conditional waiver of section 90.305(a) for location 3 is granted for operation in the TV Channel 16 band (482-488 MHz). A conditional waiver of section 90.307(d) is granted for location 3 to be located less than 145 kilometers from Station WPXQ-TV. Operation at location 3 is secondary to all current and future full-power TV stations. In particular, the licensee must accept any interference from Station WPXQ-TV, and it must eliminate any interference caused by its facilities at location 3 to viewers located within Station WPXQ-TV's noise-limited service contour (NLSC), 41 dBu F(50,90). By Order DA 25-832 released on September 9, 2025.

V. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to Sections 1, 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 303(r), and section 1.925 of the Commission's rules, 47 CFR § 1.925, the August 7, 2023 Waiver – Expedited Action Requested and the August 17, 2023 Request for Waiver filed by the Town of Tiverton in conjunction with application File No. 0010645349, ARE GRANTED as conditioned herein.

12. **IT IS FURTHER ORDERED**, that the application, File No. 0010645349, SHALL BE PROCESSED in accordance with this Order and the Commission's rules.

13. This action is taken under delegated authority pursuant to Sections 0.191(f) and 0.392 of the Commission's rules, 47 CFR §§ 0.191(f) and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John A. Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau