

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

In the Matter of Application of)
ISLES OF CAPRI FIRE / RESCUE) File No. 0001181747
Request for Waiver to Permit Hand-held and)
Mobile Units to Operate with 50 Watts Power)

ORDER

Adopted: October 10, 2003

Released: October 15, 2003

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. Introduction. On February 3, 2003, Isles of Capri Fire/Rescue (Isles of Capri) filed the above-captioned application for a new marine utility station with twenty mobile units and twenty hand-held units. Isles of Capri concurrently requested a waiver of the ten-watt power limit for marine utility stations set forth in Section 80.215(e)(1) of the Commission's Rules.1 In addition it sought to operate the units with fifty watts maximum power output. For reasons that follow, the waiver request is denied, and the application is dismissed.

2. Background. Isles of Capri is the licensee of VHF private coast Station WPWW813, Naples, Florida. The Commission's rules permit fixed, mobile and hand-held marine utility radios to operate under a single private coast station license.2 Thus, Isles of Capri currently is authorized to operate mobile and hand-held units under its license for Station WPWW813. A marine utility station provides the same types of communications and services as a private coast station, except that it employs hand-held marine radios, rather than a fixed base station to communicate with vessels.3 The power limit for VHF marine utility station hand-held radios is ten watts.4 By contrast, the power limit for mobile units associated with VHF private coast stations is twenty-five watts.5 The power limit for base stations is fifty watts.6

3. Isles of Capri operates fire trucks and a fire/rescue boat, both of which provide assistance to the boating public.7 It also works daily with the United States Coast Guard (USCG) station in Fort Myers Beach, Florida, approximately fifty miles to the north.8 Isles of Capri argues that the Section 80.215

1 47 C.F.R. § 80.215(e)(1); see also 47 C.F.R. § 80.215(c)(2).
2 47 C.F.R. §§ 80.507(d), 80.519(b); see Amendment of the Commission's Rules Concerning Maritime Communications, Second Report and Order and Second Further Notice of Proposed Rule Making, PR Docket No. 92-257, 12 FCC Rcd 16949, 16979-80 ¶ 59 (1997).
3 See 47 C.F.R. §§ 80.5, 80.501.
4 47 C.F.R. § 80.215(e)(1).
5 Id.
6 47 C.F.R. § 80.215(c)(1).
7 Waiver Request at 1.
8 Id.

power limits do not permit sufficient power to communicate with the boaters that are five miles offshore or with the USCG station.⁹ Therefore, it requests that we permit it to operate hand-held and mobile radios with fifty watts output power.

4. *Discussion.* Section 1.925 of the Commission's Rules provides that a waiver may be granted 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 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.¹⁰ For the reasons set forth below, we conclude that grant of the requested waiver is not warranted under the circumstances presented.

5. Isles of Capri has not demonstrated that its factual circumstances are unique or unusual as compared to similarly situated private coast stations that are able to comply with the requisite power limits. Moreover, we do not believe that granting the requested waiver would be in the public interest. We are concerned that a hand-held or mobile radios operating with fifty watts power output could compromise distress and other communications transmitted by twenty-five watt ship radios or ten-watt hand-held radios used by other licensees.¹¹ Isle of Capri's waiver request is devoid of any showing to the contrary. Finally, we decline to grant Isles of Capri's waiver request because it has failed to demonstrate whether it is even feasible to safely equip a hand-held marine utility radio or a mobile radio with a fifty-watt transmitter. Thus, for the foregoing reasons, we deny Isles of Capri's waiver request, and dismiss its application.

6. Accordingly, IT IS ORDERED that, 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 C.F.R. § 1.925, the waiver request filed by Isles of Capri Fire / Rescue on February 3, 2003 IS DENIED.

7. IT IS FURTHER ORDERED that, 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 1.934 of the Commission's Rules, 47 C.F.R. § 1.934, the application (File No. 0001181747) filed by Isles of Capri Fire / Rescue on February 3, 2003 IS DISMISSED.

8. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

⁹ *Id.*

¹⁰ 47 C.F.R. § 1.925(b)(3).

¹¹ The present application seeks authorization to operate on the same channels as Station WPWW813: 156.700 MHz, which is a port operations frequency, and 156.800 MHz, which is the VHF calling and distress frequency. See 47 C.F.R. § 80.373(f).