

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

Champion Communications Services, Inc.)		
1610 Woodstead Court - Suite 330)	File Nos.	D115683
The Woodlands, Texas 77380)		D118478
)		D118521
)		
Request for Waiver of Freeze for)		
New Application for the single-channel)		
conventional 800 MHz Specialized Mobile)		
Radio radio stations serving)		
Fresno and Visalia, California)		

ORDER

Adopted: October 29, 1999

Released: October 29, 1999

By the Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

I. Background

1. We have before us three waiver requests filed by Champion Communications Services, Inc. ("Champion") pursuant to Section 90.151 of the Commission's Rules.¹ Each request seeks a waiver of the freeze on new applications for a single-channel conventional 800 MHz radio station using frequency channels in the General Category. For the reasons stated below, we deny the three waiver requests and dismiss the applications.

2. In accordance with Section 90.151 of the Commission's rules, the Commission will grant a waiver if the party requesting the waiver shows that (1) the underlying purpose of the rule would not be served or would be frustrated by its application to the instant case and that a grant of the waiver would be in the public interest; or (2) in view of the unique or unusual factual circumstances of the instant case, application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or that the applicant has no reasonable alternative.

3. On October 4, 1995, the Wireless Telecommunications Bureau ("Bureau") imposed a freeze on the filing of applications for General Category channels.² The Bureau took this action to ensure that the successful resolution of the spectrum allocation issues raised in the proceeding concerning future development of SMR Systems in the 800 MHz Frequency, including those operating on General Category

¹ 47 C.F.R. § 90.151. That section lists the requirements for obtaining a waiver under Part 90 of the rules. A request must clearly state the nature of the waiver desired, the reasons in support thereof including the unique circumstances that would justify a waiver, and a showing that no reasonable alternative solution exists.

² *Licensing of General Category Frequencies in the 806-809.750/851-854.750 MHz Bands*, Order, 10 FCC Rcd 13190 (WTB 1995) ("Freeze Order").

Frequency Channels,³ would not be compromised.⁴

4. Champion's three requests, dated September 2, 1998, November 3, 1998, and November 24, 1998, are virtually identical and they involve two communities, Fresno and Visalia, which are located in northern California. Champion states that its situation in northern California is unique because it is one of only a few radio service dispatch providers and provides service to over six hundred customers.⁵ According to Champion, its customers have requested that it increase its service area.⁶ In support of its waiver requests, Champion argues that the frequency channel proposed in each application is not being used efficiently.⁷ By grant of the waiver requests, Champion states that it will provide better service to its customers without adversely affecting any co-channel licenses located within seventy miles of the proposed station, will not deprive the Commission of any licensing opportunity within the proposed area, and is consistent with the Commission's waiver decisions in similar cases.⁸

II. Discussion

5. After careful consideration of Champion's requests, we conclude that they should not be granted. Champion provides no evidence that the co-channel licensees are not using the channels efficiently nor does it identify the co-channel licensees. On the basis of the record before us, we are neither persuaded that grant of this waiver would be in the public interest, nor do we find that Champion has presented unique or unusual factual circumstances sufficient to justify grant its waiver request.

III. Conclusion

6. For the above stated reasons, we conclude that we cannot grant Champion's three waiver requests. Accordingly, we dismiss Champion's three applications for single-channel conventional 800 MHz radio stations.

IV. Ordering Clauses

7. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act

³ *Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band and Implementation of Section 309(j) of the Communications Act -- Competitive Bidding - 800 MHz SMR*, PR Docket No. 93-144, RM-8117, RM-8030, RM-8029, P Docket No. 93-253, Further Notice of Proposed Rule Making, 10 FCC Rcd 7970 (1994) ("800 MHz FNPRM").

⁴ *Wackenhut Corporation, Request for Waiver of the General Freeze*, 13 FCC Rcd 16810 (1998) ("Wackenhut").

⁵ See Letter from Walter E. Steimel, Jr. and Marjorie K. Conner, counsel for Champion to the Federal Communications Commission, September 2, 1998 ("Letter") at p. 2.

⁶ *Id.*

⁷ 47 C.F.R. § 90.621(a)(2).

⁸ *Id.* at 3.

of 1934, as amended, 47 U.S.C. § 154(i), and Sections 0.331 and 90.151 of the Commission's Rules, 47 C.F.R. §§ 0.331 and 90.151, the requests for waiver filed by Champion Communications Services, Inc. on September 2, 1998, November 3, 1998, and November 24, 1998, ARE DENIED.

8. IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 0.331 and 90.139(c) of the Commission's Rules, 47 C.F.R. §§ 0.331 and 90.139(c), the applications filed by Champion Communication Services, Inc. on September 2, 1998, November 3, 1998, and November 24, 1998, ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

William W. Kunze
Deputy Chief
Commercial Wireless Division
Wireless Telecommunications Bureau