

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

In the Matter of Application of)	
)	
COUNTY OF ARLINGTON, VIRGINIA)	File No. 0002108062
)	
For Modification of Conventional Public Safety)	
Pool Station WQBY206, Arlington, Virginia, and)	
Request for Rule Waiver)	

ORDER

Adopted: September 20, 2005

Released: September 22, 2005

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

1. *Introduction.* On May 31, 2005, the County of Arlington, Virginia (Arlington) filed the above-captioned application to modify its license for Conventional Public Safety Pool Station WQBY206, Arlington, Virginia, a travelers' information station (TIS).¹ Specifically, Arlington seeks to increase the station's authorized power from ten watts to one hundred watts. Consequently, Arlington requires a waiver of Section 90.242(b)(4)(iii) and (iv) of the Commission's Rules.² For the reasons set forth below, we deny Arlington's waiver request and dismiss its modification application.

2. *Background.* A TIS is used to transmit non-commercial voice information pertaining to traffic and road conditions; traffic hazard and traveler advisories; directions; availability of lodging, rest stops, and service stations; and descriptions of local points of interest.³ Arlington currently is authorized to operate five TIS transmitters.⁴ It seeks instead to serve the entire county with a single, higher-powered transmitter, which it states would be more reliable and efficient, and provide more uniform coverage.⁵ It argues that this would improve homeland security in the county, which is the home to numerous "high-priority terror target[s]," including the Pentagon and Ronald Reagan Washington National Airport, by improving Arlington's ability to communicate with the public in the event of an emergency.⁶ Arlington also states that its proposed operations would not cause interference to any existing commercial AM radio station or other TIS.⁷

¹ See File No. 0002108062, Waiver Request (filed May 31, 2005) (Waiver Request).

² 47 C.F.R. § 90.242(b)(4)(iii), (iv). Section 90.242(b)(4)(iii) limits travelers' information stations to ten watts output power, and Section 90.242(b)(4)(iv) provides that 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.

³ See 47 C.F.R. § 90.242(a)(7).

⁴ See licenses for Stations WQBY206 and WQCR563.

⁵ See Waiver Request at 5-6.

⁶ *Id.* at 3-4.

⁷ *Id.* at 2.

3. Arlington's waiver request was placed on public notice on July 18, 2005.⁸ Several Arlington civic groups filed comments in favor of the request.⁹ The commenters argue that grant of the waiver would enhance public preparedness by facilitating the dissemination of information to all Arlington residents, commuters, and visitors in the event of an emergency.

4. *Discussion.* Pursuant to Section 1.925 of the Commission's Rules, we 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.¹⁰ As set forth below, we conclude that Arlington has not satisfied the requirements in Section 1.925 for grant of a waiver request.

5. Arlington seeks to replace its five TIS sites with a single high-power site in order to "provide more uniform coverage throughout the entire jurisdiction."¹¹ Arlington asserts a "need for reliable and far-reaching TIS communications with residents, transients and public safety and health/medical workers in the event of an emergency."¹² We conclude that this intent is contrary to the underlying purpose of the TIS rules. Section 90.242(a)(5) of the Commission's Rules provides that "[t]he transmitting site of each Travelers' Information Station shall be restricted to the immediate vicinity of the following specified areas: Air, train, and bus transportation terminals, public parks and historical sites, bridges, tunnels, and any intersection of a Federal Interstate Highway with any other Interstate, Federal, State, or local highway."¹³ As the Commission stated when it adopted the TIS rules, "intended programming on Travelers Information Stations would normally consist of . . . specific information pertinent only to travelers within a very limited reception area,"¹⁴ i.e., "local information of interest only to travelers at specific locations (e.g., a highway intersection, an airport entrance and parking facility, a county park, etc.)."¹⁵ For this reason, the Commission restricted TIS transmitting sites to the vicinity of

⁸ See Wireless Telecommunications Bureau Seeks Comment on Request for Waiver by the County of Arlington, Virginia, to Operate an AM Travelers' Information Station with a Power Level of 100 Watts, *Public Notice*, 20 FCC Rcd 12382 (WTB PSCID 2005).

⁹ See Letter dated Aug. 8, 2005 from Jacqueline Snelling and Jim Pebley, Arlington Citizen Corps, to Federal Communications Commission; Letter dated Aug. 8, 2005 from Mark A. Buchholz, Claremont Citizens Association, to Federal Communications Commission; Letter dated Aug. 5, 2005 from Patrick A. Smaldore Jr., Arlington County Civic Federation, to Federal Communications Commission; Letter dated Aug. 5, 2005 from Henry J. "Jack" Reed, Arlington Amateur Radio Club, to Federal Communications Commission.

¹⁰ 47 C.F.R. § 1.925(a)(3).

¹¹ Waiver Request at 2.

¹² *Id.* at 4.

¹³ 47 C.F.R. § 90.242(a)(5).

¹⁴ 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, *Report and Order*, Docket No. 20509, 67 F.C.C. 2d 917, 919 ¶ 6 (1977) (*TIS R&O*); see also *id.* at 923 ¶ 22 ("As intended, TIS is to be a source of localized information pertinent only to the traveler in the immediate proximity of the station."), 929 ¶ 40 ("use of low power systems to provide highly localized information of immediate interest to motorists . . . is the use contemplated of TIS systems"). We note that the Commission "specifically preclud[ed] an applicant from setting up a 'network,' or 'ribbon' of transmitting stations along a highway for the purpose of continuously attracting a motorist with what could be superfluous information." *Id.* at 923-24 ¶ 23.

¹⁵ *Id.* at 919 ¶ 7.

specific destinations or landmarks,¹⁶ and specifically stated that it did not intend for a TIS to broadcast “area-wide” information.¹⁷ Thus, Arlington’s objective—to provide area-wide information to individuals anywhere in the county, and not just to a particular area—conflicts with the intended purpose of a travelers’ information station. Indeed, it is questionable whether a single county-wide TIS could perform the function envisioned by the Commission, for in most instances, relevant travel information, such as road closures, length of delays, or alternate routes, will differ depending on where in the county one is.

6. In addition, we conclude that Arlington has not demonstrated unique or unusual circumstances. It is not the only jurisdiction with a concentration of tourist sites, government office buildings, and other prospective terrorist targets. Arlington offers no explanation of how the county is different in this regard from other such jurisdictions in terms of the usefulness of alerting individuals over a wide area of emergency security information.

7. We also note that the expanded coverage area of Station WNHV296 would include a portion of Washington, D.C.¹⁸ Such coverage could both restrict the availability of TIS spectrum in Washington, contrary to the Commission’s intent,¹⁹ and engender confusion among travelers in Washington in the event of a regional emergency. Therefore, we do not believe that grant of the present waiver request would be in the public interest.

8. Finally, Arlington argues²⁰ that it should be granted a waiver pursuant to the Public Safety and Critical Infrastructure Division’s 2004 decision granting a waiver to permit operation of a one hundred watt TIS at Los Angeles International Airport (LAX).²¹ We conclude that the two cases are distinguishable. As noted above, Arlington proposes to provide regional information regarding numerous sites. In contrast, the TIS at LAX provides information with respect to a single facility, as intended by the TIS rules. A waiver was granted because, in light of automobile traffic patterns in Los Angeles, a wider coverage area was required to provide timely information to travelers approaching LAX.²²

9. Accordingly IT IS ORDERED, pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Section 1.925 of the Commission’s Rules, 47 C.F.R. § 1.925, that the request for waiver filed by the County of Arlington, Virginia, on May 31, 2005, IS DENIED.

10. IT IS FURTHER ORDERED that application File No. 0002108062 SHALL BE DISMISSED WITHOUT PREJUDICE.

¹⁶ See *id.* at 923 ¶ 23.

¹⁷ *Id.* at 919 ¶ 8.

¹⁸ See Waiver Request at 14.

¹⁹ See *TIS R&O*, 67 FCC 2d at 928 ¶ 37 (“to more effectively share the limited radio frequency spectrum allocated for this service wit all jurisdictions having such requirements, we strongly urge that the coverage area to be served by each TIS be confined to the licensee’s area of jurisdiction”).

²⁰ See Waiver Request at 3-4.

²¹ See Los Angeles World Airports, *Order*, 20 FCC Rcd 1048 (WTB PSCID 2004).

²² *Id.* at 1049-50 ¶ 5. Automobile traffic patterns were deemed particularly relevant, because less than one-half of one percent of LAX passengers use public transportation. See *id.* at 1049 n.14. We note in contrast that most of the locations listed in Arlington’s waiver request are connected by subway and bus service.

11. 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

Michael J. Wilhelm
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Wireless Telecommunications Bureau