

**Before the  
Federal Communications Commission  
Washington, DC 20554**

<b>In the Matter of:</b>	)	
	)	
<b>Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended;</b>	)	<b>WT Docket No. 99-87</b>
	)	
<b>Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies:</b>	)	<b>Licensee Name: Washington Metropolitan Area Transit Authority</b>
	)	
<b>Narrowbanding Memorandum Opinion and Order 47 C.F.R. § 90.209(b)</b>	)	

**REQUEST FOR WAIVER OF COMMISSION RULES  
EXPEDITED ACTION REQUESTED  
WAIVER**

The Washington Metropolitan Area Transit Authority (WMATA) requests a waiver of 47 C.F.R. §90.209(b) (5). Specifically, WMATA requests a waiver of footnote 3 of the table under paragraph (b)(5), which states, ***“All stations must operate on channels with a bandwidth of 12.5 kHz or less beginning January 1, 2013, unless operations meet the efficiency standard of §90.203(j)(3).”*** WMATA requests a waiver to allow continued wideband (25-kHz) operation on their VHF licenses (**KCA285, KSL841, WNQO809, and WPQE751**) until 31 December 2016. By that date, WMATA will have completed a migration from these VHF frequencies to 700/800 MHz band.

Initially, WMATA had planned to migrate their VHF operations to an upgraded P25 system in the T-Band. However, with the enactment of the **Middle Class Tax Relief and Job Creation Act of 2012**, the long-term availability of T-Band frequencies for WMATA use has fallen into question. Rather than make a significant investment into a T-Band upgrade using frequencies that will soon become unavailable, WMATA halted their T-Band system upgrade and initiated an investigation for other frequency options.

Halting the system upgrade also had the unintended consequence of delaying our plans to move away from our VHF frequencies. Our move away from the VHF band was expected to coincide with the system upgrade. However, a waiver is now necessary to allow WMATA to complete the procurement and replacement process to migrate into our new frequencies. The funding for replacement of the VHF fixed and non-fixed equipment has already been committed.

The eight VHF frequencies under this waiver request are licensed at 47 locations and include 160.025, 160.26, 160.38, 160.62, 160.725, 161.025, 161.385, and 161.415 MHz.

## **Recommendations and Conclusion**

Under Section 1.3 of the Commission's rules, the Commission may exercise its discretion to waive a rule for "good cause shown." A waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation will help serve the public interest.

WMATA has acted diligently and in good faith to complete its narrowbanding activities before the narrowbanding deadline. Our system upgrade project began in early 2009 as a straightforward narrowbanding upgrade of the existing system. Because of equipment age and support issues, and needed system expansions, the upgrade project became a replacement project. The project as originally envisioned would have been completed by the narrowbanding deadline. However the **Middle Class Tax Relief and Job Creation Act of 2012**, shelved the upgrade project. Now WMATA requests a waiver to allow an orderly progression of their VHF subscribers to operate in the 700/800 MHz band.

Section 1.925(b)(3) provides that waivers to FCC rules may be granted if:

***“(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.”***

WMATA is aware of the high hurdle applied to a waiver of the Commission’s rules and the requirement to clearly articulate the detailed considerations in Section 1.925 of the Commission’s rules. We believe that this request complies with the submission details of the waiver process in that:

1. The underlying purpose of the narrowband rule would not be frustrated by waiver of this case. This waiver request does not extend the date for reduction of bandwidth to a lengthy or indefinite date, but seeks only to extend the requirement for a finite period of time to permit the orderly migration of WMATA’s subscribers. The basis for narrowband is to make additional spectrum available in the VHF band. This goal will be accomplished when WMATA moves to the 700/800 MHz band.
2. The grant of the waiver is in the public interest. The cost of narrowbanding is an expense that competes with the need for an improved, interoperable communications network at a time when the economy shortage of tax dollars limits the expansion of funding sources.

Grant of the waiver as described above for each of the eight VHF radio authorizations would therefore be in the public interest.

Please feel free to contact the undersigned should you need any additional information.

Respectfully submitted,

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

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