



PUBLIC NOTICE

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DA 09-803

Released: April 9, 2009

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER FILED BY OCEAN COUNTY, NEW JERSEY TO MODIFY ITS PUBLIC SAFETY COMMUNICATIONS SYSTEM BY ADDING FREQUENCIES FROM THE UHF TELEVISION CHANNEL 15 BAND (476-482 MHz)

File Nos. 0003047481 and 0003047654

Comment Date: April 30, 2009

Reply Comment Date: May 11, 2009

The Public Safety and Homeland Security Bureau seeks comment on the above-captioned applications and waiver request, as amended, initially filed on May 31, 2007 by Ocean County, New Jersey (“Ocean County” or “the County”).¹ Ocean County seeks waiver relief of Sections 90.303, 90.305, 90.307, 90.309, and 90.311 of the Commission’s rules, 47 C.F.R. §§ 90.303, 90.305, 90.307, 90.309, 90.311, pursuant to Section 337(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 337(c), to use, for public safety communications purposes, twelve frequency pairs² from the UHF Television (TV) Channel 15 band (476-482 MHz).³ The applications seek to modify Ocean County’s licenses for public safety Stations WIL552 and WPXC650, which are authorized on frequencies in the TV Channel 20 band (506-512 MHz).⁴ In the alternative to Section 337(c) of the Act, Ocean County requests waiver relief pursuant to Section 1.925 of the Commission’s rules, 47 C.F.R. § 1.925.

Ocean County states that since it placed Stations WIL552 and WPXC650 in service, “it has received harmful interference from [TV Channel 20] station WTXN-TV in Waterbury, Connecticut.”⁵ The County states that it “has also experienced more severe interference from [digital TV (DTV) Channel 20] station WCVB-DTV in Boston, Massachusetts.”⁶ The County states, “[t]his interference has been

¹ See File Nos. 0003047481 (filed May 31, 2007) and 0003047654 (filed May 31, 2007) and attached Exhibit 1, Request for Waiver of Sections 90.303, 90.305, 90.307, 90.309 and 90.311 of the Commission’s Rules (Waiver Request).

² The applications request frequency pairs 476/479.3125, 476/479.3875, 476/479.4375, 476/479.4875, 476/479.5375, 476/479.5875, 476/479.7125, 476/479.7375, 476/479.9375, 477/480.2625, 478/481.4625 and 478/481.6125 MHz.

³ See Waiver Request at 1; File Nos. 0003047481 and 0003047654, attached Engineering Study in Support of Request for Waiver (Engineering Study) at 11.

⁴ File No. 0003047481 pertains to call sign WIL552, and File No. 0003047654 pertains to call sign WPXC650.

⁵ Waiver Request at 2.

⁶ *Id.*

sporadic in nature, occurring primarily during periods when ‘Atmospheric Ducting’ conditions exist.”⁷ Due to the digital nature of DTV Station WCVB’s transmissions, the County avers that “interference from WCVB-DTV has been severe enough that it has effectively rendered the County’s UHF-T band trunking system inaccessible to its users for hours at a time.”⁸ Ocean County provided documentation of ducting interference incidents since 2002 that adversely affected its public safety communications system.⁹

The County reports that its 2000 population was 510,916 and, during the summer months, the population “increases by approximately 200,000 from its year-round population due to the influx of vacationers.”¹⁰ The County is home to two military installations, a nuclear power plant, and three major highways that traverse the County.¹¹ “A large portion of the County borders the Atlantic Ocean,” subjecting the County to “hurricanes and other severe weather events that can place a strain on its public safety resources.”¹² Ocean County notes that “it is critical that Ocean County and the communities within and around it have effective, interoperable public safety communications.”¹³

The Commission’s rules provide that frequencies allocated in the 470-512 MHz band (TV Channels 14-20) are available for assignment to private land mobile radio service (PLMRS) stations, including public safety stations, on a geographically-shared basis with TV broadcast stations in eleven urbanized areas of the United States.¹⁴ The frequencies sought for use by Ocean County are part of TV Channel 15, which is available for PLMRS use in the New York, New York/Northeast New Jersey urbanized area. Section 90.305(a) requires that PLMRS base stations must be located within eighty kilometers (fifty miles) of the geographic centers of the urban areas listed in Section 90.303. Ocean County requests a waiver of these rules to permit it to operate certain base stations on TV Channel 15 frequencies at locations more than eighty kilometers from the geographic center of the New York urbanized area.¹⁵ It also requests a waiver of Section 90.307(d) to allow its proposed base stations to be short-spaced to adjacent-channel Class A TV Station WTSD-CA, Philadelphia, Pennsylvania, operating on TV Channel 14.¹⁶ Finally, Ocean County requests a waiver of Section 90.309 (Table D) to allow three of its proposed base stations to be short-spaced to a co-channel TV Station WLYH, Lancaster/Lebanon, Pennsylvania, operating on TV Channel 15.¹⁷

⁷ *Id.*

⁸ *Id.* at 3.

⁹ See File Nos. 0003047481 and 0003047654, Attachment C, Ocean County Interference Documentation, prepared by V-COMM, L.L.C.

¹⁰ Waiver Request at 4 (citing Census 2000, US Census Bureau, March 2001).

¹¹ See *id.*

¹² *Id.* at 5.

¹³ *Id.*

¹⁴ See 47 C.F.R. Part 90, Subpart L. A list of the urbanized areas is provided in 47 C.F.R. § 90.303.

¹⁵ See Waiver Request at 12. The proposed base stations at Tom’s River, New Egypt, Tuckerton, Barnegat and Pasadena, New Jersey are more than 80 kilometers from the New York geographic center.

¹⁶ See File Nos. 0003047481 and 0003047654, attached Engineering Study in Support of Request for Waiver (Engineering Study) at 11, 21. The County also obtained a letter of concurrence from the licensee of TV Station WTSD-CA. See File Nos. 0003047481 and 0003047654, attached Letter from Rev. Steve Hane, Priority Communications Ministries, Inc., to Federal Communications Commission (dated August 7, 2008).

¹⁷ See Engineering Study at 26. Table D is applicable to cases involving TV Channel 15 and New York. See 47 C.F.R. §§ 90.307(c), 90.309 Table D.

As a part of the analysis under Section 337(c) of the Act, as well as the Commission's waiver criteria, we also seek comment on whether the 700 MHz public safety band would provide a viable alternative, particularly in light of the approaching June 12, 2009 digital television transition date,¹⁸ and the Commission's actions in facilitating a nationwide, interoperable public safety network.¹⁹

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this *Public Notice*. All comments and reply comments should reference the subject Waiver Request and the DA number indicated on this *Public Notice*. Comments may be filed: (1) electronically by accessing the applicant's file number(s) in the Commission's Universal Service Licensing System (ULS),²⁰ or (2) by filing paper copies.

- Electronic Filers: Pleadings may be submitted electronically as follows:

From the ULS website at <http://wireless.fcc.gov/uls/>, begin the process of submitting a pleading by clicking on the "ULS Pleadings" link in the menu on the lower left side of the ULS web page. The link will take you to the "*Pleading Information*" screen for "Non-docketed Pleadings" where you select "Reply" in the drop-down window for the type of pleading and then enter the pleadings filer information. Completion of the contact information is optional. Upon completion of this screen, please note the instructions for the filing: "*Pleadings must be dated and must include a signature, in this instance an electronic signature, and the address and phone number of the signing party.*"²¹ Click on "CONTINUE."

The second step is to complete the *File Numbers/Call Signs* screen. Click if the pleading pertains to a File Number or Call Sign and enter the File Number or Call Sign. Please note that you must enter a File Number or Call Sign to continue. If the pleading pertains to multiple applications or licenses, you must enter each File Number or Call Sign as appropriate. After clicking the "SUBMIT" button, the screen will update to show all the File Numbers/Call Signs associated with the pleading. At this time, you may delete selected File Numbers/Call Signs from the page before continuing.

The third step is to complete the *Attach File* screen to attach the pleading document. Use the drop down box to select Pleading or Confidential Pleading. The "BROWSE" button opens a file upload window where you will locate and select your pleading file. The Description field allows you to enter a brief description for the pleading. Click the "ADD ATTACHMENT" button to upload your pleading.

¹⁸ In the DTV Delay Act that was enacted on February 11, 2009, Congress extended the date for the completion of the nationwide DTV transition from February 17, 2009 to June 12, 2009. See DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009). Accordingly, subject to the DTV Delay Act, the Commission extended the analog license terms and adjusted the construction permits for the full power television stations on February 13, 2009. See Implementation of the DTV Delay Act, *Report and Order and Sua Sponte Order on Reconsideration*, MB Docket No. 09-17, 24 FCC Rcd 1607 (2009).

¹⁹ See Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229; Development of Operational, Technical and Spectrum Requirements for Meeting Federal State and Local Public Safety Communications Requirements through the Year 2010, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 (2007).

²⁰ See "Wireless Telecommunications Bureau Enhances the Commission's Universal Licensing System to Implement Electronic Filing for Pleadings," *Public Notice*, 21 FCC Rcd 424 (WTB 2006). See http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-06-125A1.pdf.

²¹ See 47 C.F.R. Part 1.

You may submit up to thirty files for each pleading but each file must be smaller than 10 MB in size. You also have the opportunity to delete any selected file from the pleading.

Finally, to complete your electronic pleading submission, click on the “SUBMIT PLEADING” button and the *Confirmation* screen will be displayed. The *Confirmation* screen will display your Confirmation Number as well as your entered pleadings information. You may print this page for your records by selecting the Print Page link at the top of the page and have the option of submitting another pleading or returning to the ULS website by selecting a link at the bottom of the page.

The ULS Application and License Search results will display pleadings under the ADMIN tab when a comment or reply comment has been filed. Users can view the pleading by clicking on the link for the specific comment or reply comment in the Description field. The general public will not be able to view confidential pleadings.

For additional information or assistance on how to file a comment or reply comment or other relevant pleading, you may visit the Web at <http://esupport.fcc.gov>. You may also call the FCC ULS Customer Support Center at (877) 480-3201 and select option 2, or (888) 225-5322 and select Option 2, or (717) 338-2888. For TTY, please call (717) 338-2824. Assistance from the FCC ULS Customer Support Center is available between the hours of 8 a.m. to 6:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls to FCC ULS Customer Support Center are recorded.

- Paper Filers: Parties who choose to file by paper must submit an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

The application(s), waiver request, and comments and reply comments can be accessed electronically via the Commission’s Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the Waiver Request, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, DC 20554. Copies may be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, DC 20554. Customers may contact BCPI through its web site, <http://www.bcpiweb.com>, by email at

fcc@bcpiweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. For further information regarding the public reference file for this waiver request, contact Lisa Williams, RIC, (202) 418-1352.

Because of the policy implications and potential impact of this proceeding on persons not party to the Application, it is in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a) and 1.1206 of the Commission's rules, 47 C.F.R. §§ 1.1200(a) and 1.1206. Therefore, subsequent to the release of this *Public Notice, ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed, but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Mr. David Siehl of the Policy Division, Public Safety and Homeland Security Bureau at (202) 418-1313 (voice), (202) 418-7233 (tty), or via e-mail to David.Siehl@fcc.gov.

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

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