



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

445 Twelfth Street, S.W.

WASHINGTON, D.C. 20554

DA 01-1191

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> <ftp.fcc.gov>

Released: May 15, 2001

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY SHELL CHEMICAL COMPANY TO OBTAIN A LICENSE FOR ELEVEN UNASSIGNED UHF PUBLIC MOBILE SERVICE CHANNEL PAIRS

Comment Date: June 12, 2001

Reply Date: June 26, 2001

On February 28, 2001, Shell Chemical Company ("Shell"), which operates a petrochemical facility in Deer Park, Texas, filed an application and a request for waiver (Waiver Request) to use the following eleven unassigned Part 22 Public Mobile Service UHF channel pairs for use in Deer Park, Texas: 488/491.0250 MHz, 488/491.0500 MHz, 488/491.0750 MHz, 488/491.1000 MHz, 488/491.1250 MHz, 488/491.1500 MHz, 488/491.1750 MHz, 488/491.2000 MHz, 488/491.2250 MHz, 488/491.2500 MHz, and 488/491.2750 MHz.¹

Shell requests waiver of Sections 22.7, 22.621, and 22.651 of the Commission's Rules, 47 C.F.R. §§ 22.7, 22.621, and 22.651, and any other rules that are necessary to grant its application to operate a private land mobile radio service (PLMRS) trunked radio communications system at its Deer Park facility. The Commission may grant a waiver of its rules where the applicant demonstrates 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. 47 C.F.R. §§ 1.925(b)(3)(i), (ii).

In its Waiver Request, Shell states that the Deer Park plant is a fully integrated petrochemical facility that stores, refines, and manufactures crude oil into various products such as gasoline, lubrication oil, diesel fuel, and petroleum solvent. Because of these activities, and the fact that there are over one-half million people living within 6.5 miles of the Deer Park plant, Shell states that a reliable trunked telecommunications system is essential. Such a system will enable Shell to meet critical communications needs by overcoming interference and operational inefficiency experienced with conventional systems. In addition, Shell states that there are no alternative frequency options available near Houston, Texas, and that a Commission grant of its application will not result in any harmful interference to incumbent operations. Shell also states that if the Waiver Request is granted, it will surrender its licenses for fifteen Part 90 channel pairs that are not suitable for trunked operations. Finally, Shell argues that its request is in the public interest in light of the significant public safety considerations involved.

¹ Shell offers an alternative proposal, stating that if the Commission prefers to assign 6.25 kHz offset frequencies, Shell would accept the following fifteen channel pairs: 488/491.01875 MHz, 488/491.03125 MHz, 488/491.04375 MHz, 488/491.05625 MHz, 488/491.06875 MHz, 488/491.08125 MHz, 488/491.09375 MHz, 488/491.10625 MHz, 488/491.11875 MHz, 488/491.13125 MHz, 488/491.14375 MHz, 488/491.15625 MHz, 488/491.16875 MHz, 488/491.18125 MHz, and 488/491.19375 MHz.

Interested parties may file comments on the Waiver Request on or before June 12, 2001. Parties interested in submitting reply comments must do so on or before June 26, 2001. All comments should reference the subject waiver request including the DA number of this *Public Notice*, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-325, Washington, D.C. 20054. A copy of each filing should be sent to 1) International Transcription Services, Inc. (ITS), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800; 2) Guy Benson, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 Twelfth Street, S.W., Washington, D.C. 20554; and 3) Maria Ringold, Federal Communications Commission, Consumer Information Branch, Reference Information Center, 445 Twelfth Street, S.W., Room CY-B529, Washington, D.C. 20554.

The full text of the Waiver Request, comments, and reply comments will be available for inspection and duplication during regular business hours in the Reference Information Center (RIC) of the Consumer Information Bureau (CIB), Federal Communications Commission, 445 Twelfth Street, S.W., Room CY-A257. Copies may also be obtained from ITS. For further information regarding the public reference file for this Waiver Request contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355. In addition, the application, FCC File No. 0000394166, including the Waiver Request, can be viewed via the Commission's Universal Licensing System at www.fcc.gov/wtb/uls/.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's Rules. 47 C.F.R. §§ 1.1200(a), 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).

For further information, contact Guy Benson of the Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418-0680, TTY (202) 418-7233, or via email to gbenson@fcc.gov.

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

- FCC -