



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

445 Twelfth Street, S.W.

WASHINGTON, D.C. 20554

**DA 01-2635**

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

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## **WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY FORT LEE, NEW JERSEY, POLICE DEPARTMENT TO OBTAIN A PUBLIC SAFETY LICENSE FOR TWELVE UHF PAGING CONTROL FREQUENCIES**

**Comment Date: November 26, 2001**

**Reply Date: December 3, 2001**

On October 5, 2001, Fort Lee, New Jersey ("Fort Lee") filed an application and a request for waiver to use, for public safety purposes, six Part 22 UHF control channels, 470.0375 MHz, 470.1125 MHz, 470.2625 MHz, 476.0375 MHz, 476.0875 MHz and 476.2625 MHz paired with six Part 90 UHF control channels, 473.1875 MHz, 473.1625 MHz, 473.2625 MHz, 479.0375 MHz, 479.0875 MHz and 479.2625 MHz in the New York Metropolitan area.

Fort Lee requests waiver of Sections 22.621, 22.501, and 90.303 of the Commission's Rules, 47 C.F.R. §§ 22.621, 22.501, 90.303, and any other Commission Rules that are necessary to grant its application, pursuant to Section 337(c) of the Communications Act, as amended, 47 U.S.C. § 337(c) or Section 1.925 of the Commission's Rules.

Section 337(c) states that the Commission shall grant an application by an entity seeking to provide public safety services to the extent necessary to permit the use of unassigned frequencies, if the Commission makes five specific findings: (1) no other spectrum allocated for public safety use is immediately available; (2) there will be no harmful interference to other spectrum users entitled to protection; (3) public safety use of the frequencies is consistent with other public safety spectrum allocations in the geographic area in question; (4) the unassigned frequencies were allocated for their present use not less than two years prior to the grant of the application at issue; and (5) the grant of the application is consistent with the public interest. "Public safety services" are defined by 47 U.S.C. § 337(f) as services the sole or principal purpose of which is to protect the safety of life, health, or property, that are provided by the governmental entities or by non-governmental entities authorized by the governmental entity whose primary mission is the provision of such services, and that are not made commercially available to the public by the provider.

Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, provides that a waiver of the Commission's Rules may be granted if it is shown that 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 in view of the unique or unusual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest or in the applicant has no reasonable alternative.

Fort Lee indicates that its public safety communications system is over 30 years old and that its residential and commercial populations have increased drastically. As a neighboring town to New York City and link to the George Washington Bridge accessing New York City, Fort Lee argues that the demand for additional frequencies is substantial. Fort Lee explains that its law enforcement, fire, emergency medical services and public safety activities range from assisting citizens and commuters to interdicting illegal narcotics. Further, one hundred police officers, one hundred thirty-five volunteer firefighters, twenty-five auxiliary firefighters and fifty-four fully trained EMS technicians utilize Fort Lee's communications system

for dispatch services. Additionally, Fort Lee states that its Fire Prevention Bureau, Emergency Management Office and Department of Public Works also rely upon this communications system for its communications needs. The applicant also notes that additional strain has been placed on its communications system since the tragic events of September 11, 2001.

Interested parties may file comments on the Waiver Request on or before November 26, 2001. Parties interested in submitting reply comments must do so on or before December 3, 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) Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, D.C. 20554; 2) Karen Franklin, Esq. Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 Twelfth Street, SW, Room 4-C405, 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 FCC Reference Information Center (RIC), Portals II, 445 Twelfth Street, S.W., Room CY-A257, Washington, D.C. 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 Twelfth Street, SW, Room CY-B402, Washington, D.C. 20554. For further information regarding the public reference file for this Waiver Request contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

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 Karen Franklin, Esq. of the Policy and Rules Branch of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau at (202) 418-0680, TTY (202) 418-7233, or via email to kfrankli@fcc.gov.

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

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