



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

445 Twelfth Street, S.W.

WASHINGTON, D.C. 20554

DA 01-264

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY DUPAGE PUBLIC SAFETY COMMUNICATIONS TO OBTAIN A LICENSE FOR EIGHT UNASSIGNED FREQUENCIES ALLOCATED FOR NON-PUBLIC SAFETY USE

Comment Date: February 20, 2001

Reply Date: February 27, 2001

On December 22, 2000, DuPage Public Safety Communications ("DU-COMM"), an intergovernmental agency formed to provide police, fire, and emergency medical communications to member agencies in DuPage County, Illinois, filed an application and a request for waiver to permit it to use for public safety purposes eight radio frequencies allocated for non-public safety use in the Chicago, Illinois, metropolitan area: 470.2625/473.2625 MHz, 470.2875/473.2875 MHz, 470.0375/473.1375 MHz, and 470.1875/473.1625 MHz.

DU-COMM requests waiver of Section 22.621 of the Commission's Rules, 47 C.F.R. § 22.621, and any other Part 22 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). 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.

DU-COMM asserts that, because of the rapid growth of the western suburbs of Chicago, its current radio frequency assignments are not meeting that area's immediate communications requirements, and that DU-COMM must be assigned additional frequencies promptly to ensure the protection of life, health, and property. The agency states that the problem is greatest in the western portion of DuPage County. DU-COMM states that this once largely rural area now generates nearly constant police radio traffic, with officers having to wait for the one assigned channel to clear. DU-COMM acknowledges that the alternative is to switch to the one county-wide DU-COMM channel, but argues that that channel already is heavily used throughout the county for tactical operations, including almost daily need for tactical interoperability with the City of Chicago and other heavily populated communities in adjacent Cook County. DU-COMM notes that it has examined numerous alternatives prior to seeking this waiver, but that none have been feasible.

Interested parties may file comments on the Waiver Request on or before February 20, 2001. Parties interested in submitting reply comments must do so on or before February 27, 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 International Transcription Services, Inc. (ITS), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800, and Michael Connelly, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 Twelfth Street, S.W., Room 4-C405, 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) 418-0070.

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 Michael Connelly 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 mconnell@fcc.gov.

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

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