



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

445 Twelfth Street, S.W.

WASHINGTON, D.C. 20554

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY NASSAU COUNTY POLICE DEPARTMENT TO OPERATE A PUBLIC SAFETY COMMUNICATIONS SYSTEM ON 500-506 MHZ FREQUENCIES ALLOCATED FOR CHANNEL 19 TELEVISION OPERATION IN THE NEW YORK METROPOLITAN AREA

Comment Date: March 19, 2001

Reply Date: March 26, 2001

On February 28, 2001, the Nassau County, New York Police Department (“NCPD”) filed an application and a request for waiver to permit it to use for public safety purposes frequencies allocated for Channel 19 television operation in the New York metropolitan area, in which Nassau County is located. These frequencies are allocated for public safety and other private land mobile radio in the Philadelphia metropolitan area.

NCPD requests waiver of Sections 90.303, 90.307, and 90.311 of the Commission’s Rules, 47 C.F.R. §§ 90.303, 90.307, and 90.311, and such other Commission rules as may be 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.

NCPD asserts that, due to a combination of a Channel 18 digital television allotment in Newton, NH, a current Channel 20 television station in Waterbury, CT, and a large number of existing public safety land mobile facilities operating pursuant to waiver on Channel 19 in northern New Jersey, Channel 19 cannot be used for a television station in the New York metropolitan area but can be used by Nassau County for land mobile operations to alleviate a serious shortage of radio spectrum and enhance communications used to protect life, health, and property. NCPD claims that its current voice radio system already is extremely congested, and it is facing rapidly increasing demands for service. It says that the growing congestion creates high noise levels and, in some instances, has blocked vital police communications. NCPD further states that reuse of the existing channels already causes harmful interference within Nassau County’s system, impairing critical public safety communications. It notes that its radio system also experiences extremely dangerous “dead spots” in its coverage area and that, in recent years, there have been an alarming number of instances wherein deficiencies in its radio system might have placed police officers and other public safety personnel in dangerous situations. NCPD further states that the current system also lacks capacity to include other agencies with which NCPD must communicate on a regular basis.

Interested parties may file comments on the Waiver Request on or before March 19, 2001. Parties interested in submitting reply comments must do so on or before March 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) Bert Weintraub, 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; and 3) Maria Ringold, Federal Communications Commission, Consumer Information Bureau, 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.

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 Bert Weintraub 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 bweintra@fcc.gov.

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

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