



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 THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY TO OBTAIN A LICENSE FOR TWELVE UNASSIGNED UHF PAGING CONTROL FREQUENCIES

Comment Date: April 23, 2001

Reply Date: April 30, 2001

On March 26, 2001, the Port Authority of New York and New Jersey ("Port Authority"), a public agency established by the states of New York and New Jersey to provide and manage critical transportation infrastructure in the New York City metropolitan area, filed an application and a request for waiver to use, for public safety purposes, twelve unassigned Part 22 paging UHF control channels for use in the New York metropolitan area: 470.0375/473.1875 MHz, 470.1125/473.1625 MHz, 470.2625/473.2625 MHz, 476.0375/479.0375 MHz, 476.0875/479.0875 MHz, and 476.2625/479.2625 MHz.

Port Authority 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.

Port Authority is the governmental agency responsible for police, fire, and other emergency services for most of the major airports, bridges, tunnels, trains, bus terminals, and ports in the New York City metropolitan area; it is also responsible for operating such services at the World Trade Center. Port Authority notes that the system it presently uses is fully loaded under the Commission's requirements. It asserts that the channels for which it seeks a license are necessary to supplement and modernize its existing 470 MHz facilities, and to develop a new metropolitan wide-area communications system using spectrally efficient trunking and/or other new technologies. Port Authority states that it cannot develop a modern, spectrally efficient system without the additional channels.

Interested parties may file comments on the Waiver Request on or before April 23, 2001. Parties interested in submitting reply comments must do so on or before April 30, 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) 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; 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.

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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