



PUBLIC NOTICE

Federal Communications Commission
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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY THE STATE OF FLORIDA TO ALLOW FOR GEOGRAPHIC LICENSING

Comment Date: March 19, 2002

Reply Comment Date: March 26, 2002

On February 12, 2002, the State of Florida (Florida) submitted a request for expedited waiver of Section 90.693(d)(1) of the Commission's Rules¹ to allow Florida to consolidate its site-by-site licenses for General Category frequencies in its 800 MHz statewide public safety radio system into a statewide geographic license.² Florida seeks to obtain a geographic license pursuant to Section 90.693(d)(1) of the Commission's Rules, which permits certain incumbent licensees operating at multiple sites in the 806-821/851-866 MHz band to exchange multiple site licenses for a single geographic area license.³ Under that rule, the incumbent's geographic license area is defined by the contiguous and overlapping contours of its constructed and operational external base stations and interior sites.⁴

By way of background, Florida is authorized to operate on thirty-nine (39) 12.5 kHz spaced channels in the 800 MHz "F" and "FF" blocks.⁵ Twenty channels were part of Florida's original authorizations.⁶ In January 2001, the Wireless Telecommunications Bureau (Bureau)

¹ 47 C.F.R. § 90.693(d)(1).

² State of Florida, Request for Geographic Licensing and Request for Expedited Waiver (filed Feb. 12, 2002) (Waiver Request).

³ 47 C.F.R. § 90.693(d)(1).

⁴ *Id.*

⁵ Waiver Request at 2. Spectrum Blocks F and FF encompass channel blocks 101-125 and 126-150, respectively, and are available for 800 MHz SMR General Category. See 47 C.F.R. § 90.615.

⁶ Waiver Request at 2 n.4. The twenty frequencies are 808.8375 MHz, 808.8625 MHz, 808.8875 MHz, 808.9125 MHz, 808.9375 MHz, 808.9625 MHz, 808.9875 MHz, 809.0125 MHz, 809.0375 MHz, 809.0625 MHz, 809.0875 MHz, 809.1125 MHz, 809.1375 MHz, 809.1625 MHz, 809.1875 MHz, 809.2125 MHz, 809.2375 MHz, 809.2625 MHz, 809.2875 MHz, and 809.3125 MHz.

issued an *Order* authorizing Florida to operate on “19 off-set channels”⁷ associated with these twenty contiguous channels, in order to “allow Florida to make more efficient use of its 800 MHz General Category spectrum.”⁸ Florida has not yet constructed on all of these channels.⁹ Florida, however, has been granted extended implementation authority until June 30, 2004 to complete construction of all its licensed frequencies.¹⁰

Florida argues that a waiver is warranted because the purpose of Section 90.693(d)(1)’s construction requirement would not be served by requiring Florida to complete construction before it can seek a consolidated license.¹¹ Florida contends that permitting it to apply for a geographic license would not result in an expansion of Florida’s service area or otherwise affect the operations of any other licensee.¹² In this connection, Florida asserts that the overlapping interference contours completely cover Florida and make it virtually impossible for any other licensee to make use of that spectrum.¹³ Moreover, Florida asserts that given the unique geography of the Florida peninsula, there would be no Economic Area or incumbent licensees to protect, except along Florida’s northern border with Alabama and Georgia.¹⁴ Florida also contends that grant of the waiver request would not alter Florida’s obligation to certify that it is in compliance with its annual construction requirements and thus the Commission would be able to monitor whether Florida is timely placing its frequencies in operation.¹⁵ Florida further contends that granting its waiver request would reduce the administrative and financial burden on Florida associated with filing individual site-by-site applications, simplify the licensing process for the Commission, and provide public safety entities increased flexibility in moving transmitters to meet coverage concerns.¹⁶

⁷ “Off-set” channels refer to licensees operating on channels centered between regularly assignable channels. *See* State of Florida, *Memorandum Opinion and Order*, 16 FCC Rcd 2174 n.1 (WTB 2001) (*State of Florida*) (citing County of San Bernadino, *Memorandum Opinion and Order*, 4 FCC Rcd 3830, 3831 n.3 (1989)). The regularly assignable channels are spaced 25 kHz apart for the 800 MHz General Category channels, which results in the off-set channels being spaced 12.5 kHz away from the regularly assignable channel. *Id.*

⁸ Waiver Request at 2-3 (citing *State of Florida*, 16 FCC Rcd at 2178 ¶ 10).

⁹ *Id.* at 3.

¹⁰ *Id.* at 3 n.7 (citing Letter from Mary Shultz, Chief Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division to Lee F. Moreno, Supervisor, 800 MHz and Microwave Radio Design, State of Florida (Apr. 26, 2000)).

¹¹ Waiver Request at 4-6.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 6. *See* *State of Florida*, 16 FCC Rcd at 2180 ¶ 15.

¹⁵ *Id.* at 7-8.

¹⁶ *Id.* at 8-11.

Interested parties may file comments on Florida's Waiver Request on or before March 19, 2002. Parties interested in submitting reply comments must do so on or before March 26, 2002. All comments should reference Florida's Waiver Request, including the DA number of this Public Notice, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-325, Washington, D.C. 20554. A copy of each filing should be sent to (1) Qualex International, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893; and (2) John Evanoff, Esq., Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 12th Street, S.W., 4-B411, Washington, D.C. 20554; and (3) Maria Ringold, Federal Communications Commission, Consumer Information Bureau, Reference Information Center, 445 12th Street, S.W. Room CY-B529, Washington, D.C. 20554.¹⁷

The full text of the Waiver Request, comments and reply comments will be available for inspection and duplications during regular business hours in the Reference Information Center (RIC) of the Consumer Information Bureau, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554. Copies may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, S.W. Room CY-B402, Washington, D.C. 20554, (202)-863-2893, facsimile (202) 863-2898, or via-e-mail qualexint@aol.com. For further information regarding the public reference file for this 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* 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 John Evanoff, Esq., of the Policy and Rules Branch of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau at (202) 418-0848, TTY (202) 418-7233, or via e-mail to jevanoff@fcc.gov.

¹⁷ The address for FCC locations should be used only for documents filed by United States Postal Service. Documents delivered by Federal Express or any other express mail service should be addressed to the relevant person or office at the Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Hand-delivered or messenger-delivered documents are accepted only at our new location at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. *See* FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, DA 01-2919 (rel. Dec. 14, 2001).

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