



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
445 Twelfth Street, S.W.  
WASHINGTON, D.C. 20554

**DA 03-1948**

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## **WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY SYOSSET FIRE DISTRICT, NEW YORK, TO OPERATE A PUBLIC SAFETY SYSTEM SERVING FIREFIGHTERS IN SYOSSET AND NEARBY COMMUNITIES**

**Comment Date: June 23, 2003**

**Reply Date: June 30, 2003**

On May 16, 2003, the Syosset Fire District, New York (“Syosset” or “District”) filed a license application, FCC File No. 0001314863, as amended, and a request for waiver to use five pairs of frequencies and an additional single frequency allocated to Part 22 paging control and trunked mobile channels, to support the communications requirements of the firefighters in the District. Syosset seeks the exclusive use of the paired channels 476.0375/479.1625, 476.1375/479.1375, 476.1875/479.1875, 476.2375/479.2375 and 476.2875/479.2875 MHz and the single frequency assignment 470.1375 MHz. Syosset contends that its critical communications needs cannot be met by its current system, which consists of frequency pair 453/458.1000 MHz, a “fireground” channel on 458.7125 MHz, and mutual aid communications frequencies 46.10 and 46.12 MHz.

Syosset requests a waiver of Section 22.621 of the Commission’s Rules, 47 C.F.R. § 22.621, 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, in the alternative, Section 1.925 of the Commission’s Rules, 47 C.F.R. § 1.925. Section 337(c) of the Act 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 if the applicant has no reasonable alternative.

Syosset claims that its operations are subject to significant interference because of its proximity to New York City. Its 453/458.1000 MHz dispatch/operations channel is excessively loaded and fails to provide coverage across the District's service area. The waiver request outlines instances during which the District's lack of coverage prevented radio transmissions in critical, potentially life-endangering situations. Upon implementation of a new system, Syosset plans to surrender its existing license authorizing channel pair 453/458.1000 MHz.

Syosset proposes to construct a system that will provide redundant, ubiquitous coverage throughout the combined service areas of Syosset and its neighbors for whom it would provide dispatch service. The proposed system would have five pairs of trunked 12.5 kHz channels dedicated to voice operations and one 12.5 kHz conventional channel dedicated to voice paging operations. The new system will support 300 mobiles and will ultimately provide digital service. The system will support the District's three tiers of service. First, the District provides emergency services and mutual aid to Syosset and several neighboring communities. Second, the District provides emergency operations services to one of Nassau County's nine fire battalions, which is a much broader geographic area than the collective communities served by the first tier. Third, the District provides technical rescue services throughout Nassau County, including rescues at scenes of structural collapses, confined spaces, and from above ground at great heights.

Syosset notes that it meets the five requirements of Section 337(c) of the Communications Act. (1) Syosset alleges that, although it exhaustively has searched for available spectrum to use in its proposed system, the UHF channels for which it is applying appear to be the only viable option. Syosset has determined that all the relevant frequencies in the public safety bands that might appear clear are 6.25 kHz frequencies. To date, there is no equipment to support this narrow bandwidth. (2) Syosset's application and waiver request are supported by an engineering analysis which claims to demonstrate interference protection to co-channel and adjacent channel incumbent licensees and channels under application. (3) Syosset states that its request is consistent with other public safety entities licensed on 470-480 MHz, Part 22 paging control channels in New York and New Jersey. The engineering analysis also demonstrates that the 470-512 MHz band is already heavily used in the New York City area for public safety operations. (4) The unassigned frequencies at issue were allocated for Part 22 on August 2, 1994, which became effective on January 1, 1995. Therefore, the unassigned frequencies were allocated for their present use more than two years ago. (5) Syosset believes granting of its request will be in the public interest as it will allow otherwise vacant spectrum to be used by Syosset for the continuing operation of its public safety system. In the alternative to a waiver of Section 337(c), Syosset argues that a waiver is justified under the standards contained in Section 1.925 of the Commission's Rules.

Interested parties may file comments on the Waiver Request on or before **June 23, 2003**. Parties interested in submitting reply comments must do so on or before **June 30, 2003**. 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 12<sup>th</sup> Street, S.W., TW-A325, 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) Maria Ringold, Federal Communications Commission, Consumer and Governmental Affairs Bureau, Reference Information Center, 445 Twelfth Street, S.W., Room CY-B529, Washington, D.C. 20554; and (3) Tom Eng, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 12<sup>th</sup> Street, S.W., Room 4-B512, Washington, D.C. 20554.

The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only by the Commission's contractor, Vistrionix, Inc., at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or

fasteners. Any envelopes must be disposed of before entering 236 Massachusetts Avenue, N.E. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. *See* FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, Public Notice, 16 FCC Rcd 22165 (2001).

Syosset's applications and waiver requests can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. 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) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). 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 Mr. Tom Eng of the Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418-0019, TTY (202) 418-7233, or via e-mail to [teng@fcc.gov](mailto:teng@fcc.gov).

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

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