



PUBLIC NOTICE

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DA 05-1665

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON MARITEL, INC. REQUEST TO FURTHER EXTEND CONSTRUCTION DEADLINE FOR CERTAIN VHF PUBLIC COAST STATION GEOGRAPHIC AREA LICENSES

Comment Date: July 6, 2005

Reply Date: July 18, 2005

On May 25, 2005, MariTEL, Inc. and its wholly owned subsidiaries (collectively, MariTEL) requested waivers and extensions of the five-year substantial service deadlines¹ for nine maritime VHF public coast (VPC) Station Areas (VPCSA)² and seven inland VPCSA³. Specifically, MariTEL requests that the May 19, 2006 maritime VPCSA and October 19, 2006 inland VPCSA deadlines be changed to the later of 1) two years from the date that the Commission's decision in the Automatic Identification System (AIS) proceeding becomes final; or 2) May 19, 2009, which is the ten-year substantial service deadline for the maritime VPCSA. MariTEL states that an extension will permit it to avoid constructing its network under regulatory conditions that have not been fully decided, and that the substantial service deadlines for the maritime and inland VPCSA should be consolidated.

By way of background, the nine maritime licenses at issue were granted on May 19, 1999, so MariTEL's original five-year deadline was May 19, 2004. The seven inland licenses at issue were granted on October 19, 2001, so MariTEL's five-year deadline is October 19, 2006. On December 4, 2003, the Wireless Telecommunications Bureau's Public Safety and Critical Infrastructure Division (Division) granted MariTEL a two-year extension of the five-year substantial service deadline for the

¹ VHF public coast station geographic licensees are required to demonstrate substantial service within their region or service area within five years of the initial license grant, and again within ten years of the initial license grant. See 47 C.F.R. § 80.49(a)(1).

² See FCC File Nos. 0002173596 (Call Sign WPOJ530), 0002173600 (Call Sign WPOJ531), 0002173608 (Call Sign WPOJ532), 0002173613 (Call Sign WPOJ533), 0002173617 (Call Sign WPOJ534), 0002173620 (Call Sign WPOJ535), 0002173628 (Call Sign WPOJ536), 0002173635 (Call Sign WPOJ537), 0002173639 (Call Sign WPOJ538), Request for Rule Waiver and Extension of Construction Deadline (filed May 25, 2005). MariTEL filed an identical request for each license at issue.

³ See FCC File Nos. 0002173651 (Call Sign WPTI475), 0002173652 (Call Sign WPTI476), 0002173653 (Call Sign WPTI477), 0002173654 (Call Sign WPTI478), 0002173655 (Call Sign WPTI479), 0002173656 (Call Sign WPTI480), 0002173657 (Call Sign WPTI481), Request for Rule Waiver and Extension of Construction Deadline (filed May 25, 2005). The requests for the inland VPCSA are identical to the requests for the maritime VPCSA.

maritime VPCSA, to May 19, 2006.⁴ The Division agreed with MariTEL that a waiver was warranted because unforeseen market conditions required retooling the network to primarily provide data services rather than voice services, and holding MariTEL to the substantial service deadline for the originally planned voice network would hinder the development of valuable new VPC-based data services. The Division also noted that because MariTEL's seven inland VPCSA had a five-year substantial service deadline of October 19, 2006, granting the extension for the maritime licenses would effectively consolidate the deadlines for all the licenses. On January 5, 2004, the United States Coast Guard (USCG) filed an application for review of the Division's decision, which is currently pending.

On October 15, 2004, the Commission initiated a rulemaking proceeding to identify what VPC spectrum should be used for AIS in the United States and its territorial waters.⁵ The Commission's Rules originally provided that two channels in each maritime VPCSA, selected through good faith negotiation between the VPCSA licensee and the USCG, must be set aside for AIS use.⁶ The Commission now proposes to designate VHF maritime Channels 87B and 88B for exclusive AIS use domestically. It also sought comment on a variety of related issues. Comments were due December 30, 2004, and reply comments were due January 31, 2005. The proceeding remains pending.

MariTEL argues that the maritime May 19, 2006 and inland October 19, 2006 initial substantial service deadlines should be extended because it would be contrary to the public interest to require MariTEL to construct its network before the Commission decides what spectrum it will set aside for AIS, and how VPC operations will be protected from AIS interference. MariTEL states that it needs adequate time to develop and adapt its VPC network after the Commission adopts final rules concerning AIS.

Interested parties may file comments on the waiver requests on or before July 6, 2005. Parties interested in submitting reply comments must do so on or before July 18, 2005. 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 12th Street, S.W., TW-A325, Washington, D.C. 20054. This 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, Natek, 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

⁴ See MariTEL, Inc. Request to Extend Construction Deadline for Certain VHF Public Coast Station Geographic Area Licenses, *Order*, 18 FCC Rcd 24670 (2003), *application for review pending*. The Commission reorganized the Wireless Telecommunications Bureau effective November 13, 2003, and the relevant duties of the Public Safety and Private Wireless Division (PSPWD) were assumed by the Public Safety and Critical Infrastructure Division (PSCID). See Reorganization of the Wireless Telecommunications Bureau, *Order*, 18 FCC Rcd 25414, 25414 ¶ 2 (2003). The *Order* was adopted by PSPWD, but released by PSCID.

⁵ See Amendment of the Commission's Rules Regarding Maritime Automated Identification Systems, *Memorandum Opinion and Order and Notice of Proposed Rule Making*, WT Docket No. 04-344, 19 FCC Rcd 20071 (2004).

⁶ See 47 C.F.R. § 80.371(c)(3).

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).

The 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 requests, 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 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its web site, <http://www.bcpweb.com>, by email at fcc@bcpweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. 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 requests 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. Jeffrey Tobias of the Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau at (202) 418-1617, TTY (202) 418-7233, or via e-mail to Jeff.Tobias@fcc.gov.

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