



PUBLIC NOTICE

Federal Communications Commission
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DA 05-3036

November 25, 2005

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY MORGAN COUNTY, WEST VIRGINIA

Comment Date: December 27, 2005

Reply Date: January 11, 2006

By this *Public Notice*, the Wireless Telecommunications Bureau (Bureau) seeks comment on a request by Morgan County, West Virginia (Morgan County) for waiver of Sections 90.729 and 90.733(d) of the Commission's Rules, 47 C.F.R. §§ 90.729, 90.733(d). On April 12, 2004, Morgan County filed its waiver request in conjunction with its application, FCC File No. 0001691866, for several frequencies in the 220 MHz band. Specifically, it requests waivers of power, antenna height, and channel bandwidth limitations.

By way of background, Morgan County is located in the northeast portion of West Virginia, adjacent to Maryland and Virginia. Morgan County states that it has recently upgraded its 911 center and is in the process of installing a new multi-site, simulcast, radio dispatch system. Morgan County seeks the use of Channels 161-170 and 181-185 in the 220 MHz band to support its mobile command centers that will provide on-scene emergency management capabilities and interoperability with neighboring governmental entities. Channels 161-170 are designated for mutual aid use. Channels 181-185 are designated for non-nationwide, emergency medical use. Morgan County notes that it qualifies for use of the channels as set forth in Sections 90.719(c), 90.719(d), and 90.720(a) of the Commission's Rules, 47 C.F.R. §§ 90.719(c), 90.719(d), 90.720(a).

Morgan County requests a waiver of Section 90.729, which limits the effective radiated power (ERP) of Morgan County's proposed base stations to thirty watts, and limits 220 MHz mobile units to fifty watts ERP. Morgan County states that the limits may be appropriate in areas of flat terrain, but they are not sufficient to provide adequate coverage in the county's very mountainous terrain. As a result, Morgan County seeks 150 watts ERP for both its base and mobile stations. In support of its request, Morgan County provides a showing that it meets the 120 kilometer co-channel separation requirement of Section 90.723(k) of our Rules, 47 C.F.R. § 90.723(k). It also notes that it provides the requisite 10 dB contour protection to the nearest co-channel licensee, which, according to Morgan County, is located 127.6 kilometers away. In further support of the waiver request, Morgan County notes that it previously received similar relief of applicable power limitations to its Station WPTG353, Largent, West Virginia, operating in the 150 MHz band.

Morgan County also seeks a waiver of Section 90.733(d) to permit the combination of contiguous channels to form channels wider than five kHz. Section 90.733(d) permits the combining of contiguous channels with the exception of Channels 161-170 and 181-185, which Morgan County seeks. Each of the channels has a bandwidth of five kHz. Morgan County states that it seeks relief of the rule because there appears to be no manufacturer producing new equipment capable of single sideband, suppressed carrier,

voice emissions in such a bandwidth. However, Morgan County states that 12.5 kHz equipment and possibly 25 kHz equipment are being manufactured in the 220 MHz band.

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.

Interested parties may file comments on the waiver request on or before December 27, 2005. Parties interested in submitting reply comments must do so on or before January 11, 2006. 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. 20554.¹

The application and waiver request 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 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., 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 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).

¹ 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 at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. 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. 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).

For further information, contact Mr. Tom Eng of the Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau at (202) 418-0019, TTY (202) 418-7233, or via e-mail to Thomas.Eng@fcc.gov.

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

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