



PUBLIC NOTICE

Federal Communications Commission
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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON CITY OF RICHMOND, VIRGINIA REQUEST FOR WAIVER TO OPERATE PUBLIC SAFETY PAGING SYSTEM ON 900 MHz NARROWBAND PCS FREQUENCIES

Comment Date: August 28, 2006

Reply Date: September 12, 2006

By this *Public Notice*, the Wireless Telecommunications Bureau seeks comment on a waiver request by the City of Richmond, Virginia (Richmond), which seeks to operate a regional public safety two-way paging system on 900 MHz band Narrowband PCS (NPCS) Channel 16 (frequencies 930.65–930.70 MHz and 901.8125–901.8250 MHz).¹

Richmond asserts that it needs a secure, reliable, interoperable, and cost-effective method of alerting and recall for police, fire, EMS, and other government agencies charged with maintaining public safety in the region. Richmond reports that it considered other solutions, such as one-way paging, mobile data systems, digital and analog two-way voice systems, PCS technologies, and broadband solutions, before deciding to deploy a two-way paging system, because only two-way pagers provide the required capabilities. Richmond states, however, that the devices it plans to use operate only in the 900 MHz band, and commercial paging systems cannot meet its need for immediate, secure communications with adequate back-up reliability. Richmond therefore seeks to utilize NPCS Channel 16 on an exclusive basis. It proposes the initial deployment of twenty-three base station sites to cover the City of Richmond and Henrico, Chesterfield, and Hanover Counties, but requests authorization for the entire Richmond-Petersburg, Virginia Economic Area (EA 015), which covers thirty-eight counties, in order to provide for growth of the regional system to incorporate adjacent jurisdictions.

Richmond requests waivers of Sections 24.11 and 24.103 of the Commission's Rules, 47 C.F.R. §§ 24.11, 24.103, and any other of the Commission's rules that are necessary to grant its application. Richmond states that a grant of its waiver request is warranted pursuant to Section 337(c) of the Communications Act, as amended (the Act), 47 U.S.C. § 337(c). 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

¹ See FCC File No. 0002660203 (filed June 22, 2006, amended July 12, 2006). Richmond subsequently requested special temporary authority to operate three of the sites for which permanent authorization was requested. See FCC File No. 0002668908 (filed June 30, 2006, amended July 12, 2006).

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.

In the alternative, Richmond states that a grant of its request would be consistent with Section 1.925 of the Commission’s Rules, 47 C.F.R. § 1.925. A request for a rule waiver 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 application waiver request and on or before August 28, 2006. Parties interested in submitting reply comments must do so on or before September 12, 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. 20554.²

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.bcpiweb.com>, by email at fcc@bcpiweb.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).

² This address 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. Thomas 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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