



# PUBLIC NOTICE

Federal Communications Commission  
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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST BY NATIONAL CAPITAL REGION FOR WAIVER OF PART 90 RULES TO ALLOW ESTABLISHMENT OF A 700 MHz INTEROPERABLE BROADBAND DATA NETWORK

**Comment Date: October 30, 2006**

**Reply Date: November 14, 2006**

On May 12, 2006, the National Capital Region (NCR),<sup>1</sup> on behalf of the local governments of the NCR, filed a request for a waiver of the Commission's rules to permit the NCR to establish a regional broadband wireless network.<sup>2</sup> In response to a request from Commission staff for additional information, NCR amended its request on July 3, 2006.<sup>3</sup> The waiver request is needed to permit NCR to operate on 700 MHz band wideband interoperability channels and reserve channels not yet available for licensing, and to allow the aggregation of 50 kHz channels to accommodate a 1.25 MHz channel size.

NCR requests waiver of Sections 90.203(a), 90.531(c) and (d), and 90.535(c)(1) of the Commission's Rules.<sup>4</sup> Specifically, NCR requests that the Commission permit the licensing and

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<sup>1</sup> The National Capital Region currently includes eighteen jurisdictions: The District of Columbia, Montgomery and Prince Georges Counties of Maryland, and the cities of Gaithersburg, Rockville, Takoma Park, Bowie, College Park, and Greenbelt; Arlington, Fairfax, Loudon and Prince William Counties of Virginia, and the cities of Alexandria, Falls Church, Town of Leesburg, Manassas, and Manassas Park. See The National Capital Planning Act of 1952, 40 U.S.C. § 71.

<sup>2</sup> See Letter from Robert LeGrande II, NCR Interoperability Program, Deputy Chief Technology Officer, District of Columbia, to Marlene H. Dortch, Secretary, FCC (May 12, 2006) (submitting Request for Waiver on behalf of the NCR) (*Waiver Request*).

<sup>3</sup> See Letter from Robert LeGrande II, NCR Interoperability Program, Deputy Chief Technology Officer, District of Columbia, to Marlene H. Dortch, Secretary, FCC (July 3, 2006) (submitting Amended Request for Waiver on behalf of the NCR) (*Amended Waiver Request*). Specifically, NCR amended its request to correct the number of wideband channels needed, to add an additional request for waiver of the Commission's equipment certification rules, and to add a statement of support from the City of Alexandria.

<sup>4</sup> See 47 C.F.R. §§ 90.203(a) (requiring transmitters utilized for operation under this rule part to be certificated for use under this part), 90.531(c)(1) (providing that wideband interoperability channels are designated for nationwide interoperability licensing and use, but are not available for licensing or use pending Commission adoption of a wideband interoperability standard), 90.531(c)(2) (setting aside wideband reserve channels), 90.531(d)(2) (limiting aggregation of wideband channels to 150 kHz), 90.535(c)(1) (providing that transmitters designed to operate on the wideband channels using digital modulation must be capable of maintaining a minimum data (non-voice) rate of 384 kbps (kilobits per second) per 150 kHz of bandwidth).

use of wideband channels designated for interoperability use<sup>5</sup> and wideband reserve channels,<sup>6</sup> in addition to currently available general use channels. NCR also seeks to aggregate 50 kHz channels to accommodate a 1.25 MHz channel size,<sup>7</sup> prior to a Commission decision in a pending rulemaking proceeding seeking comment on proposals to modify the current 700 MHz band plan to accommodate broadband communications, and on related issues.<sup>8</sup> NCR states that the instant request is not intended to impact the outcome of the rulemaking proceeding,<sup>9</sup> but its member jurisdictions have an immediate need for dedicated broadband capability, and it must pursue the network implementation in parallel with the rulemaking process because NCR has funding that must be used before the end of calendar year 2006 to implement the first phase of the proposed network.<sup>10</sup>

NCR states that, while the rules limit 700 MHz public safety wideband spectrum aggregation to 150 kHz,<sup>11</sup> several broadband technologies providing wide-area coverage require at least a 1.25 MHz channel size.<sup>12</sup> NCR proposes to establish a region-wide 700 MHz broadband wireless data communications system to provide high-speed wireless broadband data capability with ubiquitous coverage throughout NCR's jurisdictions, and achieve interoperability<sup>13</sup> among first responders. NCR further states that its proposed network will deliver an aggregate throughput in excess of 352 megabits per second, compared to 912 kilobits per second under a wideband channel plan.<sup>14</sup>

NCR states that it has obtained concurrence from NCR members for the design, engineering and staged implementation plan for a shared NCR Regional Wireless Broadband

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<sup>5</sup> See *Amended Waiver Request* at 4-5. The Commission designated thirty-six 50 kHz channels (in three-channel groups) for wideband interoperability. See 47 C.F.R. § 90.531(c)(1). NCR proposes to utilize wideband interoperability channels 73-75, 82-84, 91-93, 193-195, 202-204, and 211-213.

<sup>6</sup> See *Amended Waiver Request* at 5. The Commission designated six megahertz of public safety spectrum to be held in reserve, which consists of 0.6 megahertz for narrowband and 5.4 megahertz for wideband use. See 47 C.F.R. § 90.531(b)(2), (c)(3). NCR proposes to utilize wideband reserve channels 94-98 and 214-218.

<sup>7</sup> See *Amended Waiver Request* at 5.

<sup>8</sup> See Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010, *Eighth Notice of Proposed Rulemaking*, WT Docket No. 96-86, 21 FCC Rcd 17786 (2006) (*Eighth NPRM*).

<sup>9</sup> See *Amended Waiver Request* at 3. NCR states that its request utilizes the mixed-use (wideband and broadband) band plan as proposed by the National Public Safety Telecommunications Council. See *Eighth NPRM*, 21 FCC Rcd at 17796 Fig. 4.

<sup>10</sup> See *Amended Waiver Request* at 3.

<sup>11</sup> See 47 C.F.R. § 90.531(d)(2).

<sup>12</sup> See *Amended Waiver Request* at 3.

<sup>13</sup> Interoperability is defined as "An essential communication link within public safety and public service wireless communications systems which permits units from two or more different entities to interact with one another and to exchange information according to a prescribed method in order to achieve predictable results." See 47 C.F.R. § 90.7.

<sup>14</sup> See *Amended Waiver Request* at 4, 6.

Network.<sup>15</sup> NCR advises that it is in the process of obtaining the Region 20 (District of Columbia, Maryland and Northern Virginia) 700 MHz Regional Planning Committee's approval to incorporate NCR broadband operations into the Region 20 700 MHz plan. In addition, NCR states that the request may affect counties and cities in the four adjacent 700 MHz regional planning regions.<sup>16</sup> NCR states that its proposal allows NCR neighbors sufficient spectrum for wideband operations with the same capacity as tentatively planned by the Region 20 Regional Planning Committee.

Interested parties may file comments on the waiver request on or before October 30, 2006. Parties interested in submitting reply comments must do so on or before November 14, 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.<sup>17</sup>

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. (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.bcpiweb.com>, by email at [fcc@bcpiweb.com](mailto: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

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<sup>15</sup> *Id.* at 9.

<sup>16</sup> Region 20 (District of Columbia, Maryland and Northern Virginia) has four adjacent regions: Region 28 (Eastern Pennsylvania, Southern New Jersey and the State of Delaware), Region 26 (Western Pennsylvania), Region 42 (Virginia), and Region 44 (West Virginia). NCR states that it has reached out to affected regions to develop a working inter-regional plan.

<sup>17</sup> 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 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).

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 Jeannie Benfaida of the Policy Division, Public Safety and Homeland Security Bureau at (202) 418-2313, TTY (202) 418-7233, or via e-mail to [Jeannie.Benfaida@fcc.gov](mailto:Jeannie.Benfaida@fcc.gov).

By the Chief, Policy Division, Public Safety and Homeland Security Bureau.

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