

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of
Request by Hennepin County, Minnesota, for
Temporary Waiver of Part 90 Rules to Allow
Establishment of a Region-Wide 700 MHz
Wideband Public Safety Data Communications
System

ORDER

Adopted: January 30, 2007

Released: January 31, 2007

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

1. We hereby terminate the captioned proceeding and dismiss as moot the Request by Hennepin County, Minnesota, for Temporary Waiver of Part 90 Rules to Allow Establishment of a Region-Wide 700 MHz Wideband Public Safety Data Communications System, (Request) filed April 14, 2006 by the Hennepin County, Minnesota, Sheriff’s Office (Hennepin County) on behalf of itself, Washington County, Minnesota and the Metropolitan Emergency Services Board. The Request sought a temporary waiver of the Commission’s rules governing use of the 700 MHz Public Safety band to permit Hennepin County to implement a proposed 700 MHz wideband data public safety system on the Wideband General Use and Wideband Interoperability channels. On June 1, 2006, the Wireless Telecommunications Bureau released a Public Notice seeking comment on the Request. On June 29, 2006, Hennepin and the MESB filed five applications for the 700 MHz Wideband data channels they had referenced in the Request. The comment period closed on July 16, 2006, and two parties filed comments in support of the Request.

1 Hennepin County characterized its requested waiver as “temporary,” indicating that it intended to upgrade its proposed system in 2008 in a manner that would conform to the Commission’s rules in effect at that time. See Letter from Patrick D. McGowan, Hennepin County Sheriff, to Catherine W. Seidel, Acting Chief, Wireless Telecommunications Bureau, WT Docket 96-86 (Apr. 14, 2006) (Waiver Request). The waiver request included a “Detailed Explanation Supporting a Rule Waiver Request On Behalf of Hennepin County, Minnesota, Washington County, Minnesota, and the Metropolitan Emergency Services Board (Applicants) April 14, 2006.” (Waiver Request Supplement). MESB members include the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington and the City of Minneapolis.

2 Delegated authority for handling 700 MHz public safety matters has been transferred from the Wireless Telecommunications Bureau to the Public Safety and Homeland Security Bureau. See Establishment of the Public Safety and Homeland Security Bureau and Other Organizational Changes, Order, 21 FCC Rcd 10867 (2006).

3 See Wireless Telecommunications Bureau Seeks Comment on Request by Hennepin County, Minnesota, for Temporary Waiver of Part 90 Rules to Allow Establishment of a Region-Wide 700 MHz Wideband Public Safety Data Communications System, Public Notice, 21 FCC Rcd 6263 (WTB 2006).

4 See FCC File Nos. 0002667670; 0002667671; 0002667672 0002667673; 0002667930 (filed Jun. 29, 2006 and all withdrawn Dec. 22, 2006).

5 See Comments of the National Public Safety Telecommunications Council; Comments of the Metropolitan Emergency Services Board.

2. On December 5, 2006, however, Hennepin and several members of the MESB filed additional applications for 700 MHz Narrowband General Use voice and data channels (6.25 kHz channels aggregated to 25 kHz) which they intend to use, in lieu of the channels proposed in the Request, to implement the proposed region-wide interoperable data communications system.<sup>6</sup> The Region 22 700 MHz Regional Planning Committee (Region 22 RPC) filed in support of the new applications, stating that it found the applications consistent with the Commission's current 700 MHz public safety band plan and the Region 22 RPC Regional Plan, and that, in Region 22 RPC's opinion, the applications could be granted without a waiver of the Commission's rules. The Commission subsequently granted those replacement applications, subject to the outcome of certain pending rulemaking proceedings.<sup>7</sup>

3. On December 22, 2006, Hennepin and the MESB filed a request to withdraw the original applications for the Wideband General Use and Wideband Interoperability channels. The Commission granted the withdrawal requests on December 23, 2006. The Hennepin County waiver request was linked to these withdrawn applications. Accordingly, the Request is now moot and will be dismissed and the associated proceeding terminated without prejudice.<sup>8</sup>

4. Accordingly, IT IS ORDERED that the Request by Hennepin County, Minnesota, for Temporary Waiver of Part 90 Rules to Allow Establishment of a Region-Wide 700 MHz Wideband Public Safety Data Communications System filed April 14, 2006, IS DISMISSED as moot.

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<sup>6</sup> See FCC File Nos. 0002838221 (filed Dec. 5, 2006) (Hennepin County, Minnesota) and accompanying Letter to Tracy Simmons, Associate Chief, Licensing Operations, Public Safety and Homeland Security Bureau, FCC from Steve Pott, Chair, Region 22 700 MHz Regional Planning Committee (dated Nov. 21, 2006). We also note that several members of the MESB filed applications for 25 kHz channels as part of implementing a wide area data communications system. See FCC File No. 0002838155 (filed Dec. 5, 2006) (Anoka County WQGF841); FCC File No. 00028388159 (filed Dec. 5, 2006) (Carver County WQGF845); FCC File No. 0002838158 (filed Dec. 5, 2006) (Chisago County WQGF844); FCC File No. 0002838121 (filed Dec. 5, 2006) (Dakota County WQGF840); FCC File No. 0002838157 (filed Dec. 5, 2006) (Ramsey County WQGF843); FCC File No. 0002838120 (filed Dec. 5, 2006) (Scott County WQGF839); and FCC File No. 0002838156 (filed Dec. 5, 2006) (Washington County WQGF842).

<sup>7</sup> See Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, *Ninth Notice of Proposed Rulemaking*, FCC 06-181 (rel. Dec. 20, 2006); Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket Nos. 06-169, 96-86, *Notice of Proposed Rulemaking*, 21 FCC Rcd 10413 (2006); Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, *Eighth Notice of Proposed Rulemaking*, 21 FCC Rcd 3668 (2006) (*Eighth Notice*).

<sup>8</sup> Dismissal without prejudice of its request for a temporary waiver allows Hennepin to request the same, or similar waiver relief in the future, if, for example, a rule waiver becomes a prerequisite to Hennepin upgrading its proposed system in 2008. We note, however, that Hennepin represented that any such upgrade would conform to the Commission's rules in effect at that time. See *supra* n.1.

5. IT IS FURTHER ORDERED that this proceeding IS TERMINATED WITHOUT PREJUDICE. This action is taken pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. §154(i) and under authority delegated by Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm  
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Public Safety and Homeland Security Bureau