



PUBLIC NOTICE

Federal Communications Commission
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DA 08-2485

Released: November 12, 2008

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST
FOR WAIVER FILED BY THE COUNTY OF MORRIS, NEW JERSEY TO OPERATE A
PUBLIC SAFETY PAGING FACILITY USING A PART 22 FREQUENCY IN THE 470-512 MHZ
BAND**

File Nos. 0003431656 and 0003431658

Comment Date: December 3, 2008

Reply Comment Date: December 15, 2008

The Public Safety and Homeland Security Bureau seeks comment on the above-captioned applications and waiver request, as amended, initially filed on May 8, 2008 by the County of Morris, New Jersey (“Morris County” or “the County”).¹ Morris County seeks waiver relief pursuant to Section 337(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 337(c), to operate, for public safety communications purposes, a point-to-multipoint control frequency allocated for Part 22 point-to-multipoint service for paging operations.² Specifically, the County seeks “to operate a new public safety paging facility on [frequency] 476.2875 MHz.”³ In the alternative to Section 337(c) of the Act, Morris County requests waiver relief pursuant to Section 1.925 of the Commission’s rules, 47 C.F.R. § 1.925. The County requests waiver of Sections 20.9(a)(6) and 22.621 of the Commission’s rules to use this frequency.⁴ The County also requests waiver of Sections 90.307 and 90.309 of the Commission’s rules⁵ to locate transmitters short-spaced to television stations.⁶

Morris County states that it “is located in northern New Jersey, on the western edge of the New York City metropolitan area.”⁷ The County states that it is “densely populated” and because of its

¹ See File No. 0003431656 (filed May 8, 2008, amended June 4, 2008, and June 24, 2008) and File No. 0003431658 (filed May 8, 2008, amended June 4, 2008, June 5, 2008, and June 24, 2008). Each application has the same attachments. In particular, *see id.*, attached Request for Waiver (Waiver Request), and Letter from Michelle Fink, AFC Processing Manager, Association of Public-Safety Communications Officials-International, Inc. to Federal Communications Commission (dated Feb. 22, 2008) (TV Waiver).

² See Waiver Request at 1-2.

³ *Id.* at 1.

⁴ See Waiver Request at 1. See also 47 C.F.R. §§ 20.9(a)(6), 22.621.

⁵ 47 C.F.R. §§ 90.307, 90.309.

⁶ See TV Waiver.

⁷ Waiver Request at 2.

growth, it faces an “ever-increasing demand on public services.”⁸ Morris County states that it “currently coordinates public safety responses among its 39 municipalities.”⁹ Morris County states that “[i]n order to better coordinate these efforts, particularly where large scale, multi-jurisdictional emergencies occur, it determined that it would be beneficial to construct a countywide, public safety paging system for use by both county and local first responders.”¹⁰ Morris County contends that “the planned system, consisting of 10 base stations and up to 3,500 individual paging units, will replace various legacy systems currently in use by the County, including various antiquated Low Band (30-50 MHz) and High Band (150-174 MHz) paging networks.”¹¹

The County states that “[d]ue to the exhaustion of available public safety pool frequencies in Northern New Jersey, Morris County’s frequency coordinator determined that it would need to look to other frequency bands to look into 470-512 MHz (T-band) allocated to the common carrier paging and radiotelephone band for point to multipoint operations.”¹² Morris County states that “APCO conducted a comprehensive review of available safety spectrum in the VHF, UHF and T-bands and was unable to identify any available public safety spectrum that would serve the County’s needs.”¹³ Morris County states that “APCO was able to locate one - and only one - available channel in the T-band.”¹⁴ The County notes that frequency 476.2875 MHz “is allocated to provide point-to-multipoint services to control transmitters in the common carrier paging and radiotelephone service.”¹⁵ Morris County provided a technical analysis and concludes that “use of the requested channel is technically feasible and will not cause harmful interference to any other licensed users or pending applicants for the spectrum.”¹⁶

As a part of the analysis under Section 337(c) of the Act, as well as the Commission’s waiver criteria, we also seek comment on whether the 700 MHz public safety band would provide a viable alternative, particularly in light of the approaching February 17, 2009 digital television transition date, and the Commission’s recent actions facilitating a nationwide, interoperable public safety network.¹⁷

Interested parties may file comments on the applications and waiver request on or before December 3, 2008. Parties interested in submitting reply comments must do so on or before December

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id* at 2-3.

¹³ *Id* at 4.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* See also File Nos. 0003431656 and 0003431658, attached CO CHANNEL TV PROTECTION STUDY and ADJACENT CHANNEL TV PROTECTION STUDY.

¹⁷ See Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229; 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, *Second Report and Order*, 22 FCC Rcd 15289 (2007). See also Service Rules for the 698-746, 747-762 and 777-792 Bands; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, WT Docket No. 06-150, PS Docket No. 06-229, 23 FCC Rcd 14301 (2008) (*Third Further Notice*); 22 FCC Rcd 8047 (2008) (*Second Further Notice*).

15, 2008. All comments and reply comments should reference the subject waiver request, including the DA number of this *Public Notice*. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue NE, Suite 110, Washington DC 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 the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express, and Priority mail must be sent to 445 12th Street, S.W., TW-A325, Washington, D.C. 20554.

The applications 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 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, 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 Lisa Williams, RIC, (202) 418-1352.

Because of the policy implications and potential impact of this proceeding on persons not party to the waiver request, we believe that 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).

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For further information, contact Mr. David Siehl of the Policy Division, Public Safety and Homeland Security Bureau at (202) 418-1313, TTY (202) 418-7233, or via e-mail to David.Siehl@fcc.gov.

By the Chief, Public Safety and Homeland Security Bureau.

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