



# PUBLIC NOTICE

Federal Communications Commission  
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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER UNDER SECTION 337 OF THE COMMUNICATIONS ACT FILED BY THE STATE OF WYOMING TO CONSTRUCT A STATEWIDE NARROWBAND DIGITAL RADIO COMMUNICATIONS SYSTEM**

File No. 0002910742

**Comment Date: April 17, 2008**

**Reply Comment Date: April 24, 2008**

The Public Safety and Homeland Security Bureau seeks comment on the Application and Waiver Request, as amended, filed by the State of Wyoming (Wyoming) to use frequencies governed under Part 22 of the Commission rules.<sup>1</sup> Wyoming proposes to use eleven Part 22 Paging and Radiotelephone Service channel pairs at multiple locations spread over Basic Economic Area (BEA) Nos. 141, 143, and 144 as part of WyoLink, a statewide narrowband digital trunked P-25 radio communications system.<sup>2</sup> With respect to its proposed use of the requested Part 22 frequencies, Wyoming seeks waiver of the following rules: (i) Section 20.9, which specifies that Part 22 Paging and Radiotelephone Service operations be treated as commercial mobile radio services, and (ii) Section 22.565, which specifies the transmitting power limits associated with Part 22 Paging and Radiotelephone Service operations.<sup>3</sup> Wyoming seeks waiver relief pursuant to Section 337(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 337(c), or, alternatively, Sections 1.3 and 1.925 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.925.

Wyoming states that it expects WyoLink to be used by participating local, state, and federal agencies to support critical public safety activities serving Wyoming's population of over 500,000 residents and its more than 11 million annual visitors and tourists.<sup>4</sup> Although Wyoming estimates that the requested Part 22 channels represent less than two percent of its proposed system, it states that the subject

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<sup>1</sup> 47 C.F.R. Part 22. See File No. 0002910742 (filed Feb. 12, 2007) and associated Exhibit A to Form 601-Description of FCC Applications and Request for Waiver at 1, 22 (Waiver Request), Response to Return Notice and Amendment (filed May 1, 2007), Response to Second Return Notice and Amendment (filed Nov. 21, 2007), and Supplemental Information and Amendment (filed Jan. 18, 2008).

<sup>2</sup> See Waiver Request at 1. The instant Application and Waiver Request are part of twenty-nine applications filed by Wyoming to use certain frequencies governed under Parts 22, 80 and 90 of the Commission's rules as part of its proposed WyoLink system. See, e.g., File Nos. 0002947551, 0003029378.

<sup>3</sup> See 47 C.F.R. §§ 20.9, 22.565; Waiver Request at 10-13 and Response to Return Notice and Amendment at 2-3. See File No. 0002910742 for the requested Part 22 frequencies.

<sup>4</sup> Waiver Request at 1.

channels are an essential component of its efforts to upgrade its aging and limited radio communications facilities.<sup>5</sup> In support of its request, Wyoming claims (i) that suitable spectrum from the Public Safety pool is either unavailable or unsuitable to meet its requirements<sup>6</sup> and (ii) that the channels should not cause harmful interference to other spectrum users.<sup>7</sup>

Wyoming submits three engineering studies purporting to show that, in no case does the interference contour of a proposed channel overlap with the service contour of any incumbent, site-based co-channel licensee and that the interference contours of the proposed sites do not extend to adjacent Economic Areas awarded to geographic area based licensees.<sup>8</sup> Wyoming also provides a statement from a frequency coordinator indicating that no other spectrum allocated to public safety services is immediately available to satisfy the requested public safety service use.<sup>9</sup> The frequency coordinator asserts that Wyoming was not able to coordinate a sufficient number of Part 90 Public Safety channels needed to meet the spectrum needs of the proposed system, and that alternative spectrum outside of the Part 90 Public Safety pool is essential to fulfill the channel requirements of the proposed statewide system.<sup>10</sup>

As a part of the analysis under Section 337 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 in facilitating a nationwide, interoperable public safety network.<sup>11</sup>

Interested parties may file comments on the Waiver Request on or before April 17, 2008. Parties interested in submitting reply comments must do so on or before April 24, 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,

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<sup>5</sup> *Id.* at 3.

<sup>6</sup> Waiver Request at 1. Wyoming states that after conducting its own search, it found that due to conflicts relating primarily to radio interference, it was unable to obtain a sufficient number of channels from the Public Safety pool. *Id.* at 8; Response to Return of Notice and Amendment at 3.

<sup>7</sup> Waiver Request at 15.

<sup>8</sup> Supplemental Information and Amendment at 1.

<sup>9</sup> Wyoming provides a letter from the Forest Conservation Communications Association (FCCA), a Commission-authorized frequency coordinator for Public Safety frequencies. *See* 47 C.F.R. § 90.20(c)(2); File No. 0002910742, Response to Second Return Notice and Amendment, Attachment (filed Nov. 21, 2007), letter dated November 21, 2007 from James H. Kelly, FCCA Public Safety Frequency Coordinator, to the Federal Communications Commission (FCCA Letter).

<sup>10</sup> *See* FCCA Letter at 1.

<sup>11</sup> *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).

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 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.bcpweb.com>, by email at [fcc@bcpweb.com](mailto: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 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, it is 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), 47 C.F.R. § 1.1206(b).

To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

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

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

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