



PUBLIC NOTICE

Federal Communications Commission
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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON
REQUEST FOR WAIVER FILED BY THE COUNTY OF MARIN, CALIFORNIA
TO OPERATE A PUBLIC SAFETY RADIO SYSTEM USING
UHF PART 22 POINT-TO-MULTIPOINT FREQUENCIES**

File No. 0003190744

Comment Date: April 24, 2008
Reply Comment Date: May 5, 2008

The Public Safety and Homeland Security Bureau seeks comment on the above-captioned application and waiver request, as amended, filed on October 4, 2007, by the County of Marin, California (Marin County).¹ Marin County seeks waiver relief pursuant to Section 337(c) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 337(c), to use, for public safety communications purposes, twelve point-to-multipoint UHF frequencies allocated for Part 22 public mobile service.² In the alternative, Marin County requests waiver relief pursuant to Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925.

Part 22 of the Commission's rules allocates the requested frequencies for point-to-multipoint public mobile service in the San Francisco, California urbanized area. Because the requested frequencies are regulated as Commercial Mobile Radio Service (CMRS) under Part 20 and are not allocated for public safety operations, Marin County requests a waiver of Sections 20.9(a)(6) and 22.621.³ See 47 C.F.R. §§ 20.9(a)(6), 22.621.

Marin County asserts that the requested frequencies will be used to alleviate frequency congestion in the greater San Francisco area, to provide for interoperability with other public safety radio systems, and to support an existing integrated "Public Safety Law Enforcement and Fire Service" communications system in the 470-512 MHz band.⁴ Marin County adds that it has extensive urban, suburban, and rural areas, is vulnerable to widespread forest and residential fires, earthquake damage, and

¹ See File No. 0003190744 (filed Oct. 4, 2007, amended Dec. 27, 2007 (attaching Petition (requesting waiver) and submitting amendment to the request) (Waiver Request).

² Specifically, Marin County seeks frequencies 482.2375, 485.2375, 485.0375, 485.0875, 485.1125, 485.2625, 485.2875, 491.0375, 491.0625, 491.1125, 491.1625, and 491.1875 MHz. See Waiver Request at 2.

³ See Waiver Request at 1. Marin County initially sought a waiver of Section 22.621, along with Sections 22.501, 22.621, and 90.303 of the Commission's rules, 47 C.F.R. §§ 22.501, 22.621, and 90.303, and other rule sections as may be necessary. See File No. 0003190744.

⁴ See Waiver Request at 1-2.

landslides, is responsible for assisting in wilderness and water rescues, and provides essential police services to populated and unpopulated areas.⁵ Marin County specifies that it will use two of the requested frequencies, 482.2375 and 485.2375 MHz, as a conventional mobile/mobile relay channel and that it will use the other ten frequencies as simplex frequencies for either low-power channels or “on-scene” or “tactical” channels.⁶

Marin County contends that off-the-air monitoring and searches of the Commission’s ULS database show that no suitable public safety group frequencies are available in the 470-512 MHz band.⁷ Additionally, Marin County submits an engineering study indicating that, although unassigned public safety frequencies in the 30-50 MHz, 150-174 MHz, and 450-470 MHz bands exist, assignment of the unassigned frequencies would cause potential interference to existing adjacent channel stations.⁸ The APCO frequency coordinator for northern California submits that there are no “available channels in the existing channel allotments for Public Safety Services that . . . would not result in interference either to the County of Marin or to a co-channel or adjacent channel licensee.”⁹ The APCO frequency coordinator also states that “[b]ecause of the trunked configuration of [Marin County’s] present system it is impractical to add channels in other frequency bands.”¹⁰

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.¹¹

Interested parties may file comments on the Waiver Request on or before April 24, 2008. Parties interested in submitting reply comments must do so on or before May 5, 2008. All comments and reply comments should reference the 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

⁵ *Id.* at 2.

⁶ *Id.* The ten simplex frequencies requested are as follows: 485.0375, 485.0875, 485.1125, 485.2625, 485.2875, 491.0375, 491.0625, 491.1125, 491.1625, and 491.1875 MHz. *See id.*

⁷ *Id.*

⁸ *Id.*, attached Exhibit 1, “Engineering Report Additional T Band Channels for Marin County,” prepared by C.S.I. Telecommunications (Engineering Report) and referring to the Engineering Report, Appendices A1, B1, and C1, for listings of adjacent channel licensees that would be affected. The engineering report prepared on Marin County’s behalf indicates that the frequency search also covers the 764-776/794-806 MHz and 806-824/851-869 MHz bands, but the report is unclear as to whether other public safety frequencies are immediately available in that spectrum. *See* File No. 0003190744, Engineering Report at 2 (referring to Appendices E1, F1, G1, H1, and H2). The report also indicates that “other limitations apply to unassigned frequencies not having adjacent channel issues.” *See id.* at 1-2.

⁹ *See* File No. 0003190744, attached Exhibit 2, “MERA Pt 22,” Letter from Art McDole, Northern California APCO Frequency Advisor, to Shelly Grant, Supervising Communications Technical Manager, Marin County (dated July 16, 2007).

¹⁰ *See id.*

¹¹ *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).

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 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, 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 parties 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) of the Commission's rules, 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 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.

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

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