



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12<sup>th</sup> St., S.W.**  
**Washington, D.C. 20554**

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**DA 08-804**

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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST  
FOR WAIVER BY THE CITY OF BAYONNE, NEW JERSEY TO ADD TWO PART 22  
FREQUENCIES TO ITS PUBLIC SAFETY RADIO SYSTEM**

**File No. 0003074060**

**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,<sup>1</sup> initially filed on June 18, 2007, by the City of Bayonne, New Jersey (Bayonne). Bayonne 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, a frequency interleaved between channels allocated for Part 22 point-to-multipoint operation and a frequency interleaved between channels allocated for Part 22 trunked mobile operation. Specifically, Bayonne seeks to modify its existing public safety radio communications system by adding frequencies 470.1500 and 473.1500 MHz. In the alternative to Section 337(c), Bayonne requests waiver relief pursuant to Section 1.925, 47 C.F.R. § 1.925. Bayonne requests waivers of Sections 20.9(a)(6), 22.621, and 22.651, 47 C.F.R. §§ 20.9(a)(6), 22.621, 22.651, and such other Commission rules as may be necessary to grant the application.

Bayonne is located in the New York-Northeastern New Jersey urbanized area.<sup>2</sup> In 2004, Bayonne was originally authorized to operate this system as Station WQBL378, with an associated waiver granted pursuant to Section 337(c).<sup>3</sup> This authorization allowed Bayonne to operate a public safety radio system on unassigned frequencies allocated for non-public safety use.<sup>4</sup> Specifically, the frequencies were either allocated under Part 22, 47 C.F.R. Part 22, as paging control and trunked mobile channels, or interleaved between such channels.<sup>5</sup>

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<sup>1</sup> See File No. 0003074060 (filed June 18, 2007; as amended on July 2, 2007, Sept. 25, 2007 and Oct. 26, 2007) and attached Request for Waiver (filed June 18, 2007, as amended on Oct. 26, 2007)) (Waiver Request).

<sup>2</sup> Waiver Request at 2.

<sup>3</sup> See Seven Public Safety Agencies in the New York Metropolitan Area, *Order*, 19 FCC Rcd 15355 (WTB PSCID 2004).

<sup>4</sup> See Waiver Request at 2.

<sup>5</sup> See 47 C.F.R. §§ 22.621, 22.651.

In the instant Waiver Request, Bayonne seeks a similar waiver, requesting to add non-public safety frequencies 470.1500 MHz<sup>6</sup> and 473.1500 MHz<sup>7</sup> to its existing public safety radio system. Bayonne states that the requested frequencies are compatible with the frequencies authorized for its radio system,<sup>8</sup> and the frequencies would provide low power communications and surveillance capabilities.<sup>9</sup> Bayonne's application indicates that the effective radiated power of the two frequencies would be limited to four watts.<sup>10</sup> Bayonne further avers that no public safety frequencies are available or suitable for its radio system,<sup>11</sup> and that its proposed use of the two frequencies would not result in harmful interference to or from other licensees.<sup>12</sup> The APCO New Jersey Frequency Advisor states that it has conducted "extensive searches in the VHF, UHF, T[-]Band and 800 MHz bands" and determined that "there are no available part 90 frequencies."<sup>13</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>14</sup>

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 subject Waiver Request and the DA number indicated on this *Public Notice*. Filings may 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 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.

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<sup>6</sup> Frequency 470.1500 MHz is interleaved between existing Part 22 point-to-multipoint frequencies 470.1375 and 470.1625 MHz. *See* 47 C.F.R. § 22.621.

<sup>7</sup> Frequency 473.1500 MHz is interleaved between existing Part 22 trunked mobile frequencies 473.1375 and 473.1625 MHz. *See* 47 C.F.R. § 22.651.

<sup>8</sup> Waiver Request at 4.

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

<sup>10</sup> *See* File No. 0003074060.

<sup>11</sup> *See* Waiver Request at 7.

<sup>12</sup> *See Id.* at 8-9.

<sup>13</sup> *See* Letter from Lieutenant Anthony Melia, APCO New Jersey Frequency Advisor, to Jim Keats, Federal Communications Commission (dated Sept. 21, 2007).

<sup>14</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).

- 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 12<sup>th</sup> 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 12<sup>th</sup> 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 Lisa Williams, RIC, (202) 418-1352.

Because of the policy implications and potential impact of this proceeding on persons not party to the Application, 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) and 1.1206 of the Commission's rules, 47 C.F.R. §§ 1.1200(a) and 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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (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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