

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

In the Matter of)
COUNTY OF MORRIS, NEW JERSEY) File Nos. 0003431656 and 0003431658
Request for Waiver of Sections 20.9(a)(6), 22.621,)
90.307 and 90.309 of the Commission's Rules)

ORDER

Adopted: October 8, 2009

Released: October 8, 2009

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

I. INTRODUCTION

1. The County of Morris, New Jersey (Morris County or the County) filed two applications with an associated Waiver Request for authority to operate a new public safety paging facility on [frequency] 476.2875 MHz allocated for Part 22 point-to-multipoint service. Morris County seeks waiver of Sections 20.9(a)(6), 22.621, 90.307 and 90.309 of the Commission's rules to use this frequency pursuant to Section 337(c) of the Communications Act of 1934, as amended (the Act), or in the alternative, Section 1.925 of the Communication's rules. By this Order, we grant the Waiver Request as discussed herein.

II. BACKGROUND

2. Morris County is located in northern New Jersey, on the western edge of the New York City metropolitan area. The County states that it is densely populated and, because of its growth, faces an ever-increasing demand on public services. The County further states that it currently coordinates public safety responses among its 39 municipalities and contends that in 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. Morris County notes 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

1 See File No. 0003431656 (filed May 8, 2008, as amended June 4, 2008, and June 24, 2008) and File No. 0003431658 (filed May 8, 2008, as amended June 4, 2008, June 5, 2008, and June 24, 2008) (collectively, the Applications). Each application has identical attachments.

2 See the Applications, attached Request for Waiver, dated May 27, 2008 (Waiver Request) at 1.

3 47 C.F.R. §§ 20.9(a)(6), 22.621, 90.307 and 90.309.

4 47 U.S.C. § 337(c).

5 47 C.F.R. § 1.925; Waiver Request at 2.

6 Waiver Request at 2.

7 Id.

8 Id.

9 Id.

County, including various antiquated Low Band (30-50 MHz) and High Band (150-174 MHz) paging networks.”¹⁰

3. The County states that due 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, including the portion of the 470-512 MHz band (T-band) allocated for common carrier paging and radiotelephone use.¹¹ Morris County states that “APCO [Association of Public-Safety Communications Officials-International, Inc.] conducted a comprehensive review of available public 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.”¹²

4. Morris County states that “[w]ith no other option available, and pursuant to Section 337(c)(1)(A) of the Act, APCO began searching the commercial frequency bands, and was able to locate one – and only one – available channel in the T-band.”¹³ 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.”¹⁴ 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.”¹⁵ However, the County observes that the frequency is “not otherwise available for use by public safety entities.”¹⁶ Accordingly, Morris County seeks a waiver of Sections 20.9(a)(6) and 22.621.¹⁷ The County also requests a waiver of Sections 90.307 and 90.309 in order to locate transmitters closer to incumbent television stations than the Commission’s rules permit.¹⁸

5. On November 12, 2008, the Public Safety and Homeland Security Bureau (Bureau) issued a Public Notice seeking comment on the applications and waiver request.¹⁹ The Bureau also sought comment on whether the 700 MHz public safety band would provide a viable alternative, in light of the approaching digital television transition date (then scheduled to occur on February 17, 2009) and the Commission’s recent actions to facilitate a 700 MHz nationwide, interoperable public safety

¹⁰ *Id.*

¹¹ *Id.* at 2-3.

¹² *Id.* at 4. *See also* Letter from Wendy Caruthers, AFC Team Leader, APCO International, to FCC (April 25, 2008). APCO is an FCC-certified frequency coordinator.

¹³ Waiver Request at 4.

¹⁴ *Id.* *See also* 47 C.F.R. § 22.621.

¹⁵ Waiver Request at 4. *See also* the Applications, attached Co-Channel TV Protection Study and Adjacent Channel TV Protection Study (TV Studies).

¹⁶ Waiver Request at 1.

¹⁷ *Id.* *See also* 47 C.F.R. §§ 20.9(a)(6), 22.621. Section 20.9(a)(6) provides that these frequencies shall be regulated as a commercial mobile radio service. Section 22.621 sets forth frequencies, some of which are in the 470-512 MHz band, that are available for point-to-multipoint systems.

¹⁸ *See* the Applications, attached Letter from Michelle Fink, AFC Processing Manager, Association of Public-Safety Communications Officials-International, Inc. to Federal Communications Commission (dated Feb. 22, 2008) (TV Letter); 47 C.F.R. §§ 90.307, 90.309.

¹⁹ *See* Public Safety and Homeland Security Bureau Seeks Comment on Request for Waiver Filed By the County of Morris, to Operate a Public Safety Paging Facility Using a Part 22 Frequency in the 470-512 MHz Band, *Public Notice*, 23 FCC Rcd 16560 (2008).

network.²⁰ We received no comments addressing the merits of the applications and waiver request, and only Morris County filed reply comments reiterating its request for relief.²¹

6. In its reply comments, Morris County asserts that it “intends to upgrade its existing infrastructure, including mobile and portable radios, so that users can receive tone alerts and two way radio traffic simultaneously on the same devices throughout the County.”²² Morris County adds that “[t]his approach will be relatively easy to deploy, will cost much less than switching to an entirely new technology, and will compliment the ongoing migration of emergency service agencies to the County’s trunked, UHF, two-way radio system.”²³ The County further states that “the commercial frequency requested by the County can easily and inexpensively integrated into existing infrastructure.”²⁴ The County states that “[t]he 39 municipalities within its jurisdiction use a variety of antiquated Low Band (30-50 MHz) and High Band (150-174 MHz) paging networks to coordinate their respective public safety responsibilities.”²⁵ The County asserts that “[a] total of 29 different frequencies are used to alert fire departments and emergency medical services within the County, requiring dispatchers to use and monitor multiple channels simultaneously.”²⁶ Morris County also states that its proposed approach “will help eliminate the need to maintain the disparate and non-complimentary public safety paging networks currently in use, including many of the 29 licensed paging channels.”²⁷ In conclusion, Morris County states that “the County’s approach will address an immediate public safety need, with an efficient solution, resulting in better coordination and management of first responders throughout the County, culminating in the eventual return of surplus frequencies to an already exhausted public safety radio pool.”²⁸ It is our understanding that the return of surplus frequencies would include many of the 29 licensed paging channels.

III. DISCUSSION

7. Section 337(c) of the Act provides that, in connection with an application by an “entity seeking to provide public safety service,” the Commission “shall waive any requirement of this Act or its regulations implementing this Act (other than its regulations regarding harmful interference) to the extent necessary to permit the use of unassigned frequencies for the provision of public safety services ...” if the Commission finds that: (i) no other spectrum allocated to public safety services is immediately available to satisfy the requested public safety service use; (ii) the requested use is technically feasible without causing harmful interference to other spectrum users entitled to protection from such interference under the Commission’s regulations; (iii) the use of the unassigned frequency for the provision of public safety services is consistent with other allocations for the provision of such services in the geographic area for which the application is made; (iv) the unassigned frequency was allocated for its present use not less than two years prior to the date on which the application is granted; and (v) granting such application is consistent with the public interest.²⁹

²⁰ *Id.* at 2.

²¹ See the Applications, attached Reply Comments of Morris County, New Jersey (filed Dec. 15, 2008) (Reply Comments).

²² *Id.* at 2.

²³ *Id.*

²⁴ *Id.* at 3.

²⁵ *Id.* at 2.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 2-3.

²⁹ 47 U.S.C. § 337(c).

8. As an initial matter, the Act defines public safety services as “services – (A) the sole or principal purpose of which is to protect the safety of life, health, or property; (B) that are provided – (i) by State or local government entities; or (ii) by nongovernmental organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and (C) that are not made commercially available to the public by the provider.”³⁰ The County “provides police, fire and rescue services throughout the county, and coordinates multi-jurisdictional, emergency responses among its 39 municipalities,”³¹ Morris County is seeking “to construct a countywide, public safety paging system for use by both [C]ounty and local first responders,”³² and its services “will not be made commercially available to the public.”³³ Based on the information before us, we conclude that Morris County is an “entity seeking to provide public safety services” as required by Section 337(f) of the Act.³⁴

9. However, we find that the County has not demonstrated that “no other spectrum allocated to public safety services is immediately available to satisfy the requested public safety service use,” as required by subsection 337(c)(1)(A) of the Act.³⁵ The County claims that its frequency coordinator conducted a review of “public safety spectrum in the VHF, UHF, and T-bands,”³⁶ and that it “was unable to identify any available public safety spectrum that would serve the County’s needs.”³⁷ With respect to the availability of the 700 MHz band, the County states that its “need is immediate, and appropriate 700 MHz equipment is either not available or would require the wholesale, cost-prohibitive replacement of the County’s entire network.”³⁸ The County also provides no analysis with regard to the 800 MHz band.

10. While we appreciate the County’s need for radio capacity, especially in light of the overall demand for radio frequencies in the greater New York metropolitan area,³⁹ we do not find its Section 337 argument persuasive. The Commission has previously apprised Section 337 applicants that “the statute requires that there be no unassigned public safety spectrum, or not enough for the proposed public safety use, in any band in the geographic area in which the Section 337 applicant seeks to provide public safety services.”⁴⁰ In light of this guidance, both the Bureau and the Wireless Telecommunications Bureau have consistently rejected the argument that an applicant can satisfy Section 337(c) of the Act merely by showing either the unavailability of frequencies in its preferred public safety band or, conversely, the unsuitability of frequencies in other public safety bands.⁴¹ Because Morris County has

³⁰ 47 U.S.C. § 337(f)(1).

³¹ Waiver Request at 3-4.

³² *Id.* at 2.

³³ *Id.* at 4.

³⁴ 47 U.S.C. § 337(f).

³⁵ 47 U.S.C. § 337(c)(1)(A).

³⁶ Waiver Request at 4. *See also* the Applications, attached UHF Search, VHF Search, TV Ch 15 Search and TV Ch14 Search.

³⁷ Waiver Request at 4.

³⁸ Reply Comments at 3.

³⁹ *See* Waiver Request at 4-5.

⁴⁰ In the Matter of Implementation of Sections 309(j) and 337 of the Communications Act of 1934, as amended, WT Docket No. 99-87, *Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd 22709, 22769 ¶ 132 (2000) (*Balanced Budget Act Report and Order*) (footnotes omitted). *See also* H.R. Conf. Rep. No. 105-217, 105th Cong., 1st Sess., at 579-80 (1997) (“spectrum must not be immediately available on a frequency already allocated to public safety services.”).

⁴¹ *See* County of Marin, California, *Order*, 22 FCC Rcd 9165, 9167-68 ¶ 6 (2007); State of Ohio, *Memorandum Opinion and Order*, 17 FCC Rcd 439, 446-47 ¶ 15 (2002) (*Ohio*); State of Tennessee Department of Transportation, *Order on Reconsideration*, 15 FCC Rcd 24645, 24648-49 ¶ 9 (2000) (*Tennessee DOT*).

failed to satisfy one of the five criteria; specifically, that “no other spectrum allocated to public safety services is immediately available to satisfy the requested public safety service use,” we need not and do not address its arguments regarding the remaining four criteria in finding that the County cannot obtain waiver relief pursuant to Section 337 of the Act.⁴²

11. However, our finding that Morris County does not warrant waiver relief under Section 337 does not foreclose consideration of Morris County’s alternative request for waiver relief pursuant to Section 1.925 of the Commission’s rules.⁴³ Rather, our ability to undertake a waiver analysis pursuant to that section rests on the Commission’s plenary authority under the Act to make rules and regulations necessary to achieve the Commission’s over-arching statutory purposes, including “promoting safety of life and property through the use of radio communication.”⁴⁴ From our review of the record in this case, we find that, despite its failure to meet the first criterion for receiving Section 337 waiver relief, Morris County has provided us with sufficient information for us to consider whether waiver relief is justified under Section 1.925.

12. Section 1.925 of the Commission’s rules provides that to obtain a waiver of the Commission’s rules, a petitioner must demonstrate either that: “(i) [t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the waiver would be in the public interest; or (ii) [i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.”⁴⁵ Applicants seeking a waiver face a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.⁴⁶ We evaluate the wavier request using the first prong of Section 1.925 below.

13. *Public Safety Operation on a Commercial Paging Control Frequency (Rule Sections 22.621 and 20.9(a)(6))*. The County seeks a waiver of Sections 20.9(a)(6) and 22.621 in order to operate

⁴² See, e.g., Hennepin County, *Order*, 14 FCC Rcd 19418 (1999) (having noted failure of Hennepin County to meet one of the criteria, Bureau did not address remainder); New Hampshire Department of Transportation (NHDOT), *Memorandum Opinion and Order*, 14 FCC Rcd 19438, 19442 (1999) (*New Hampshire DOT*) (after having determined that New Hampshire failed to demonstrate that no other spectrum allocated to public safety service was immediately available, Bureau noted that it “need not address whether NHDOT has submitted evidence that would allow us to make the other findings required by Section 337(c)(1) of the Act.”).

⁴³ *Balanced Budget Act Report and Order* at 22769 ¶ 132 n.366, citing 47 C.F.R. § 1.925. See also Letter to Alan S. Tilles, Esq., 22 FCC Rcd 13577, 13581 & fn.30 (2007) (noting that “[i]n addition to the Section 337 process, [public safety] entities can also seek a conventional waiver under Section 1.925 of rules.”). See County of Ocean, New Jersey, *Order*, DA-09-1976 (PSHSB PD rel. Aug. 31, 2009). See also Baldwin Fire District, New York, *Order*, DA-09-2048 (PSHSB PD rel. Sep. 14, 2009).

⁴⁴ County of Granite, Montana, *Order*, 24 FCC Rcd 5704, 5712 ¶17 (2009) citing 47 U.S.C. § 151. However, consideration of a Section 1.925 waiver request does not predetermine that we will grant relief. See, e.g., *Tennessee DOT* at 24650 ¶ 12 (finding that applicant had not met its burden of showing that Section 1.925 waiver relief is justified); *New Hampshire DOT* at 19442-43 ¶¶ 10-11 (making similar findings). Generally, we have not proceeded to consider whether waiver relief is warranted under Section 1.925 when public safety entities have submitted vague and insufficiently specific information. See *Cinnaminson* at 4585-86 ¶ 7 (applicant did not make any assertions specific to the requested frequency pair); City of Richmond, Virginia, *Order*, 21 FCC Rcd 14384, 14390 ¶ 15 (2006) (granting limited waiver relief under Section 337 but further finding that the applicant did not provide sufficient information about all of its proposed sites or implementation schedule to evaluate its request concerning the entire economic area).

⁴⁵ 47 C.F.R. § 1.925(b)(3).

⁴⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp., Memorandum Opinion and Order*, 18 FCC Rcd 1414, 1415 (2003).

a new public safety paging facility on frequency 476.2875 MHz.⁴⁷ The underlying purpose of Section 22.621 is to reserve certain frequencies—including frequency 476.2875 MHz—for paging control operations pursuant to Part 22 in certain urban areas.⁴⁸ A search of our licensing records indicates that while no paging licensee currently operates in the New York-Northeastern New Jersey metropolitan urban area on 476.2875 MHz,⁴⁹ the frequency has been assigned in a prior waiver order to the Syosset, New York Fire District, station WPYJ816, a public safety licensee in that same urban area.⁵⁰ Thus, the frequencies cannot be used by Part 22 common carrier entities on an exclusive basis in the same urbanized area.⁵¹ Because Morris County would not cause harmful interference to any Part 22 entities, the underlying purpose of rule Section 22.621 would not be frustrated by a waiver in the present case, as the subject frequencies are already not available, as a practical matter, for use by Part 22 entities under Section 22.621.

14. Rule Section 20.9(a)(6) presumes that paging frequencies will be treated as common carriage services and regulated as commercial mobile radio services.⁵² This regulatory structure is not applicable to, or appropriate for, frequencies licensed to public safety licensees. Therefore, the underlying purpose of Section 20.9(a)(6) would not be served by its application to the present case. We also note that the County will need a waiver of Rule Section 22.623(b) in order to operate on the requested frequency.⁵³ This rule specifies system configuration requirements for paging control channels assigned pursuant to Part 22. Since the County would not be operating a paging control channel on this frequency, the underlying purpose of Section 22.623(b) would not be served by application to the present case. Consequently, we waive Section 22.623(b) on our own motion.

15. *Protection of Co-Channel and Adjacent Channel Licensees.* We now analyze the impact of the County's proposed operation on co-channel and adjacent channel licensees. As we have indicated above, frequency 476.2875 MHz is assigned to the Syosset Fire District.⁵⁴ Section 90.313(c) provides that a "frequency pair may be reassigned at distances 64 km. . . .or more from the location of base stations authorized on that pair. . . ."⁵⁵ We have verified that Morris County's proposed base stations are more than 64 kilometers from Syosset's co-channel station WPYJ816. Therefore, the application satisfies the co-channel separation requirements of Section 90.313(c).⁵⁶

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

⁴⁸ See City of Burbank, California, *Memorandum Opinion and Order*, 18 FCC Rcd 23770, 23772 ¶ 6 (2003) (stating that the purpose of the rule "is to assign paging control channels under Part 22 with sufficient guard band spacing to adjacent private land mobile radio operations under Part 90.").

⁴⁹ See 47 C.F.R. § 22.625(b)(1) (defining the New York-Northeastern New Jersey metropolitan urban area as an 80 kilometer circle around the center coordinates listed in § 22.625(b)(1)). Morris County is within this urban area.

⁵⁰ See Syosset Fire District, *Memorandum Opinion and Order*, 18 FCC Rcd 16635 (WTB PSPWD 2003).

⁵¹ We have previously stated, "[a]s a matter of policy, the Commission would typically only assign a trunked mobile channel listed under Section 22.651 to a Part 22 applicant if that channel was previously unoccupied in that urban area." Baldwin Fire District, New York, *Order*, DA-09-2048 at 12 n.93 (PSHSB PD rel. Sep. 14, 2009). An analogous policy applies to channels listed under Section 22.621. Specifically, as a matter of policy, the Commission would typically assign a point-to-multipoint channel listed under Section 22.621 to a Part 22 applicant if that channel was previously unoccupied in that urban area.

⁵² 47 C.F.R. § 20.9(a)(6).

⁵³ 47 C.F.R. § 22.623(b).

⁵⁴ See *supra* para. 13.

⁵⁵ 47 C.F.R. § 90.313(c).

⁵⁶ *Id.*

16. We also find that the County's proposed operations will not cause harmful interference to adjacent channel licensees. The lower adjacent channel, frequency 476.2750, is assigned to the Jersey City, New Jersey Police Department,⁵⁷ and the upper adjacent channel, frequency 476.3000 MHz, is subject to an application by the County of Westchester, New York.⁵⁸ Because both entities use 11.25 kHz bandwidth, there would be no bandwidth overlap from Morris County's proposed 11.25 kHz bandwidth operation on frequency 476.2875 MHz. Thus, we find that Morris County's proposed operations would not cause harmful interference to either incumbent co-channel or adjacent channel licensees.

17. *Protection of Incumbent TV Stations (Sections 90.307 and 90.309).* The County requests waiver of the TV distance separations specified in rule sections 90.307(d) and 90.309 "Table A,"⁵⁹ because its proposed frequency, which is in the 470-512 MHz band, would operate on a shared basis with television broadcast stations.⁶⁰ The purpose of these two rule sections is to protect reception of TV broadcasts from private land mobile radio (PLMR) interference. The County states 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."⁶¹ In support of this statement, the County submitted an engineering study to justify its request for waiver of the TV interference protection criteria with respect to co-channel TV Station WLYH (operating on TV channel 15) and adjacent channel TV Station WNEP (operating on TV channel 16).⁶² We note, however, that TV Stations WLYH and WNEP have since vacated analog TV channels 15 and 16, respectively, and are operating today on new channels as part of the transition to DTV. Consequently, because there are now no co-channel or adjacent channel TV operations that require protection, we find the request for waiver of these sections is moot, and need not further consider them.⁶³

18. *Public Interest.* Based upon the record, we find Morris County has demonstrated that grant of a waiver would be in the public interest. Specifically, the County has shown that grant of the waiver will provide it with access to additional UHF spectrum in order to promote effective public safety communications without compromising radio operations of other licensees. We find it significant that granting the instant applications and request will improve the coordination of police, fire, and rescue services throughout the County, and will enable the use of otherwise vacant spectrum to support "a new, much-needed, public safety paging network in Morris County."⁶⁴ As the County notes, the network will be used "to coordinate emergency services throughout the County, including among 39 municipalities within the County, and will replace antiquated equipment that no longer serves its purpose."⁶⁵ We therefore find that the proposed network furthers the public interest by affording Morris County's public safety community with the necessary spectrum to allow it to protect the lives and property in its care. In addition, the County's use of a single paging control station will enable it to eventually "return . . . surplus frequencies to an already exhausted public safety radio pool,"⁶⁶ which can be made available for licensing

⁵⁷ See call signs WQBL368, WPXI593.

⁵⁸ See File No. 0003567288.

⁵⁹ See TV Letter. See also 47 C.F.R. §§ 90.307, 90.309. Morris County initially requested waiver of 90.307 Table A; however, because it seeks use of channel 15 in the New York area, the applicable criteria are specified in Table B. We therefore consider the County's request in connection with Table B.

⁶⁰ See TV Letter.

⁶¹ Waiver Request at 4.

⁶² *Id.*

⁶³ Morris County remains subject to Sections 90.307 and 90.309 with respect to any future TV stations on these channels.

⁶⁴ Waiver Request at 5.

⁶⁵ *Id.* at 6.

⁶⁶ Reply Comments at 2-3; see *supra* para. 6.

to others. Therefore, notwithstanding the availability of 700 MHz and 800 MHz public safety spectrum, we find it in the public interest to grant Morris County the use of a channel in the 470-512 MHz band because its “approach will be relatively easy to deploy ... and will compliment the ongoing migration of emergency service agencies to the County’s trunked, UHF two-way radio system.”⁶⁷ Finally, we note that no commenter opposed Morris County’s applications and request for waiver.⁶⁸

19. Based on the foregoing, we conclude that granting the instant applications would not frustrate the underlying purpose of the rules at issue and is consistent with the public interest. We therefore find that Morris County satisfies the first prong of the waiver standard, and therefore, grant Morris County a waiver of Sections 20.9(a)(6), 22.621, and 22.623(b) pursuant to Section 1.925(b)(3) of the Commission’s rules to operate a public safety communications system on a Part 22 frequency in the 470-512 MHz band.

IV. ORDERING CLAUSES

20. Accordingly, IT IS ORDERED pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3) of the Commission’s rules, 47 C.F.R. § 1.925, that the Request for Waiver, as amended, associated with File Nos. 0003431656 and 0003431658 filed by the County of Morris, New Jersey IS GRANTED, to the extent indicated herein.

21. IT IS FURTHER ORDERED that File Nos. 0003431656 and 0003431658 SHALL BE PROCESSED consistent with this *Order* and the Commission’s rules.

22. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission’s rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Beers
Chief, Policy Division
Public Safety and Homeland Security Bureau

⁶⁷ Reply Comments at 2.

⁶⁸ *See id.* 1-5.