



PUBLIC NOTICE

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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST
FOR WAIVER FILED BY THE COUNTY OF MONMOUTH, NEW JERSEY
TO OPERATE A TRUNKED PUBLIC SAFETY COMMUNICATIONS SYSTEM USING
FREQUENCIES IN THE TELEVISION CHANNEL 19 BAND (500-506 MHZ)**

File Nos. 0003710492 and 0003395374

Comment Date: December 28, 2009

Reply Comment Date: January 7, 2010

The Public Safety and Homeland Security Bureau seeks comment on the above-captioned applications and waiver request, as amended, initially filed on January 21, 2009, by the County of Monmouth, New Jersey (Monmouth, or the County).¹ Monmouth seeks waiver relief pursuant to Section 337(c) of the Communications Act of 1934, as amended (the Act)², or in the alternative, Section 1.925 of the Commission's rules,³ to use, for public safety communications purposes, ten frequency pairs in the television (TV) Channel 19 band (500-506 MHz) for a trunked public safety communications system.⁴

Monmouth is currently authorized on eight frequency pairs in the TV Channel 20 band (506-512 MHz) under call sign WQGU308.⁵ The County's leadership "conducted a comprehensive review of current communications capabilities ... based on indicated known deficiencies, with wide variance among municipal agencies and the heightened responsibility to improve emergency response."⁶ The County found that "[t]he varied wireless systems have no central coordination point."⁷ Also, "[c]ommunications are strained by poor or no coverage, antiquated equipment and inadequate capacity."⁸ Finally,

¹ See File Nos. 0003710492 (filed January 25, 2009 and amended May 29, 2009) and 0003395374 (filed January 25, 2009, amended March 18, 2008, and May 29, 2009) and Applications and Waiver Request of Monmouth County, New Jersey Under Section 337(c) of the Communications Act of 1934, as Amended (Waiver Request).

² 47 U.S.C. § 337(c).

³ 47 C.F.R. § 1.925.

⁴ See Waiver Request at 4-5.

⁵ See Call Sign WQGU308. The license contains one repeater site located within fifty miles of Philadelphia, Pennsylvania, where the TV Channel 20 band is allocated for private land mobile radio service use. See 47 C.F.R. §§ 90.303, 90.305(a).

⁶ Waiver Request at 2-3.

⁷ Id. at 3.

⁸ Id.

“[d]ivergent spectrum resources exist among the police, fire and emergency medical agencies across county and municipal agencies.”⁹ In an effort to “undertake a radio system redesign of all public safety communications within the County,” which “will require additional spectrum,” Monmouth’s technical consultant “conducted an extensive search of all existing land mobile bands applicable for use by public safety in Monmouth County” and determined that “there are no channels available.”¹⁰ Monmouth’s Frequency Advisor, the Association of Public Safety Communications Officials, International (APCO) for the State of New Jersey, confirmed that “there are no available part 90 channels available for use by Monmouth County.”¹¹

Monmouth observes that “different parts of the County geographically lie within the New York 50 mile radius and the Philadelphia 50 mile radius defined by Subpart L of Part 90 of the Commission’s rules.”¹² Monmouth notes, “[t]he New York area 50 mile radius encompasses the largest portion of the County, while the Philadelphia radius “encompasses approximately 28% of the County.”¹³ In reviewing the availability of channels from the Philadelphia pool, Monmouth indicates that “there are frequencies within TV channel 19 that can be used throughout Monmouth County without causing harmful interference to any TV transmissions, including adjacent TV Channel 18, WMBC-DT.”¹⁴ To use this spectrum, Monmouth would require a waiver of Sections 90.303 and 90.305(a) of the Commission’s rules because “Monmouth County proposes to conduct operations that extend [beyond] the Philadelphia [fifty-mile] radius by approximately 18.9 miles at the farthest point.”¹⁵ Monmouth asserts that “[a]ccess to the proposed UHF channels will improve regional interoperability and afford opportunity where none existed before.”¹⁶ The County states that such access “will allow the County and its municipalities to join State and regional interoperability pacts, which are predominantly in the UHF band,” including “the Urban Area Security Initiative (UASI) that encompasses New Jersey municipal agencies.”¹⁷

Monmouth states that its “use of channel 19 is consistent with incumbent land mobile operations in these markets and presents no additional challenges to co channel or adjacent broadcast operations.”¹⁸ Because Monmouth proposes to operate in areas of the County that will be less than ninety miles from Station WMBC-DT, it requests waiver of Sections 90.307(a), (c) and (d).¹⁹ On May 15, 2009, Monmouth

⁹ *Id.*

¹⁰ Frequency Availability Study and Analysis of the Use of TV Channel 19 in Monmouth County, New Jersey for Public Safety Wireless Communications (dated November 2008) at 1-2.

¹¹ Letter from Lieutenant Anthony Melia, APCO New Jersey Frequency Advisor, to Undersheriff Shaun Golden, Monmouth County Sheriff’s Office (dated July 1, 2008).

¹² *Id.* at 3. See 47 C.F.R. §§ 90.303, 90.305(a).

¹³ Waiver Request at 3.

¹⁴ *Id.* at 3-4. TV Channel 19 is allocated for private land mobile radio service use in the Philadelphia, Pennsylvania urbanized area. See 47 C.F.R. § 90.303.

¹⁵ Waiver Request at 13. We note that only File No. 0003710492 contains sites located outside the Philadelphia fifty-mile area. File No. 0003395374 would not require a waiver of Sections 90.303 and 90.305(a) because its sites are located within the Philadelphia fifty-mile area. However, Monmouth attached the same Waiver Request to the latter application, presumably because it is affected by Monmouth’s request for waiver of Section 90.307, as described *infra*.

¹⁶ Waiver Request at 4.

¹⁷ *Id.*

¹⁸ *Id.* at 10.

¹⁹ See *id.* at 6. See 47 C.F.R. § 90.307.

County entered into an agreement with adjacent broadcast station WMBC-DT where, in exchange for its concurrence, the County will “minimize transmissions toward WMBC-DT broadcast operations.”²⁰ Monmouth agrees to several non-interference conditions and agrees to accept all interference from WMBC-DT.²¹

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 since the June 12, 2009 digital television transition date has passed,²² and the Commission’s actions in facilitating a nationwide, interoperable public safety network.²³ In particular, we request comment on the effect on television broadcasters of decreasing the potentially available spectrum for their use in Monmouth County and in the areas beyond Monmouth where they would be unable to use TV Channel 19 for television broadcast service as a result of the County’s proposed use of frequencies in the TV Channel 19 band for public safety. We also seek comment on whether Monmouth County could complete its proposed upgrade and improve interoperability by using frequencies in the 700 MHz public safety band, rather than using the television T band frequencies?

We further note that the Commission requires private land mobile radio licensees in 150-174 MHz and 450-512 MHz to transition from 25 kHz to 12.5 kHz technology by no later than January 1, 2013,²⁴ and that Monmouth holds several licenses in this range that are currently operating in wideband mode. Should the Commission consider the applicant’s current progress in achieving this requirement or other measures of spectrum efficiency when determining whether or not the public interest supports assigning non-public safety spectrum to a public safety entity under either Section 337(c) of the Act or rule Section 1.925?²⁵

Pursuant to Sections 1.415 and 1.419 of the Commission’s rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this *Public Notice*. All comments and reply comments should reference the subject Waiver Request and the DA number indicated on this *Public Notice*. Comments may be filed: (1) electronically

²⁰ See Agreement Between the County of Monmouth, New Jersey and Mountain Broadcasting Corporation, dated May 15, 2009.

²¹ See *id.* at 2.

²² In the DTV Delay Act that was enacted on February 11, 2009, Congress extended the date for the completion of the nationwide DTV transition from February 17, 2009 to June 12, 2009. See DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009). Accordingly, subject to the DTV Delay Act, the Commission extended the analog license terms and adjusted the construction permits for the full power television stations on February 13, 2009. See Implementation of the DTV Delay Act, *Report and Order and Sua Sponte Order on Reconsideration*, MB Docket No. 09-17, 24 FCC Rcd 1607 (2009).

²³ 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).

²⁴ See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004). See also 47 C.F.R. §§ 90.209(b)(5)-(6).

²⁵ See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004). See also 47 C.F.R. §§ 90.209(b)(5)-(6).

by accessing the applicant's file number(s) in the Commission's Universal Service Licensing System (ULS),²⁶ or (2) by filing paper copies.

- Electronic Filers: Pleadings may be submitted electronically as follows:

From the ULS website at <http://wireless.fcc.gov/uls/>, begin the process of submitting a pleading by clicking on the "ULS Pleadings" link in the menu on the lower left side of the ULS web page. The link will take you to the "*Pleading Information*" screen for "Non-docketed Pleadings" where you select "Reply" in the drop-down window for the type of pleading and then enter the pleadings filer information. Completion of the contact information is optional. Upon completion of this screen, please note the instructions for the filing: "*Pleadings must be dated and must include a signature, in this instance an electronic signature, and the address and phone number of the signing party.*"²⁷ Click on "CONTINUE."

The second step is to complete the *File Numbers/Call Signs* screen. Click if the pleading pertains to a File Number or Call Sign and enter the File Number or Call Sign. Please note that you must enter a File Number or Call Sign to continue. If the pleading pertains to multiple applications or licenses, you must enter each File Number or Call Sign as appropriate. After clicking the "SUBMIT" button, the screen will update to show all the File Numbers/Call Signs associated with the pleading. At this time, you may delete selected File Numbers/Call Signs from the page before continuing.

The third step is to complete the *Attach File* screen to attach the pleading document. Use the drop down box to select Pleading or Confidential Pleading. The "BROWSE" button opens a file upload window where you will locate and select your pleading file. The Description field allows you to enter a brief description for the pleading. Click the "ADD ATTACHMENT" button to upload your pleading. You may submit up to thirty files for each pleading but each file must be smaller than 10 MB in size. You also have the opportunity to delete any selected file from the pleading.

Finally, to complete your electronic pleading submission, click on the "SUBMIT PLEADING" button and the *Confirmation* screen will be displayed. The *Confirmation* screen will display your Confirmation Number as well as your entered pleadings information. You may print this page for your records by selecting the Print Page link at the top of the page and have the option of submitting another pleading or returning to the ULS website by selecting a link at the bottom of the page.

The ULS Application and License Search results will display pleadings under the ADMIN tab when a comment or reply comment has been filed. Users can view the pleading by clicking on the link for the specific comment or reply comment in the Description field. The general public will not be able to view confidential pleadings.

For additional information or assistance on how to file a comment or reply comment or other relevant pleading, you may visit the Web at <http://esupport.fcc.gov>. You may also call the FCC ULS Customer Support Center at (877) 480-3201 and select option 2, or (888) 225-5322 and select Option 2, or (717) 338-2888. For TTY, please call (717) 338-2824. Assistance from the FCC ULS Customer Support Center is available between the hours of 8 a.m. to 6:00 p.m. Eastern Time, Monday through

²⁶ See "Wireless Telecommunications Bureau Enhances the Commission's Universal Licensing System to Implement Electronic Filing for Pleadings," *Public Notice*, 21 FCC Rcd 424 (WTB 2006). See http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-06-125A1.pdf.

²⁷ See 47 C.F.R. Part 1.

Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls to FCC ULS Customer Support Center are recorded.

- Paper Filers: Parties who choose to file by paper must submit an original and four copies of each filing.

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. **Effective December 28, 2009, the Commission will close this filing location**, and the Commission's contractor will begin receiving hand-delivered and/or messenger-delivered paper filings for the Commission's Secretary at the FCC Headquarters building located at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours at both locations 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 either 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, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

The application(s), waiver request, and comments and reply comments 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, DC 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, DC 20554. Customers may contact BCPI through its web site, <http://www.bcpweb.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 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).

People with Disabilities: 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 Chief, Policy Division, Public Safety and Homeland Security Bureau.

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