



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER FILED BY THE WAYNE COUNTY SHERIFF'S DEPARTMENT, INDIANA TO PERMIT WIDEBAND, ANALOG VOICE OPERATIONS ON A NARROWBAND TELEMETRY FREQUENCY

File No. 0003061539

Comment Date: May 6, 2009

Reply Comment Date: May 18, 2009

The Public Safety and Homeland Security Bureau (Bureau) seeks comment on the above-captioned application and waiver request filed on June 6, 2007 by the Wayne County Sheriff's Department, Indiana ("the Department").¹ The Department requests waiver relief to use frequency 173.210 MHz, which has a bandwidth limit of 3 kHz and is not available for analog voice operations.² Although the Department does not cite the Commission's waiver criteria, we will consider its waiver request pursuant to Section 1.925(b)(3) of the Commission's rules, 47 C.F.R. § 1.925(b)(3).

The Department seeks to use the desired frequency "with [a wideband] emission designator of 20K0F3E to allow the operation of a vehicular repeater which must interface and be compatible with existing VHF high band fixed and mobile radios which operate with that emission."³ It states that "[i]f a narrowband emission is used for frequency 173.210 MHz, the audio ... will be distorted and in some cases unintelligible [and] ... [c]ould result in the loss of life for Police officers."⁴ Accordingly, the Department proposes to use 20 kHz bandwidth for frequency 173.210 MHz.

Because Section 90.20(d)(54) limits the bandwidth of this frequency to 3 kHz,⁵ the Department requires a waiver of this rule. We also note that authorization to use the 20K0F3E emission designator would require a waiver of two other technical limitations. First, given that the "E" symbol in the emission designator represents voice operations,⁶ the Department would require a waiver of Section

¹ See File No. 0003061539 (filed June 6, 2007) and associated document entitled Waiver – Timely Action Requested (Waiver Request).

² See Waiver Request at 1. Frequency 173.210 MHz is shared between the Public Safety and Industrial/Business Pools. See 47 C.F.R. §§ 90.20(c)(3), 90.20(d)(34), 90.35(b)(3).

³ Waiver Request at 1. The Department's existing system is Station WQGS538.

⁴ *Id.*

⁵ 47 C.F.R. § 90.20(d)(54).

⁶ See 47 C.F.R. § 90.207.

90.20(d)(34), which states the frequency is available on a shared basis with the Industrial/Business Pool for remote control and telemetry operations.⁷ Second, the “3” symbol represents analog modulation, and thus, the Department would require a waiver of Section 90.20(d)(36), which allows digital data, telemetry, and telegraphy emissions only.⁸

The Department states that “Wayne County is an economically disadvantaged area, the population base is small, and funds are not available to purchase radios in another band. Current VHF portable radios must provide the flexibility of direct communications from officers who are outside of their vehicles.”⁹ It asserts that “[v]ehicular repeaters are the only method of accomplishing this critical communications.”¹⁰ In a separate document, the Department states that it “elected to go with VHF simplex mobile repeaters for our application because it would be compatible with all of our existing VHF hand-held radios.”¹¹ The Department notes that “[t]hese are low power units and require only several hundred feet of coverage from the patrol cars.”¹² The Department proposes to utilize SVR (Synthesized Vehicular Repeater) equipment manufactured by Pyramid Communications.¹³

The Department requests a frequency in the 173.2-173.4 MHz band rather than a frequency with 20 kHz bandwidth in the 150-160 MHz band because “interference ... can occur between the mobile radio and SVR operating within the same VHF band,” according to the Department’s consultant.¹⁴ To avoid such interference, the Department’s consultant notes that “the manufacturer has recommended that a separation of at least 10 MHz between the mobile [transmit frequency] and the [vehicular repeater] frequency while using these units in band.”¹⁵ The Department states that “[t]here are no co-channel users that will be impacted.”¹⁶

The Department proposes a circular area of operation with a 24-kilometer radius that reaches the corners of the county, but also extends beyond the borders of the county. Although the Department noted

⁷ 47 C.F.R. § 90.20(d)(34).

⁸ 47 C.F.R. § 90.20(d)(36).

⁹ Waiver Request at 1.

¹⁰ *Id.*

¹¹ See File No. 0003061539, attached Letter from Paul M. Strittmatter, Sheriff, and Jim Daggy, Captain/Enforcement Commander, Wayne County Indiana, to Federal Communications Commission (dated May 16, 2007) at 1 (Sheriff Letter).

¹² *Id.*

¹³ See Letter from Gary A. Green, Tech Electronics & Communications, to Thomas Eng, Federal Communications Commission (dated Apr. 1, 2009) at 1 (Green Letter). Pyramid Communications’ SVR equipment is certified for 16 kHz and 11 kHz bandwidth operation in the 150-174 MHz band in the Commission’s Equipment Authorization database. See FCCID LRUSVR-200VB.

¹⁴ Green Letter at 1.

¹⁵ *Id.* at 2. The Department’s mobiles are licensed on 154.83, 154.89, 155.13, 155.475, and 159.045 MHz. See licenses for Stations KBJ645, WQGS538.

¹⁶ Waiver Request at 1. See also File No. 0003061539, attached ComStudy plot.

at first that “the mobile units will not travel outside the county,”¹⁷ the Department’s consultant later clarified that “communications would extend into other counties in [an] emergency situation.”¹⁸

The Department argues that it “has no reasonable alternative than to seek the waiver ... due to the investment in the existing system and the replacement costs which exceeds the budget of the county.”¹⁹ The Department seeks to avert a solution involving another band such as UHF because “it would require the purchase of fifty new UHF radios and repeaters at considerable cost,” and “[t]he officers would then be required to carry a second hand-held radio while on duty.”²⁰ The Department maintains that “our current VHF radio system is 100% interoperable with all other agencies within and surrounding Wayne County Indiana.”²¹ The Department states that “[t]he grant of this waiver is in the [p]ublic interest and would not frustrate the intent of the current rules.”²²

We also seek comment on the waiver request in light of the January 1, 2013 deadline for users of the private land mobile radio services in the 150-174 MHz and 421-512 MHz bands to migrate to equipment that operates on narrowband (12.5 kHz or narrower) channels or achieves the equivalent efficiency of once channel per 12.5 kHz of channel bandwidth.²³ If the Bureau were to grant a waiver, we seek comment on whether the grant should be conditioned such that the Department would be required to migrate to narrowband or equivalent efficiency on frequency 173.210 MHz by January 1, 2013.

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 by accessing the applicant’s file number(s) in the Commission’s Universal Service Licensing System (ULS),²⁴ or (2) by filing paper copies.

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

¹⁷ See File No. 0003061539, attached Letter (unsigned) to Federal Communications Commission (dated Jan. 12, 2006).

¹⁸ Green Letter at 2.

¹⁹ Waiver Request at 1.

²⁰ Sheriff Letter at 1.

²¹ *Id.*

²² Waiver Request at 1.

²³ 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, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, WT Docket No. 99-87, RM-9332, 18 FCC Rcd 3034 (2003); 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, 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. §§ 90.203(j), 90.209(b).

²⁴ 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.

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.*”²⁵ 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 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.

²⁵ See 47 C.F.R. Part 1.

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. 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, 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.bcpiweb.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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