



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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TTY: 1-888-835-5322

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER FILED BY THE STATE OF WYOMING TO MODIFY ITS PUBLIC SAFETY STATEWIDE COMMUNICATIONS SYSTEM

File No. 0003764744

Comment Date: June 30, 2010

Reply Comment Date: July 12, 2010

The Public Safety and Homeland Security Bureau (the Bureau) seeks comment on the above-captioned modification application and waiver request, filed by the State of Wyoming (Wyoming) on March 9, 2009 and amended May 22, 2009, to add three repeater sites to its statewide narrowband digital trunked radio communications system authorized under call sign WQJA236.¹ On June 19, 2008, the Bureau granted Wyoming a waiver authorizing it to use, for public safety purposes, eleven VHF frequency pairs allocated for Part 22 one-way or two-way public land mobile service.² Wyoming seeks a waiver for the instant modification pursuant to Section 337(c) of the Act, or in the alternative, Sections 1.3 and 1.925 of the Commission's rules.³

Station WQJA236 permits operation on eleven Part 22 public mobile service frequency pairs at twelve repeater sites (and associated mobile units) "spread over Basic Economic Area (BEA) Nos. 143, 144, and 152."⁴ During the course of construction of Station WQJA236, Wyoming "determined that it will need a limited number of additional sites to ensure that the proposed upgrade to its system will provide adequate coverage."⁵ The new sites would use seven Part 22 frequency pairs that are already licensed to Wyoming, but the new sites would expand Wyoming's composite interference contours.⁶ Wyoming contends that "the interference contours of the State's proposed sites do not extend into

¹ See File No. 0003764744 (filed March 9, 2009, amended May 22, 2009), attached "Exhibit A to Form 601 (Amended 5-22-2009), Description of FCC Application and Request for Waiver" (Amended Waiver Request).

² See State of Wyoming, *Order*, 23 FCC Rcd 9572 (PSHSB 2008) (*Wyoming Order*).

³ See Amended Waiver Request at 9 citing 47 C.F.R. §§ 1.3, 1.925.

⁴ See *Wyoming Order* at 9574 ¶ 5.

⁵ Amended Waiver Request at 8.

⁶ The three new sites and frequency pairs to be used at each site are Pumpkin Buttes in BEA 143 (152.57/157.83 MHz, Channel Block FJ), Chicken Creek Divide in BEA 143 (152.66/157.92 MHz, Channel Block FM), and Duncan Lake in BEA 144 (152.03/158.49, 152.09/158.52, 152.21/157.67, 152.51/157.77, and 152.81/158.07 MHz; Channel Blocks FA, FC, FG, FH, and FR, respectively). See Amended Waiver Request at 8 and at Attachment B (Contour Studies).

adjacent [B]EAs awarded to geographic area based licensees.”⁷ We note that on November 30, 2009, the Wireless Telecommunications Bureau announced an auction of paging licenses, which includes licenses for the same Channel Blocks and BEAs occupied by Wyoming.⁸ As with its previous waiver, Wyoming seeks waiver of Sections 20.9, 22.561 and 22.565 of the Commission’s rules.⁹

As a part of our 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 in light of the recent vacating of the band by broadcasters as part of the digital television transition.¹⁰ We also seek comment on whether analysis of Wyoming’s request under Section 337 of the Act is appropriate given that Wyoming is already authorized to operate on Part 22 channels and seeks only a geographic expansion of its existing authorization.

We note that because Wyoming’s system operates on narrowband channels that do not exceed 12.5 kHz bandwidth,¹¹ its proposed additional sites, if authorized, will be in compliance with the Commission’s narrowbanding requirements for private land mobile radio users.

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),¹² 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.*”¹³ Click on “CONTINUE.”

⁷ Amended Waiver Request at 11.

⁸ See Auction of Lower and Upper Paging Bands Licenses Scheduled for May 25, 2010, Comment Sought on Competitive Bidding Procedures for Auction 87, AU Docket No. 09-205, *Public Notice*, 74 FR 67221 (WTB 2009). See also Auction of Lower and Upper Paging Bands Licenses Rescheduled for June 15, 2010; Status of Short-Form Applications to Participate in Auction 87, AU Docket No. 09-205, *Public Notice*, 25 FCC Rcd 3522 (WTB 2010).

⁹ See Amended Waiver Request at 9-10. See also 47 C.F.R. §§ 20.9, 22.565; 22.561. Section 20.9(a)(6) specifies that Part 22 Paging and Radiotelephone Service operations shall be regulated as commercial mobile radio services. Section 22.561 lists the frequency pairs for the new sites. Section 22.565 specifies the transmitting power limits associated with Part 22 Paging and Radiotelephone Service operations.

¹⁰ The digital television transition concluded on June 12, 2009. See DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009).

¹¹ See license for Station WQJA236.

¹² 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.

¹³ See 47 C.F.R. Part 1.

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. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m. **PLEASE NOTE:** The Commission’s former filing location at 236 Massachusetts Avenue, NE is permanently closed.

- 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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