



# PUBLIC NOTICE

Federal Communications Commission  
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DA 11-537  
March 22, 2011

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON  
PETITION FOR DECLARATORY RULING ASKING TO CLARIFY THE SCOPE OF  
SECTION 337 REGARDING USE BY STATE OR LOCAL GOVERNMENT ENTITIES OF  
THE 700 MHZ PUBLIC SAFETY BROADBAND SPECTRUM**

**PS Docket No. 06-229**

**Comments Due: April 11, 2011**  
**Reply Comments Due: April 21, 2011**

On March 7, 2011, the City of Charlotte, North Carolina (Petitioner), filed a petition for declaratory ruling (Petition) asking the Commission “to confirm explicitly what the rulings in PS Docket No. 06-229 and the processing of 700 MHz narrowband applications indicate implicitly: Territories, possessions, states, counties, towns or similar State or local governmental entities that qualify as 700 MHz lessees/users presumptively have as their sole or principal purpose the protection of the safety of life, health, and property and are permitted to use 700 MHz broadband spectrum for activities conducted by their personnel including, but not limited to, activities of police, fire and medical emergency first responders.”<sup>1</sup> Petitioner states that it “believes that [Section 337 of the Communications Act], the accompanying legislative history, and the FCC’s decisions regarding 700 MHz matters support a conclusion that the statutory qualifier applies to the eligibility of entities and not to the scope of activities they may undertake on 700 MHz spectrum.”<sup>2</sup>

Petitioner further notes, however, that “discussions regarding permissible use of 700 MHz broadband spectrum by **non-governmental** entities have included language that arguably could be read to say that police, fire and EMS services are the only activities that may be conducted on this spectrum, even by governmental entities.”<sup>3</sup> Petitioner asks the Commission to “resolve any ambiguity on this point by issuing a declaratory ruling clarifying that all governmental entities eligible under FCC Rule Section 90.523(a) presumptively have as their sole or primary mission the safety of life, health and property, and, provided that emergency personnel are utilizing a 700 MHz broadband system, non-first responder government personnel may operate on the system as well.”<sup>4</sup> The Public Safety and Homeland Security Bureau seeks comment on the Petition.

<sup>1</sup> In the Matter of 47 C.F.R. § 90.523(a) and 47 U.S.C. § 337(f)(1): Clarification of Public Safety Services for Purposes of Eligibility to Operate on 700 MHz Public Safety Broadband Spectrum, at 3 (filed March 7, 2011) (Petition) (internal citations omitted).

<sup>2</sup> *Id.* at 5.

<sup>3</sup> *Id.* (emphasis in original).

<sup>4</sup> *Id.* at 5-6 (internal citations omitted).

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>5</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.<sup>6</sup> Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission’s rules.<sup>7</sup>

Interested parties may file comments on or before April 11, 2011, and reply comments on or before April 21, 2011. All comments should reference PS Docket No. 06-229. Comments may be filed: (1) using the Commission’s Electronic Comment Filing System (ECFS), (2) through the Federal Government’s eRulemaking Portal, or (3) by filing paper copies.<sup>8</sup>

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

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.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours 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 should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information regarding this proceeding, contact Erika Olsen, Public Safety and Homeland Security Bureau, at (202) 418-2868 or [erika.olsen@fcc.gov](mailto:erika.olsen@fcc.gov).

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<sup>5</sup> See 47 C.F.R. §§ 1.1200, 1.1206.

<sup>6</sup> See 47 C.F.R. § 1.1206(b).

<sup>7</sup> See *id.*

<sup>8</sup> See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).