



PUBLIC NOTICE

Federal Communications Commission
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DA 12-74

Released: January 23, 2012

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON APPLICATIONS AND WAIVER REQUEST FILED BY THE STATE OF MAINE FOR 160 MHz BAND RAILROAD FREQUENCIES

File Numbers Listed in Appendix

Comment Date: February 13, 2012

Reply Comment Date: February 23, 2012

The State of Maine (Maine) has filed eighteen applications seeking authority to operate trunked private land mobile radio facilities on VHF frequencies in the 160 MHz band,¹ which are exclusively coordinated by the Association of American Railroads (AAR).² On December 2, 2011, Maine filed a waiver request in connection with these applications seeking a waiver of Sections 90.33 (eligibility requirements) and 90.35(b)(2)(iv) (coordinator requirements) of the Commission's rules in order to operate on these channels.³

In its waiver request, Maine states that its existing two-way mobile radio systems are "outdated, difficult to maintain, and no longer adequate to serve respective departments' critical needs."⁴ Consequently, Maine plans to consolidate all of its agency radio systems into a new narrowband (12.5 kHz channel bandwidth) VHF trunked Project 25 radio system.⁵ Maine contends that the VHF band (150-170 MHz) is the only viable frequency band for its statewide radio network because of radio engineering considerations, geography, cost and interoperability needs.⁶ Maine also notes that most local public safety agencies in the state rely primarily on VHF band radio communications.⁷

¹ The file numbers for these applications are listed in the attached Appendix.

² *Id.* The frequencies subject to exclusive coordination by AAR are denoted with an "LR" in the Coordinator Column of the Industrial/Business Pool Frequency Table. *See* 47 C.F.R. §§ 90.35(b)(2)(iv) and 90.35(b)(3).

³ *See* Request for Waiver, dated Dec 2, 2011, attached to the applications listed in the attached Appendix (Maine Waiver Request).

⁴ Maine Waiver Request at 2.

⁵ *Id.* at 3.

⁶ *Id.* at 4.

⁷ *Id.* at 5.

Maine states that the new consolidated radio system will require 342 VHF frequencies distributed across 40 sites, including 151 trunked pairs (302 frequencies) and 40 simplex channels.⁸ Maine states it has sought to maximize the use of Public Safety pool frequencies to meet these requirements, but that even taking extensive frequency reuse into account, it will need access to non-public safety frequencies, including the identified railroad frequencies.⁹

Maine states that it has engaged AAR regarding proposed use of the railroad frequencies, but that AAR has indicated it would oppose any request to coordinate these frequencies for public safety use.”¹⁰ Maine argues that AAR’s rejection of its request “is grossly inadequate” and alleges that AAR made no effort to coordinate Maine’s applications or verify the interference potential of Maine’s proposed use of the frequencies.¹¹

Maine contends that its proposed use of railroad frequencies would have no significant impact on future frequency availability for railroads in or near Maine because the state currently has “very limited railroad service within its borders and none of the large (Class I) railroads currently operate track within the State.”¹² Maine accordingly requests that the Commission grant its waiver request and the associated applications, “notwithstanding AAR’s lack of support to date.”¹³

We seek comment on Maine’s waiver request to incorporate railroad frequencies into its new statewide public safety radio system. In particular, we seek comment from any parties who would be impacted by Maine’s use of these frequencies. To what extent are these frequencies currently used by railroads within or near the State of Maine? If not used today, are there railroad lines within the state that may seek access to these frequencies in the future?

We seek comment on whether there are alternative VHF frequencies available to Maine. We note that Maine is seeking to license all of the identified railroad frequencies on an exclusive basis.¹⁴ Would Maine be able to use other VHF frequencies by operating its statewide system on a shared basis?¹⁵

⁸ *Id.*

⁹ *Id.* at 6. Maine states that the manufacturer of the statewide radio system has purchased twelve Part 22 licenses held by a VHF paging company and that those frequencies will be incorporated into the new system. *Id.* at 7. Maine has also identified 26 general frequencies from the Industrial Business Pool and is applying for these frequencies through separate applications so that they may be incorporated into the statewide system. *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 9.

¹² Maine Waiver Request at 8.

¹³ *Id.* at 10.

¹⁴ Maine’s applications use the station codes FB8 and MO8. The FB8 station code is used for centralized trunk relays while the MO8 code is used for centralized trunked mobile units. These codes may only be licensed to an applicant that satisfies the requirements for exclusivity listed in Sections 90.187(b)(1) or (2). *See* 47 C.F.R. §§ 90.187(b)(1) and (2).

¹⁵ *See* Private Land Mobile Radio – Monitoring Levels for Non-Exempt Trunked Systems on Channels Between 150-512 MHz, *Public Notice*, 16 FCC Rcd 21421 (WTB 2001). A licensee that is unable to obtain exclusive use

Finally, we note that some of the applications submitted by Maine seek authorization for sites located above Line A.¹⁶ These applications can only be granted upon successful coordination with Canada, regardless of our decision on the Maine waiver request.

Interested parties may file comments on or before February 13, 2012.¹⁷ Parties may file replies on or before February 23, 2012.¹⁸ Parties may file statements and replies electronically¹⁹ or by paper.

All comments and reply comments should reference the subject Maine 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),²⁰ 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.*"²¹ 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.

of a channel may operate on a shared basis provided that it employs monitoring equipment that prevents it from transmitting on the channel if another system is using that channel.

¹⁶ Applications requiring coordination with Canada are denoted with an asterisk in the attached appendix.

¹⁷ 47 C.F.R. § 1.405.

¹⁸ *Id.*

¹⁹ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998)

²⁰ 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.

²¹ See 47 C.F.R. Part 1.

- 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.

- Send hand-delivered or messenger-delivered paper filings for the Commission’s Secretary to FCC Headquarters at 445 12th 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 and boxes must be disposed of before entering the building.
- Send commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) to 9300 East Hampton Drive, Capitol Heights, M.D. 20743.
- Send U.S. Postal Service first-class, Express, and Priority to 445 12th Street, SW, Washington, D.C. 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 Maine Waiver Request, comments and reply comments will be available for inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW,

Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI. Email fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau, (voice) (202) 418-0530, (TTY) (202)-418-0432 to request materials in formats accessible to people with disabilities, e.g. Braille, large print, electronic files, audio format.

For further information regarding this proceeding contact Brian Marengo, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (voice) (202) 418-0838 or Brian.Marengo@fcc.gov.

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Appendix

State of Main Applications Seeking Frequencies Coordinated by Railroad Coordinator (LR)²²

ULS Application Numbers

0004980650	0004980661
0004980651*	0004980663*
0004980653*	0004980664*
0004980654	0004980665
0004980655	0004980666
0004980657*	0004980667
0004980658*	0004980673
0004980659	0004981067
0004980660	0004981069

* Denotes applications seeking to license a location above Line A.

²² 47 C.F.R. § 90.35(b)(2)(iv).