



PUBLIC NOTICE

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News Media Information 202 / 418-0500
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DA 16-1395

Released: December 16, 2016

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON
APPLICATION AND WAIVER REQUEST FILED BY NORTH CAROLINA STATE HIGHWAY
PATROL TO LICENSE AN 800 MHZ B/ILT POOL CHANNEL**

FCC File Number 0006965513

Comment Date: January 17, 2017

Reply Comment Date: February 1, 2017

The Public Safety and Homeland Security Bureau (Bureau) seeks comment on an application filed on October 1, 2015 by the North Carolina State Highway Patrol (NC State Hwy Patrol) seeking to modify its private land mobile radio license call sign WQTA652 by adding a new 800 MHz channel to its base station located on Hibriten Mountain in Caldwell County.¹ Included with its application is a request for waiver of Commission rules so it can license through inter-category sharing a channel from the Business/Industrial/Land Transportation (B/ILT) Pool for use at the Hibriten Mountain site.²

Although not specifically requested by the applicant, we seek comment on whether or not the Bureau should grant NC State Hwy Patrol a waiver of the freeze on inter-category sharing³ so it may license a channel from the B/ILT Pool at its Hibriten Mountain site.

In an attachment to its application, NC State Hwy Patrol states that its Hibriten Mountain base station serves a number of public safety agencies throughout the state but is unable to handle the volume of radio traffic assigned to it.⁴ In fact, NC State Hwy Patrol states that users from nearby Catawaba County were recently denied use of the site due to its inability to handle additional traffic.⁵

¹ North Carolina State Highway Patrol Application, ULS File no. 0006965513 (dated Oct. 1, 2015) (NC State Hwy Patrol Application).

² Letter from Wayne E. Eberhard, Spectrum Resources Manager, North Carolina Department of Public Safety to Federal Communications Commission (Sep. 23, 2015) (attached to NC State Hwy Patrol Application) (Waiver Request). *See also* letter from Wayne E. Eberhard, Spectrum Resources Manager, North Carolina Department of Public Safety to Federal Communications Commission (Oct. 24, 2016) (attached to NC State Hwy Patrol Application) (Supplemental Waiver Statement).

³ *See Inter-Category Sharing of Private Mobile Radio Frequencies in the 806-821/851-866 MHz Bands*, Order, 10 FCC Rcd 7350 (1995).

⁴ Supplemental Waiver Statement at 1.

⁵ *Id.*

Consequently, NC State Hwy Patrol seeks to license an additional channel at the Hibriten Mountain site so it can return the site to “normal operations” and provide “more efficient dispatching” services to the agencies throughout the state which use its PLMR network to support their public safety radio communications.⁶ It states, however, that it was unable to identify an available channel from the Public Safety Pool for use at the site.⁷

Therefore, NC State Hwy Patrol seeks instead to license a channel from the B/ILT Pool in order to increase the capacity of its base station.⁸ In particular, NC State Hwy Patrol seeks to license base transmit frequency 856.8125 at its Hibriten Mountain site.⁹ It also seeks to license paired mobile transmit frequency 811.8125 MHz for use by associated mobile units operating within forty kilometers of the Hibriten Mountain site.¹⁰

Under Section 90.617(b) of the Commission’s rules, channels from the B/ILT Pool are reserved for use by entities performing business related activities.¹¹ NC State Hwy Patrol is not eligible to license a channel from the B/ILT Pool since it intends to use the channel for public safety dispatch communications rather than business related communications. Channels from the Public Safety Pool are reserved for agencies like NC State Hwy Patrol which seek to perform public safety related communications.¹²

Nonetheless, Commission rules permit an entity to license a channel outside its pool category through inter-category sharing if the entity demonstrates that no channels in its pool category are available for use.¹³ The Commission placed a freeze, however, on inter-category sharing in 1995.¹⁴ NC State Hwy Patrol therefore needs a waiver of the Commission’s freeze in order to license the B/ILT Pool channel specified in its application through inter-category sharing.

In support of its waiver request, NC State Hwy Patrol provides a letter from the Association of Public-Safety Communications Officials (APCO), an FCC-certified coordinator of Public Safety Pool channels, stating its search for available channels for the Hibriten Mountain site revealed “there are no public safety or vacated spectrum frequencies that can be assigned due to incumbents being less than 88 km away and/or short spacing issues.”¹⁵ NC State Hwy Patrol also includes a letter from the Utilities

⁶ *Id.* See also attachment to NC State Hwy Patrol Application labeled “Waiver – expanded” (Nov. 17, 2016) (Supplemental Justification) (listing the public safety agencies that rely on NC State Hwy Patrol’s PLMR network for radio communications).

⁷ Waiver Request at 1. See also Supplemental Justification at 1.

⁸ Waiver Request at 1.

⁹ NC State Hwy Patrol Application.

¹⁰ *Id.*

¹¹ 47 CFR § 90.617(b) (indicating that applicants eligible for the Industrial/Business Pool are eligible to license channels from the B/ILT Pool). See also 47 CFR § 90.35 (listing eligibility requirements for entities seeking to license channels from the Industrial/Business Pool).

¹² 47 CFR § 90.617(a).

¹³ 47 CFR § 90.621(e). Only channels from the Public Safety or B/ILT Pool are available for inter-category sharing.

¹⁴ *Supra* n.3.

¹⁵ Letter from Carol DiCaro, AFC Processor, AFC – APCO’s Spectrum Management Division, APCO International to FCC (Sep. 23, 2015) (attached to NC State Hwy Patrol Application). See also letter from Carol DiCaro, AFC

Technology Council (UTC), an FCC-certified coordinator of B/ILT Pool channels, stating it concurs with coordination of the B/ILT channel at the Hibriten Mountain site.¹⁶

We seek comment on whether or not the Bureau should grant NC State Hwy Patrol a waiver of the freeze on inter-category sharing so it can license a B/ILT Pool channel and use it for public safety dispatch communications.¹⁷ In particular, we seek comment from any party who would be impacted by NC State Hwy Patrol's proposal to operate B/ILT Pool frequency 856.8125 MHz at its Hibriten Mountain site and B/ILT Pool frequency 811.8125 MHz with associated mobile units operating within forty kilometers of the Hibriten Mountain site.¹⁸

Interested parties may file comments on or before January 17, 2017.¹⁹ Parties may file replies on or before February 1, 2017.²⁰

Instructions for Filing Comments

All comments and reply comments should reference the subject North Carolina State Highway Patrol 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),²¹ or (2) by filing paper copies.

Electronic Filers: Pleadings may be submitted electronically as follows:

- Begin the process by using the following link to the ULS website <https://wireless2.fcc.gov/UlsEntry/pleadings/pleadingsType.jsp>. 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."²² 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

Processor, AFC – APCO's Spectrum Management Division, APCO International to FCC (Oct. 26, 2016) (attached to NC State Hwy Patrol Application).

¹⁶ Letter from Kathy Garrett, UTC Spectrum Services, to North Carolina State Highway Patrol (Sep. 28, 2015) (attached to NC State Hwy Patrol Application).

¹⁷ Supplemental Waiver Statement at 1.

¹⁸ NC State Hwy Patrol Application.

¹⁹ 47 CFR § 1.405.

²⁰ *Id.*

²¹ *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.

²² See 47 CFR Part 1.

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 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.

- 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. 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.
- 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>.

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

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