



PUBLIC NOTICE

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DA 13-2396

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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON
SOMERSET COUNTY, MAINE REQUEST FOR WAIVER TO OPERATE VEHICULAR
REPEATER UNITS ON A NARROWBAND TELEMETRY FREQUENCY**

File No. 0005778484

Comment Date: January 15, 2014

Reply Comment Date: January 30, 2014

The Public Safety and Homeland Security Bureau seeks comment on the application and waiver request filed on May 14, 2013, by the County of Somerset, Maine (Somerset, or the County) to use narrowband telemetry frequency 173.210 MHz for vehicular repeaters.¹ Limitations 34, 36, and 54 of the Public Safety Pool restrict the bandwidth of this frequency to 3 kilohertz and limit the permissible operations to remote control and telemetry data.² Somerset requests waiver of these limitations because it proposes to conduct 11.25-kilohertz bandwidth voice operations on this frequency.³ Somerset argues that it has no reasonable alternative pursuant to Section 1.925 of the Commission's rules.⁴

The County encompasses 3600 square miles of hilly terrain.⁵ Somerset operates a VHF⁶ public safety radio system under 17 licenses.⁷ Somerset states that "VHF for repeater communications over large areas is necessitated by the vast and largely unpopulated terrain in the County" and "for interoperability with the State" of Maine, which also uses the VHF band for its statewide public safety communications system.⁸ Somerset states that communications in much of the county "is spotty or

¹ File No. 0005778484 (filed May 14, 2013, amended June 28, 2013 and Sept. 6, 2013), attached "Waiver Request for Vehicular Mobile Repeater in the Public Safety 173 MHz Band" (filed Sept. 6, 2013) (Waiver Request).

² 47 C.F.R. § 90.20(d)(34), (36), (54).

³ Waiver Request at 1. *See also* File No. 0005778484.

⁴ Waiver Request at 2. *See also* 47 C.F.R. § 1.925.

⁵ File No. 0005778484, attached "Additional Waiver Statement" (filed Sept. 6, 2013) at 1.

⁶ In this *Public Notice*, "VHF" refers to the band 150-174 MHz. *See, e.g.*, 47 C.F.R. § 90.187.

⁷ Waiver Request at 2.

⁸ *Id.*

nonexistent.”⁹ The County states that “deputies using portables are almost completely unable to communicate when the deputies are out of [their] vehicle[s].”¹⁰ The County states that “the current vehicular repeaters upon which the deputies depend are inoperable.”¹¹ Somerset avers that “a waiver would enable the county to deploy current technology repeaters.”¹²

The County references the Wayne County, Indiana *Order*¹³ involving a vehicular repeater waiver request for the same frequency 173.210 MHz, where the Bureau’s Policy and Licensing Division recognized that filtered vehicular repeaters manufactured by Pyramid Communications, Inc., (Pyramid) require a minimum of two megahertz spacing above and below any frequency in the licensee’s radio system.¹⁴ While Somerset does not identify Pyramid as the manufacturer of the vehicular repeater equipment it proposes to use, Somerset contends that no public safety frequency exists in the 150-160 MHz band that is spaced at least two megahertz from all spectrum in use countywide.¹⁵

To satisfy the spectral separation requirement of vehicular repeaters, Somerset examined 20 frequencies available to public safety users between 170 and 174 MHz.¹⁶ Somerset notes that nine frequencies are restricted to Federal forest firefighting, and one frequency is reserved for the stolen vehicle recovery service. Aside from these frequencies, the County notes that there are ten frequencies between 173.20375 and 173.39625 MHz.¹⁷ The County found that all frequencies except 173.210 MHz have co-channel or adjacent channel operations within 40 kilometers of the county border.¹⁸

The closest co-channel station on frequency 173.210 MHz is Station WNYH567 located 74 kilometers from the county border, and the closest adjacent channel station on frequency 173.20375 MHz is Station WPKW529 located 41.2 kilometers from the county border. Somerset conducted an interference study and asserts that with a “worst-case mobile location, there is nearly zero probability of any interference.”¹⁹ We seek comment on Somerset’s analysis.

⁹ Additional Waiver Statement at 1.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ See Wayne County Sheriff Department, *Order*, 27 FCC Rcd 8167 (PSHSB PLD 2012) (*Wayne Order*).

¹⁴ Waiver Request at 1; *Wayne Order*, 27 FCC Rcd at 8170 ¶ 10. See also <http://www.pyramidcomm.com/in-band-filters/> (last visited August 29, 2013).

¹⁵ Waiver Request at 1, 4 Table 1.

¹⁶ Waiver Request at 2. Somerset overlooked frequency 170.150 MHz; however, this frequency is only available to public safety users at within 150 miles of New York, NY, and on a secondary basis to Federal stations. See 47 C.F.R. §§ 90.20(d)(47), 90.265(d). This geographic constraint excludes Somerset County, Maine.

¹⁷ Waiver Request at 2.

¹⁸ *Id.*

¹⁹ *Id.*

We note that the Commission has opened a rulemaking proceeding on vehicular repeaters in response to a petition for rulemaking filed by Pyramid.²⁰ The Commission sought comment on allowing vehicular repeater station operations on six frequencies in the 173 MHz band currently designated for fixed remote control and telemetry operations.²¹ We seek comment on whether any grant to Somerset should be conditioned on the outcome of the rulemaking proceeding. For example, in the event that: (1) Somerset's application is granted; (2) the Commission amends its rules to designate certain VHF frequencies for vehicular repeater use; and (3) at least one of these designated frequencies is available in Somerset's geographic area, we seek comment on whether Somerset, upon license renewal, should be required to relocate from frequency 173.210 MHz to a newly-designated, vehicular repeater frequency if one is available.²² We recognize that Somerset found that none of the six telemetry and remote control channels under consideration in the *Vehicular Repeater Order and NPRM* are available for Somerset's use at this time.²³ Presumably, this condition would require Somerset to reevaluate the availability of those channels at the time of Somerset's license renewal if the Commission designates these channels for vehicular repeaters through the rulemaking proceeding.

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*. Parties may file statements and replies: (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:

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

²⁰ Amendment of Sections 90.20(d)(34) and 90.265 of the Commission's Rules to Facilitate the Use of Vehicular Repeater Units, PS Docket No. 13-229, RM-11635, *Order and Notice of Proposed Rulemaking*, FCC 13-121 (rel. Sept. 16, 2013) (*Vehicular Repeater Order and NPRM*).

²¹ *Id.* The frequencies are 173.2375, 173.2625, 173.2875, 173.3125, 173.3375, and 173.3625 MHz. Telemetry is "the transmission of non-voice signals for the purpose of automatically indicating or recording measurements at a distance from the measuring equipment." See 47 C.F.R. §§ 90.7, 90.20(d)(34).

²² Section 316(a)(1) of the Communications Act of 1934, as amended, permits the Commission to modify a station license if the action will promote public interest, convenience, and necessity. 47 U.S.C. § 316(a)(1).

²³ Waiver Request at 2.

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.

²⁵ See 47 C.F.R. Part 1.

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.

- 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 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 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>. 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 these Applications, 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 and Licensing 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 Deputy Chief, Public Safety and Homeland Security Bureau.

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