



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER FILED BY THE TOWNSHIP OF WOODBRIDGE, NEW JERSEY TO OPERATE A TRUNKED PUBLIC SAFETY COMMUNICATIONS SYSTEM USING PART 90 AND PART 22 FREQUENCIES IN THE TELEVISION CHANNEL 19 (500-506 MHZ) BAND

File No. 0004536973

Comment Date: August 7, 2012

The Public Safety and Homeland Security Bureau seeks comment on the application and waiver request, filed on December 16, 2010, by the Township of Woodbridge, New Jersey (Woodbridge, or the Township), through its Police Department.¹ Woodbridge seeks waiver relief, pursuant to Section 1.925 of the Commission's rules,² to use, for public safety communications purposes, "seven frequency pairs from the 500-506 MHz [TV Channel 19] band segment"³ located beyond 80 kilometers (50 miles) from Philadelphia, Pennsylvania. Woodbridge also seeks waiver relief because the Commission's rules designate two of the frequency pairs for Part 22 point-to-multipoint operations. Woodbridge requests waiver of Sections 20.9(a)(6), 22.621, 22.623(b), 22.625(b)(1), 90.305(a), and 90.307(d) of the Commission's rules.⁴ Woodbridge seeks to proceed with its request in light of recent developments involving the 470-512 MHz band (T-Band), which we summarize herein.⁵

¹ File No. 0004536973 (filed Dec. 12, 2010, amended July 13, 2011, July 18, 2011, January 18, 2012, April 10, 2012, and July 11, 2012), attachments entitled, "Application and Waiver Petition of Woodbridge Township, New Jersey" (Waiver Request); Supplemental Pleading" (dated Jan. 18, 2012) (Supplemental Pleading).

² See 47 C.F.R. § 1.925.

³ Waiver Request at 1. Woodbridge seeks Part 22 frequencies 500.1875, 503.1875, 500.2125, and 503.2125 MHz; and Part 90 frequencies 501.3000, 504.3000, 501.4000, 504.4000, 501.5750, 504.5750, 501.7750, 504.7750, 501.8750, and 504.8750 MHz.

⁴ *Id.* 47 C.F.R. §§ 20.9(a)(6), 22.621, 22.623(b), 22.625(b)(1), 90.305(a), 90.307(d). See Waiver Request at 1, Supplemental Pleading at 1-3. Woodbridge had requested a waiver of 47 C.F.R. § 90.305(b), *see id.*, but Woodbridge amended its application on July 18, 2011 to conform to this rule.

⁵ See File No. 0004536973, Letter from Captain Scott Kuzma, Commanding Officer, Information and Technology Systems, Woodbridge Police Department, to Mr. David Furth, Deputy Chief, Public Safety and Homeland Security Bureau (dated April 10, 2012) (Kuzma Letter); and attachment entitled, "Petition for Waiver of Woodbridge Township, New Jersey" (dated July 10, 2012) (T-Band Suspension Waiver).

The Township states that “[o]n December 5, 2008 the Commission granted Woodbridge’s request to be licensed on fifteen frequency pairs in the channel 20 television band (506-512 MHz).”⁶ The Township notes that the “frequencies are the foundation of Woodbridge’s new trunked land mobile system intended to serve police, fire and emergency services and other government responsibilities of Woodbridge and those of adjacent municipalities.”⁷ According to Woodbridge, “[t]he system was completed in late summer 2009” with an “approximate cost [of] \$10 million.”⁸

The Township states that “[d]uring system startup and optimization, intermittent interference was identified.”⁹ Woodbridge “retained technical experts to identify the type and strength of the interference” and found that “the source of the interference is the digital signal from television (TV) channel 20 station in Waterbury, Connecticut (WTXX).”¹⁰ The Township contends that “[t]he interference is attributed to ducting ...,” which “disables Woodbridge’s system for an unacceptable periods of time for police, fire and emergency response to rely on” because “[t]he network’s portable radios are unable to communicate back to the system.”¹¹ The Township’s “radio engineering consultant and Motorola, Inc. examined alternatives to filter or otherwise overcome the interference;” however the “effort was unsuccessful.”¹²

The instant application and waiver request represents “the second of two applications to remedy the [interference].”¹³ Woodbridge’s “first application and waiver request, to use frequencies within the television channel 16, was granted by the Commission on August 13, 2010 and is authorized under call sign WQMI704.”¹⁴ Woodbridge states that “[t]his second application will substitute frequencies within the 500-506 MHz band segment for the remaining channel 20 frequency pairs still licensed.”¹⁵ Woodbridge “reiterates its commitment to return the channel 20 frequencies to the Commission as soon as the replacement substitute frequencies are deployed and operating effectively.”¹⁶

Woodbridge argues that “use of frequencies in the 500-506 MHz band segment, when combined with the Commission’s authorization to use 482-488 MHz channels, will allow [the Township’s] investment to be preserved and critical improvements to emergency response obtained.”¹⁷ Woodbridge argues that “examination of the VHF, UHF, 470 MHz, and 800 MHz bands presents no alternatives.”¹⁸ Woodbridge states that “[c]hannels in the 700 MHz band were considered,” but “in addition to the challenge that there are more agencies seeking channels than capacity available and length of the review

⁶ Waiver Request at 2. *See* Township of Woodbridge, *Order*, 23 FCC Rcd 17406 (PSSSB PD 2008), and licenses for call signs WQJS363 and WQJS365.

⁷ Waiver Request at 2.

⁸ *Id.* at 2.

⁹ *Id.*

¹⁰ *Id.* On June 18, 2010, Station WTXX changed its call sign to Station WCCT-TV.

¹¹ Waiver Request at 2.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 2-3. *See* Township of Woodbridge, New Jersey, *Order*, 25 FCC Rcd 10917 (PSSSB PD 2010).

¹⁵ Waiver Request at 3.

¹⁶ *Id.*

¹⁷ Waiver Request at 7.

¹⁸ *Id.*

leading to licensing, Woodbridge's system was designed and deployed to use UHF spectrum."¹⁹ Woodbridge asserts that it "knows of no reasoned path to integrate, in a cost efficient manner, [into] its current infrastructure, 700 MHz frequencies."²⁰

The TV Channel 19 band is available for private land mobile radio service (PLMRS) entities, including public safety entities, in the Philadelphia, Pennsylvania urbanized area.²¹ Because the proposed frequencies are not available for use by PLMRS entities in the Northern New Jersey area, Woodbridge seeks a waiver of Section 90.305(a).²² This rule provides that base station transmitter sites must be located within 80 kilometers (50 miles) from the geographic center of an urbanized area listed in Section 90.303.²³ Woodbridge's base stations are located a maximum of 65.2 miles (104.9 kilometers) from the Philadelphia geographic center coordinates.²⁴ Woodbridge notes that "the Commission has granted waivers for numerous agencies and private licensees to operate land mobile operations within 500-506 MHz ... throughout NE New Jersey, NW Pennsylvania, and SE New York."²⁵ The Township argues that its proposed operations "will be a *de minimis* addition to the current 500-506 MHz environment."²⁶ In addition, because Woodbridge proposes to operate in an area less than ninety miles from the adjacent TV Channel 18 Station WMBC, Montclair, New Jersey, it requests a waiver of Section 90.307(d).²⁷ Woodbridge entered into a Memorandum of Understanding with the licensee of Station WMBC, Mountain Broadcasting Corporation.²⁸

Regarding the four Part 22 frequencies,²⁹ Woodbridge seeks waiver of four rules. Section 22.621 provides that the frequencies are allocated for assignment to transmitters utilized within point-to-multipoint systems that support transmitters that provide public mobile service.³⁰ Woodbridge argues that since co-channel public safety licensees Nassau County Police Department, New York (Nassau) and the County of Burlington, New Jersey (Burlington) operate on the frequencies, "no use of these channels is possible under the provisions of Section 22.621."³¹ Moreover, The Township obtained conditional

¹⁹ *Id.* As we noted above, Woodbridge is operating on TV Channel 20 band frequencies.

²⁰ Waiver Request at 7.

²¹ *See* 47 C.F.R. §§ 90.303, 90.305(a).

²² *See* Waiver Request at 5.

²³ *See* 47 C.F.R. §§ 90.303, 90.305(a). While these rules apply to the Part 90 frequencies, Woodbridge also would need a waiver of 47 C.F.R. § 22.625(a)(1) to use the Part 22 frequencies at locations more than 80 kilometers from Philadelphia.

²⁴ *See* Waiver Request at 5.

²⁵ Waiver Request at 4-5.

²⁶ *Id.* at 5.

²⁷ *See id.* at 6. *See also* 47 C.F.R. § 90.307(d). A land mobile base station which has associated mobile units must be separated from a protected adjacent channel television station by a minimum distance of 145 kilometers (90 miles). *Id.*

²⁸ *See* Waiver Request, Attachment 2, Memorandum of Understanding between the Township of Woodbridge, New Jersey, and Mountain Broadcasting Corporation (May 11, 2010).

²⁹ *See supra* n.3.

³⁰ 47 C.F.R. § 22.621.

³¹ Supplemental Pleading at 1-2.

concurrences from Nassau and Burlington Counties.³² Next, Section 20.9(a)(6) provides that Part 22 frequencies shall be regulated as a commercial mobile radio service.³³ Woodbridge states that “[i]f the Commission determines that Woodbridge’s use of the frequencies for public safety communications is appropriate, the purpose of section 20.9(a)(6), that Woodbridge’s use be accompanied by common carriage responsibilities, would not be served” and “would undermine effective public safety communications.”³⁴ Next, Section 22.623(b) requires that the channels may be assigned in an unpaired configuration only to control base stations in the public mobile service.³⁵ Woodbridge states that “[t]he purpose of Rule 22.623(b), to format how frequencies are assigned and deployed, would not be served as it is directed to point to multi point operation services under Part 22” rather than “the public safety service, where channel pairs for base and mobile operations is the norm.”³⁶ Finally, Section 22.625(b)(1) requires that control transmitter locations must be within 80 kilometers (50 miles) of the designated location, in this case, Philadelphia.³⁷ Woodbridge states that its “analysis [provided in the original Waiver Request], and that the concurrence of the relevant TV broadcast station has been obtained, indicates that while the purpose of the rule is preserved, the more relevant analysis is under Part 90 of the Commission’s rules.”³⁸

On April 10, 2012, Woodbridge filed a letter³⁹ to further describe its request in light of the Middle Class Tax Relief and Job Creation Act of 2012,⁴⁰ which President Barack Obama signed into law on February 22, 2012. Section 6103 of the Spectrum Act provides that, not later than nine years after the date of enactment, the Commission shall “reallocate the spectrum in the 470-512 MHz band ... currently used by public safety eligibles”⁴¹ The Act instructs the Commission to “begin a system of competitive bidding under Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new initial licenses for the use of the spectrum.”⁴² It also provides that “relocation of public safety entities from the T-Band Spectrum” shall be completed not later than two years after completion of the system of competitive bidding.”⁴³

Woodbridge states that “[a]ll infrastructure and subscriber equipment supporting the system have been deployed.”⁴⁴ Woodbridge states that “[m]igration to the proposed channel 19 frequency pairs

³² See Waiver Request, Attachment 3, Letter from Lieutenant Thomas M. Golder, Nassau County Police Department to Federal Communications Commission (dated July 13, 2010); File No. 0004536973, attached Letter from Richard K. Dreby, Director, Public Safety Services, County of Burlington, to Federal Communications Commission (dated June 23, 2010).

³³ 47 C.F.R. § 20.9(a)(6).

³⁴ Supplemental Pleading at 2.

³⁵ 47 C.F.R. § 22.623(b).

³⁶ Supplemental Pleading at 2.

³⁷ 47 C.F.R. § 22.625(b)(1).

³⁸ Supplemental Pleading at 2.

³⁹ See Kuzma Letter.

⁴⁰ See Pub. L. No. 112-96, 126 Stat. 156 (2012) (Spectrum Act).

⁴¹ *Id.*, § 6103(a).

⁴² *Id.*

⁴³ *Id.*, § 6103(b), (c).

⁴⁴ See Kuzma Letter at 2.

requires only software and conformance adjustments to the infrastructure and subscriber equipment, the cost of which has been authorized and funded.”⁴⁵ Woodbridge contends that its “proposal, including returning all channel 20 frequency pairs to the Commission, will not encroach upon the Commission reallocating the 470-512 MHz band to commercial services or add costs to the relocation process.”⁴⁶ Woodbridge states, “Public Law 112-96 does not preclude modifications to public safety licensees in the 470-512 MHz band segment.”⁴⁷

On April 26, 2012, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau (Bureaus) issued a public notice announcing a limited suspension of the acceptance and processing of certain applications for Part 22 and Part 90 services operating in the 470-512 MHz spectrum band (T-Band)⁴⁸ that could alter the spectrum landscape. The purpose of the suspension is to stabilize the spectral environment while the Commission considers issues surrounding future use of the T-Band and implementation of the Spectrum Act.⁴⁹ Specifically, the Bureaus will not accept or process applications for applications that seek to modify existing licenses by, *inter alia*, changing frequencies,⁵⁰ which affects Woodbridge’s application. The *Suspension Notice* provides that applicants may have recourse to the waiver provisions in Section 1.925 to request an exception to the filing and processing suspension.⁵¹

On July 10, 2012, Woodbridge filed a request for waiver of the *Suspension Notice*.⁵² Woodbridge details two ducting interference incidents on June 12, and July 3, 2012, that disabled the public safety radio services operating on the channel 20 frequencies for most of the day.⁵³ The Township notes that “[e]ach circumstance had a profound and negative effective on emergency response and all government services in Woodbridge and the adjoining municipality the system now serves, and engages the Township’s senior leadership at each occurrence.”⁵⁴ Woodbridge reiterates that it has no reasonable alternative and argues that “channel 19 frequencies are the only path to resolve the difficult and dangerous environment.”⁵⁵ Moreover, Woodbridge argues, “[b]y exchanging the channel 20 frequencies, Woodbridge gains no leverage in a transition and relocation from the 470-512 MHz band.”⁵⁶ Woodbridge continues, “[y]et, its emergency response responsibilities, and that of adjacent municipalities, will be meaningfully improved because ducting will no longer disable the system’s portable and mobile radios.”⁵⁷

⁴⁵ *Id.* at 2.

⁴⁶ *Id.* at 2.

⁴⁷ *Id.* at 3.

⁴⁸ Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, 27 FCC Rcd 4218 (WTB/PSHSB 2012) (*Suspension Notice*).

⁴⁹ *Id.* at 1-2.

⁵⁰ *See id.* at 2.

⁵¹ *Id.*, note 4.

⁵² *See* Suspension Waiver.

⁵³ *See id.* at 4.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* at 4-5.

The Township states that the channel exchange “will correct an unacceptable environment endangering the public and responding officers.”⁵⁸

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 on or before the dates indicated on the first page of this *Public Notice*. All 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),⁵⁹ 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.*”⁶⁰ 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.

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 has been filed. Users can view the pleading by clicking on the link for the specific comment in the Description field. The general public will not be able to view confidential pleadings.

⁵⁸ *Id.* at 5.

⁵⁹ 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.

⁶⁰ See 47 C.F.R. Part 1.

For additional information or assistance on how to file a 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 can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the Waiver Request and 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.bcpweb.com>, by email at fcc@bcpweb.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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