



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

DA 00-1913
Released: August 21, 2000

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY THE STATE OF FLORIDA TO ALLOW USE OF GENERAL CATEGORY OFFSET CHANNELS

Comment Date: September 5, 2000

Reply Comment Date: September 15, 2000

On August 8, 2000, the State of Florida (Florida) submitted a request for waiver of Sections 90.613 and 90.645 of the Commission's Rules, 47 C.F.R. §§ 90.613, 90.645, to enable it to become licensed on the nineteen offset frequencies within the twenty contiguous 800 MHz General Category channels for which it already is licensed. Section 90.613 of the Commission's Rules indicates the channel designations of frequencies available for assignment to eligible applicants. Section 90.645 of the Commission's Rules provides that an applicant or licensee is limited to 5 contiguous 800 MHz band channels for a system requiring more than the normal single channel bandwidth.

By way of background, Florida is licensed on 800 MHz General Category channels 114-133. The specific channel centers for the twenty base station frequencies currently licensed to Florida are 808.8375, 808.8625, 808.8875, 808.9125, 808.9375, 808.9625, 808.9875, 809.0125, 809.0375, 809.0625, 809.0875, 809.1125, 809.1375, 809.1625, 809.1875, 809.2125, 809.2375, 809.2625, 809.2875 and 809.3125 MHz. In 1997, the Wireless Telecommunications Bureau (Bureau) granted Florida a waiver of the General Category freeze to permit Florida to file applications for new or modified stations, in order to facilitate the construction of Florida's statewide 800 MHz public safety system. *See* State of Florida, *Order*, 12 FCC Rcd 11567 (WTB 1997). However, the Bureau denied Florida's request that the channels not be subject to competitive bidding. In that connection, we note that the 800 MHz General Category auction commenced August 16, 2000. *See* Due Diligence Announcement for the Upcoming 800 MHz Spectrum Auctions, *Public Notice*, DA 00-1829 (rel. August 11, 2000). The spectrum included in the 800 MHz General Category auction will be licensed by channel block under a geographic area licensing approach with service areas based on Economic Areas; channel block F is channels 101-125 and block FF is channels 126-150.

Florida argues that a waiver is warranted because application of the rule to its unique or unusual factual circumstances would yield a result contrary to the public interest. Florida contends that the nineteen offset frequencies it seeks to use will ensure the best possible coverage performance, maximum efficiency and greater communications capacity. Florida asserts that the unique channel configuration of its wide-area footprint and channel design overlaps in such a way that nearly the entire state is covered by the composite footprint of the stations and thus another user could not gain access to the requested

offset frequencies.

Interested parties may file comments on Florida's Waiver Request on or before September 5, 2000. Parties interested in submitting reply comments must do so on or before September 15, 2000. All comments should reference Florida's Waiver Request, including the DA number of this *Public Notice*, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554. A copy of each filing should be sent to International Transcription Services, Inc. (ITS), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800, and to Karen Franklin, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 12th Street, S.W., 4-A405, Washington, D.C. 20554.

The full text of the Waiver Request, comments and reply comments will be available for inspection and duplications during regular business hours in the Reference Information Center (RIC) of the Consumer Information Bureau, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554. Copies may also be obtained from ITS. For further information regarding the public reference file for this Request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1350.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See 47 C.F.R. §§ 1.1200(a), 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).

For further information, contact Karen Franklin of the Policy and Rules Branch of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau at (202) 418-0680, TTY (202) 418-7233.

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau