

**STATE OF MARYLAND
DEPARTMENT OF BUDGET AND MANAGEMENT
OFFICE OF INFORMATION TECHNOLOGY**

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WIRELESS TELECOMMUNICATIONS BUREAU
PUBLIC SAFETY AND PRIVATE WIRELESS DIVISION
WASHINGTON, DC 20554**

In the Matter of)	DA 99-1812
)	
Washington, DC Metropolitan Area)	
Regional Public Safety Plan)	GN Docket No. 90-7
(Region 20))	
)	
Philadelphia Metropolitan Area)	
Regional Public Safety Plan)	GN Docket No. 89-573
(Region 28))	

**WRITTEN EX PARTE PRESENTATION:
REPLY COMMENTS**

Submitted by:

State of Maryland
Department of Budget and Management
Office of Information Technology
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September 24, 1999

**STATE OF MARYLAND
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I. INTRODUCTION

1. Before the Federal Communications Commission (Commission) for consideration¹ are the **Written Ex Parte Presentation: Response Statement² (RESPONSE STATEMENT)** and **Second Addendum to the Petition to Amend the Region-20 821 MHz Public Safety Plan³ (SECOND ADDENDUM)** submitted by the Region-20 821 MHz Public Safety Regional Plan Review Committee (Region 20) pursuant to the conditional acceptance **ORDER** regarding the Region 20 and Region 28 Public Safety Plans⁴. The following **REPLY COMMENTS** are hereby submitted in response to the State of Delaware (Delaware) **COMMENTS⁵** of September 17, 1999.

II. REPLY COMMENTS

2. Delaware states that “the FCC should fully consider whether renewal of the State of Maryland’s licenses for call sign WPF834, WPF842, and WPF858 would serve the public interest particularly as these applications propose to perpetuate a risk of co-channel interference with Delaware’s existing operational system on channels 642, 678, 730, and 732.”⁶ The State of Maryland (Maryland) **rejects** Delaware’s assertion that the potential for co-channel interference exists with construction of the above referenced licenses. Call signs WPF834, WPF842, and WPF858 are all west of Baltimore City, Maryland and pose no potential for co-channel interference with the non-NPSPAC compliant, constructed Delaware system, except to the extent where the Delaware system 40 and/or 25 dbu contours extend into the Baltimore City area.⁷ Furthermore, Maryland has concurred with the effort to effectively solve inter-regional frequency conflicts by participating in the resort process described in the **RESPONSE STATEMENT** and mutually agreed to by Regions 20, 28, and 36. However, in a letter from Mr. David Horowitz – Chief, FCC’s Private Wireless Division to Mr. Richard Reynolds, Chair – Region 28 Regional Plan Review Committee⁸, Mr. Horowitz states that all perceived State of Maryland Window 1 frequency conflicts are “legally moot”.

3. Region 20 requested Commission action on a **Motion for Emergency Injunctive Stay⁹** against Delaware on December 12, 1996 when Region 20 and Maryland discovered that the 40 and/or 25 dbu system contours of the **proposed** Delaware system extended over 40 miles into Maryland, including both Annapolis and Baltimore City, Maryland, creating potential harmful interference to public safety

¹ **PUBLIC NOTICE**, DA 99-1812, September 3, 1999.

² **WRITTEN EX PARTE PRESENTATION: RESPONSE STATEMENT**, GN Dockets Nos. 90-7 & 89-573, Region 20 RPRC Legislative/Regulatory Affairs, September 2, 1999.

³ **SECOND ADDENDUM TO THE PETITION TO AMEND THE REGION 20 821 MHZ PUBLIC SAFETY PLAN**, GN Docket No. 90-7, Region 20 RPRC Legislative/Regulatory Affairs, September 2, 1999.

⁴ **ORDER**, GN Dockets Nos. 90-7 and 89-573, DA 96-2066, December 9, 1996, Paragraphs 10 (a) and 11.

⁵ **COMMENTS**, GN Dockets Nos. 90-7 and 89-573 / DA 99-1812, State of Delaware, Office of Information Services, September 17, 1999.

⁶ **Ibid.**, Page 2.

⁷ **MOTION FOR EMERGENCY INJUNCTIVE STAY**, Region 20 RPRC against the State of Delaware 821 MHz Station License Authorization, December 12, 1996.

⁸ **Letter from Mr. David Horowitz to Mr. Richard Reynolds**, March 24, 1997.

⁹ **MOTION FOR EMERGENCY INJUNCTIVE STAY**, Region 20 RPRC against the State of Delaware 821 MHz Station License Authorization, December 12, 1996.

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DEPARTMENT OF BUDGET AND MANAGEMENT
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communications systems and public safety eligibles within the State of Maryland. The Commission has failed to timely act on this request and has, instead, permitted Delaware to continue construction¹⁰ of a non-compliant NPSPAC system. The Commission's failure to require Delaware to comply with the Report and Order in GN Docket No. 87-112¹¹ (**NPSPAC Report and Order**) has negatively impacted Maryland and public safety eligibles within Maryland and Region 20 in their efforts to build 821 MHz communications systems free from harmful interference.

4. Delaware states that "the State of Delaware is directly affected by the pending amendments to the public safety regional frequency assignment plans and, indeed, has coordinated in good faith with its neighboring jurisdictions in an attempt to resolve competing spectrum needs." Region 28 (Delaware) has consistently failed to sign or has opposed previously agreed upon "inter-regional coordination procedures"¹². Delaware's **COMMENTS**, if acted upon favorably by the Commission, will again extend the issuance of licenses to public safety eligibles within Region 20 and will **adversely affect public safety** in both Maryland and Virginia (most notably Loudon County, Virginia).
5. This inaction to unconditionally approve the Region 20 Amendment¹³ has adversely affected Maryland's attempt to obtain the additional frequencies necessary to build a statewide 821 MHz communications system or from partnering with other public safety eligibles within the State to build a comprehensive 821 MHz communications system as envisioned in the national plan. Commission consideration of Delaware's indirect **Motion to Deny** renewal of the State of Maryland license authorizations WPF834, WPF842, and WPF858 would again **negatively impact** Maryland's public safety community and **IS NOT** in the **public interest**.

III. CONCLUSION

6. Delaware's **COMMENTS**¹⁴ and **REPLY COMMENTS**¹⁵ both imply that Delaware will be able to solve the current system problems by the use of Maryland (Region 20) frequencies and "Intellirepeaters" to "fill in" dead spots. Such an implication is fundamentally flawed, both from a technical and legal standpoint. First, the Delaware system was never designed to work indoors¹⁶ and, if the use of existing frequencies in the Intellirepeaters will not solve the problem, then additional frequencies will also not solve a system design problem. Second, and more important, granting by the Commission to Delaware to use Maryland (Region 20) 821 MHz frequencies would be a violation of the **NPSPAC Report and Order** and would irreparably harm public safety eligibles within Maryland and Virginia (Region 20) that have NPSPAC compliant systems designed and funding allocated, but lack the licenses necessary to construct

¹⁰ **COMMENTS**, GN Dockets Nos. 90-7 and 89-573 / DA 99-1812, State of Delaware, Office of Information Services, September 17, 1999.

¹¹ **REPORT AND ORDER**, GN Docket No. 87-112, FCC 87-359, 3 FCC Rcd 905 (1987).

¹² **Letters from Mr. Alan Kealey to Mr. Norm Coltri**, April 7, 1997, April 18, 1997, and May 9, 1997.

¹³ **AMENDMENT TO THE WASHINGTON DC METROPOLITAN ARE REGIONAL PUBLIC SAFETY PLAN (REGION 20)**, January 26, 1996.

¹⁴ **COMMENTS**, GN Dockets Nos. 90-7 and 89-573 / DA 99-1812, State of Delaware, Office of Information Services, September 17, 1999.

¹⁵ **REPLY COMMENTS**, GN Dockets Nos. 90-7 and 89-573 / DA 99-1812, State of Delaware, Department of Public Safety, September 23, 1999.

¹⁶ **The News Journal**, Radio fix for NCCo elusive, by Steven Church – Staff Reporter, September 3, 1999, @ <http://www.delawareonline.com/news/story290399.shtml>

**STATE OF MARYLAND
DEPARTMENT OF BUDGET AND MANAGEMENT
OFFICE OF INFORMATION TECHNOLOGY**

due to Commission failure to approve the **SECOND ADDENDUM TO THE PETITION TO AMEND THE REGION 20 821 MHZ PUBLIC SAFETY PLAN**¹⁷.

7. Maryland concurs with the Region 20 **REPLY COMMENTS**¹⁸ and requests immediate issuance of an **unconditional MEMORANDUM OPINION AND ORDER** acknowledging the acceptance of the Region-20 filings and the removal of all contingencies from the **ORDER** of December 9, 1996.
8. Commission issuance of an **unconditional MEMORANDUM OPINION AND ORDER** is appreciated by the State of Maryland and is in the **public interest**.

Respectfully submitted,

/s/ ***G. Edward Ryan, II***

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¹⁷ **SECOND ADDENDUM TO THE PETITION TO AMEND THE REGION 20 821 MHZ PUBLIC SAFETY PLAN**, , GN Docket No. 90-7, Region 20 RPRC Legislative/Regulatory Affairs, September 2, 1999.

¹⁸ **WRITTEN EX PARTE PRESENTATION: REPLY COMMENTS**, GN Dockets Nos. 90-7 & 89-573, Region 20 RPRC Legislative/Regulatory Affairs, September 23, 1999.