



PUBLIC NOTICE

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

News Media Information 202 / 418-0500
Internet <http://www.fcc.gov>
TTY 1-888-835-5322

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON MARITEL, INC. PROPOSAL FOR SHARED USE OF MARITIME VHF CHANNELS 87B AND 88B FOR AUTOMATIC IDENTIFICATION SYSTEMS

Comment Date February 27, 2004

Reply Comment Date March 5, 2004

In a Public Notice released on November 7, 2003, the Wireless Telecommunications Bureau (Bureau) solicited comment on petitions filed by MarITEL, Inc (Maritel) and the National Telecommunications and Information Administration (NTIA), respectively, concerning the use of VHF maritime Channels 87B (161.975 MHz) and 88B (162.025 MHz) for Automatic Identification Systems (AIS).¹ The Maritel and NTIA petitions advocate conflicting proposals. Generally, Maritel seeks a declaratory ruling that AIS transmitters may not operate on channels 87B and 88B, while NTIA proposes that the Commission allocate Channels 87B and 88B exclusively for AIS use. On February 9, 2004, Maritel submitted to the Commission a new proposal that it believes can serve as a foundation for a consensus approach.² Specifically, Maritel proposes to support the NTIA request, provided that Maritel is permitted to share the channels.³ This Public Notice seeks comment on the *Maritel Sharing Proposal*.

By way of background, Channels 87B and 88B are allocated internationally for AIS use, but Administrations may use other channels if Channels 87B or 88B are not available. In 1998, the Commission directed that each licensee of VHF Public Coast Service areas 1-9 must negotiate with the Coast Guard regarding the designation of two narrowband channel pairs for domestic AIS use.⁴ The

¹ See Wireless Telecommunications Bureau Seeks Comment on MarITEL, Inc. Petition for Declaratory Ruling and National Telecommunications and Information Administration Petition for Rulemaking Regarding the Use of Maritime VHF Channels 87B and 88B, *Public Notice*, 18 FCC Rcd 23260 (WTB PSPWD 2003) (November 7 Public Notice). The Bureau separately requested comment on a subsequent proposal by Maritel to serve as exclusive AIS frequency coordinator. See Wireless Telecommunications Bureau Seeks Comment on MarITEL, Inc. Proposal to Serve as Automatic Identification System (AIS) Frequency Coordinator, *Public Notice*, 18 FCC Rcd 24057 (WTB PSPWD 2003).

² See Letter dated February 9, 2004 from Dan Smith, President & CEO, MarITEL, Inc., to Catherine W. Seidel, Deputy Chief, Wireless Telecommunications Bureau (*Maritel Sharing Proposal*). Maritel initially submitted a sharing proposal on February 3, 2004. Maritel states that the February 9 submission is intended to replace the February 3 submission, and we therefore confine our discussion to the *Maritel Sharing Proposal* dated February 9, 2004.

³ *Id.* at 1.

⁴ 47 C.F.R. § 80.371(c)(3).

Commission also provided that it would revisit the issue and select the channels if good faith negotiations did not yield an agreement.⁵ In 2001, Maritel, the licensee of VHF Public Coast Service Areas 1-9, executed a Memorandum of Agreement (MOA) with the Coast Guard designating maritime VHF channels 87A/B for AIS use. In 2003, however, Maritel terminated the MOA. Maritel and NTIA subsequently filed the petitions described above.

Maritel now states that it supports the NTIA request for the reallocation of Channels 87B and 88B for exclusive AIS use, contingent on adoption of its sharing proposal, and that it would not seek payment from either the Coast Guard or ship station licensees as a prerequisite to allowing them to use spectrum licensed to Maritel for AIS.⁶ In return, the NTIA would authorize the use of Channel 88B by only the Coast Guard, Maritel, and ship stations for AIS. Under the *Maritel Sharing Proposal*, the Coast Guard would use the two channels for shore station operations to support Vessel Traffic Systems (VTS) and surveillance applications for homeland security that are consistent with the Maritime Transportation Security Act of 2002,⁷ but its use of the channels would be confined to those purposes.⁸ Maritel would have the right to use the two channels in all maritime areas for shore station operations to support non-Coast Guard AIS applications.⁹ According to Maritel, the proposed sharing can be accomplished using channel loading and time slot allocation, and could be implemented in such a way that Coast Guard and ship station use of the channels for safety and homeland security communications would always have priority over communications not related to maritime safety or homeland security.¹⁰

Maritel further proposes that the Commission adopt regulations precluding reception and use of AIS transmissions except by Maritel, the Coast Guard, and ship stations.¹¹ Maritel states that regulations of such a nature would be consistent with Section 705 of the Communications Act of 1934, as amended.¹² The *Maritel Sharing Proposal* also contemplates modifications of the Commission's rules governing authorization of AIS devices in order to prevent AIS operations on Channels 87B and 88B from causing interference to adjacent VHF public coast station channels.¹³ Maritel specifically requests that the Commission adopt a new methodology for determining whether AIS devices adhere to the emissions mask for limitations, and establish rules to ensure that 25 kHz simplex operations, as contemplated for AIS on Channels 87B and 88B, do not cause interference to adjacent duplex maritime channels.¹⁴ It also requests that the Commission suspend its current AIS equipment type acceptance process.

⁵ See Amendment of the Commission's Rules Concerning Maritime Communications, *Third Report and Order and Memorandum Opinion and Order*, PR Docket No. 92-257, 13 FCC Rcd 19853, 19876-77 ¶¶ 48-49 (1998).

⁶ *Maritel Sharing Proposal* at 2.

⁷ P.L. 107-295, 116 Stat. 2084 (Nov. 25, 2002).

⁸ *Maritel Sharing Proposal* at 2.

⁹ *Id.*

¹⁰ *Id.* at 3-4.

¹¹ *Id.* at 2.

¹² 47 U.S.C. § 605 ("No person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by radio and use such communication for his own benefit or for the benefit of another not entitled thereto.")

¹³ *Id.* at 5.

¹⁴ *Id.* at 6.

Interested parties may file comments on the *Maritel Sharing Proposal* on or before February 27, 2004. Parties interested in submitting reply comments must do so on or before March 5, 2004. All comments should reference the subject request including the DA number of this Public Notice, and the RM number of the NTIA petition (RM-10321), and should be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-325, Washington, D.C. 20554.¹⁵ A copy of each filing also should be sent to 1) Qualex International, Inc., Portals II, 445 Twelfth Street, S.W., Room CY-B402, Washington, D.C. 20554, 2) Maria Ringold, Federal Communications Commission, Consumer and Governmental Affairs Bureau, Reference Information Center (RIC), 445 Twelfth Street, S.W., Room CY-B529, Washington, D.C. 20554, 3) Tim Maguire, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 445 Twelfth Street, S.W., Room 4-C342, Washington, D.C. 20554, and 4) Jeffrey Tobias, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 445 Twelfth Street, S.W., Room 4-A366, Washington, D.C. 20554.

The *Maritel Sharing Proposal* and responsive comments and reply comments will be available for inspection and duplication during regular business hours in the Reference Information Center (RIC) of the Consumer Information Bureau (CIB), Federal Communications Commission, 445 Twelfth Street, S.W., Room CY-A257, Washington, D.C. 20554. The *Maritel Sharing Proposal* also is accessible in the Commission's Electronic Comment Filing System (ECFS) under RM-10821. Copies may also be obtained from the Commission's duplicating contractor, Qualex International, Inc., Portals II, 445 Twelfth Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. For further information regarding the public reference file for this request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

Because of the policy implications and potential impact of this proceeding on persons not parties to this request, we believe it would be in the public interest to treat this matter 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), 1.1206, rather than a restricted proceeding under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Therefore, any *ex parte* presentations that are made with respect to the issues involved in the subject request, subsequent to the release of this Public Notice, 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 Tim Maguire or Jeffrey Tobias of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau at (202) 418-0680, TTY (202) 418-7233 or via email to Tim.Maguire@fcc.gov or Jeff.Tobias@fcc.gov.

By the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau

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¹⁵ The address for FCC filings should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 Last Hampton Drive, Capitol Heights, MD 20743. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).