



# PUBLIC NOTICE

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## WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER OF TELEVISION INTERFERENCE RULES BY THE STATE OF NEW YORK TO IMPLEMENT A 700 MHz PUBLIC SAFETY COMMUNICATIONS SYSTEM

WT Docket No. 06-18

**Comment Date: March 13, 2006**

**Reply Comment Date: March 28, 2006**

On November 1, 2005, the State of New York (New York) filed a request for waiver<sup>1</sup> of Section 90.545 of the Commission's Rules, 47 C.F.R. § 90.545, to permit implementation of a new 700 MHz public safety radio communications system within specified counties in the greater New York City metropolitan area (Downstate New York)<sup>2</sup> prior to the end of the transition from analog television (TV) to digital television (DTV). New York holds a statewide, public safety license, Station WPTZ779, authorizing the use of certain frequencies within the 764-776 MHz and 794-806 MHz frequency bands. Section 90.545 requires that public safety licensees operating in these bands protect the reception of co-channel and adjacent channel TV/DTV signals until the end of the DTV transition. New York requests a waiver to permit it to operate with less distance separation from TV/DTV stations in the region than is required by Section 90.545.

New York states that many public safety agencies throughout the state currently operate obsolete facilities on various incompatible frequency bands.<sup>3</sup> Many radio systems lack sufficient in-building or wide-area coverage necessary to provide adequate response during emergencies. In particular, New York states that the Metropolitan Transportation Authority Police Department's communications suffer from lack of interoperability with local police departments and insufficient coverage in rail stations and tunnels. New York is in the process of implementing an integrated Statewide Wireless Network (SWN) to enhance interoperability for state and local public safety and public service agencies. New York states that there is a critical and immediate need for deployment in Downstate New York, and the SWN will

<sup>1</sup> See Request for Waiver and 90.545 Engineering Study, dated Oct. 19, 2005, filed by the State of New York on Nov. 1, 2005 (Waiver Request).

<sup>2</sup> "Downstate New York" consists of Dutchess, Orange, Putnam, Rockland, Westchester, Bronx, New York, Richmond, Kings, Queens, Nassau, and Suffolk Counties.

<sup>3</sup> Waiver Request at 2-3.

address these issues by establishing a common, cost-efficient, and fully interoperable infrastructure for all state agencies, and local agencies that choose to participate.

Section 90.545(c)(1)(ii) of the Commission's Rules, 47 C.F.R. § 90.545(c)(1)(ii), permits licensees to submit an engineering study to meet TV/DTV protection requirements, subject to Commission approval. In support of this request, New York prepared an engineering study that, it contends, demonstrates that the proposed public safety operations in Downstate New York will not cause significant interference to off-air TV reception on TV Channels 62, 63, 64, 67, 68 and 69.<sup>4</sup> New York has submitted analyses of the effects of its proposed fixed and mobile operations on nine TV stations. New York opines that while some interference is predicted, the number of affected viewers is *de minimis* and, in any event, the interference will end upon the completion of the DTV transition. We ask commenters to address whether this waiver request is an appropriate vehicle for considering approval of a system that is allowed to cause some amount of predicted interference to TV and DTV service, or whether this issue should be considered first in another context, such as the broader Qualcomm request that is pending before the Commission.<sup>5</sup> With respect to the interference issue, we also seek comment on whether New York any waiver granted to New York should be conditioned on a commitment to correct any reported interference to TV or DTV reception, or if there are specific restrictive conditions that we should otherwise impose to minimize such interference.

### GENERAL INFORMATION

Comments must be filed no later than March 13, 2006, and reply comments must be filed no later than March 28, 2006. All filings concerning matters referenced in this Public Notice should refer to WT Docket No. 06-18. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS): <http://www.fcc.gov/cgb/ecfs/>, (2) the Federal Government's eRulemaking Portal: <http://www.regulations.gov>, or (3) paper copies.<sup>6</sup>

- **ECFS Filers:** If multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full names, U.S. Postal Service mailing addresses, and the applicable docket or rulemaking number. Interested parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.
- **eRulemaking Filers:** Filers should follow the instructions provided on the website for submitting comments.

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<sup>4</sup> See 90.545 Engineering Study, Downstate New York 700 MHz Public Safety Operations, filed by the State of New York on Nov. 1, 2005.

<sup>5</sup> See Pleading Cycle Established for Qualcomm Incorporated Petition for Declaratory Ruling, *Public Notice*, WT Docket No. 05-7, 20 FCC Rcd 1293 (WTB MD 2005) (seeking comment on request for (1) clarification that Office of Engineering and Technology Bulletin No. 69, "Longley-Rice Methodology for Evaluating TV Coverage and Interference" (OET-69) is an acceptable basis for demonstrating compliance with Section 27.60 of the Commission's Rules; (2) declaratory ruling that that, for purposes of making engineering showings pursuant to Section 27.60(b)(1)(iii), predicted interference to not more than two percent of the population served by a TV/DTV station is *de minimis* and therefore acceptable; and (3) that the Commission establish streamlined processing procedures for OET-69 showings, including a rebuttable presumption that such showings are sufficient when no objections are filed with the Commission).

<sup>6</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. 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.
  - The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. 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 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 should be addressed to 445 12<sup>th</sup> Street, SW, Washington, DC 20554.

Copies of this public notice, and the waiver request noted herein, will be posted on the web at [http://gullfoss2.fcc.gov/prod/ecfs/comsrch\\_v2.cgi](http://gullfoss2.fcc.gov/prod/ecfs/comsrch_v2.cgi) and will be available for public inspection and duplication during regular business hours in the FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Copies of the comments and other filings in this docket also may be obtained from the Commission's duplicating contractor, Best Copy and Printing, Inc. in person at 445 12th Street, SW, Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300 or (800) 378-3160, via facsimile at (202) 488-5563, or via e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). 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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This proceeding is designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>7</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.<sup>8</sup> Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules.<sup>9</sup>

For further information, contact Mr. Thomas Eng, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau at (202) 418-0019, TTY (202) 418-7233, or via email to [Thomas.Eng@fcc.gov](mailto:Thomas.Eng@fcc.gov).

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<sup>7</sup> 47 C.F.R. §§ 1.1200(a), 1.1206.

<sup>8</sup> 47 C.F.R. § 1.1206(b).

<sup>9</sup> *Id.*