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May 2, 2007

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: ET Docket No. 07-27, RM-11359, Request for Waiver of Section 15.231
Ex Parte Communication

Dear Ms. Dortch:

On behalf of the Los Angeles Sheriff's Department, pursuant to Section 1.1206(b)(2) of the Commission's Rules, I am electronically filing this letter to report an oral *ex parte* communication in the above-referenced dockets.

Yesterday, Commander Charles "Sid" Heal of the Department and I met with William Hurst (by videoconference), Julius Knapp, Karen Rackley, John Reed, Mark Settle, and Alan Stillwell, all of the Commission staff.

We reiterated the points raised in the Department's pleadings. We also discussed possible mechanisms for imposing waiver conditions on ultimate end users, and whether that goal could better be achieved by substituting another party as the waiver applicant.

A copy of our presentation outline is attached.

Please do not hesitate to call with any questions.

Respectfully submitted

Mitchell Lazarus
Counsel for the Los Angeles Sheriff's Department

cc: Meeting participants
Dr. Rashmi Doshi
Geraldine Matise

Los Angeles Sheriff's Department

Request for Waiver of Section 15.231 of the Commission's Rules

ET Docket No. 07-27
RM-11359

May 1, 2007

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About the System

- ❑ Garage door “overmaster”
 - opens most remote-controlled garage doors
 - analogous to an electronic master key
- ❑ Emulates the resident’s remote – triggers the normal opening cycle
- ❑ For use only by police:
 - entry pursuant to a warrant, or
 - exigent circumstances (*e.g.*, hostage situation).

System Description

- ❑ Two units: “master controller” and “code grabber”
- ❑ Master controller (“device”) is the subject of this request
 - sized like a TV remote – 9 inches long (plus 9 inch antenna), weighs one pound (subject to change)
 - has touch-screen LCD display and miniature joystick
 - manually operated; requires three actions to transmit
- ❑ Code grabber: can be placed on subject premises to intercept and re-transmit codes from occupant's remote
 - 3.5 x 2.5 x 1.2 inches; weight 8 oz (subject to change)
 - Complies with FCC rules; no waiver required.

Need for Waiver

- ❑ Device operates under Section 15.231
 - uses 288, 300, 315, 318, 390 MHz
- ❑ Rule provides:
 - “A manually operated transmitter shall employ a switch that will automatically deactivate the transmitter within not more than 5 seconds of being released.” 47 C.F.R. Sec. 15.231(a)(1)
- ❑ Device must sometimes operate longer than 5 seconds to produce the correct code
 - typical median operation: 35 minutes (estimate may change as development proceeds)
- ❑ Device otherwise in full compliance (frequency, power, bandwidth, stability, etc.)

Public Interest

- ❑ Device will reduce risks inherent in forcible entry
 - safer entry for officers -- especially where a suspect is barricaded indoors
 - safer for third parties (*e.g.*, hostages, bystanders)
 - no property damage (as from forcible entry)
- ❑ Rule provides:
 - “Intentional radiators which are employed for radio control purposes during emergencies involving fire, security, and safety of life, when activated to signal an alarm, may operate during the pendency of the alarm condition.” 47 C.F.R. Sec. 15.231(a)(4).
 - policy of relaxing the 5-second rule in emergencies
 - requested waiver is consistent with that policy.

Filings in Support (to date)

- Las Vegas (NV) Metropolitan Police Department
- Maryland State Police
- National Tactical Officers Association, Doylestown PA
- City of Philadelphia (PA)
- Bruce Richter, Anchorage AK
- Criminal Justice Training Center, Huntington Beach CA
- Upper Merion Township (PA) Police Department
- Illinois Tactical Officers Association
- West Norriton Township (PA) Police Department
- City of Dayton, Ohio
- City of San Marcos (TX) Police Department.

Proposed Waiver Conditions

- ❑ Limit on number of units sold nationwide
- ❑ Available only to state and local law enforcement
- ❑ Operation only by sworn officers trained in the device
- ❑ Operation only under warrant or exigent circumstances
- ❑ Operation only where officers on the scene judge there is no less risky alternative
- ❑ Operation under manual control at all times
- ❑ Operation for the minimum time needed
- ❑ Waiver grantee must impose above conditions on all purchasers.

Administrative Arrangements

- ❑ System being developed in collaboration with Science Applications International Corporation (SAIC)
 - funded by DoD Technical Support Working Group
- ❑ Manufacturer and distributor not yet determined
 - FCC certification applicant and responsible party will (probably) be the manufacturer
- ❑ Waiver grantee will ensure that manufacturer and distributor include language in all sales contracts imposing waiver conditions on purchasers
 - resale will be prohibited or made subject to same conditions.

Grounds for Opposition

1. Device will not work (must transmit continuously for 309.4 years)^a
 2. Device will work so well as to undermine consumer confidence in garage door systems^b
- No party seeks enforcement of the 5-second rule
- *i.e.*, no opposition to the waiver itself
 - objections are unrelated to the waiver
 - same objections would remain if the device complied.

a. Comments by the Safe and Secure Access Coalition at 4 (filed March 19, 2007).

b. *Id.* at 5-6

Challenge to Public Interest Grounds

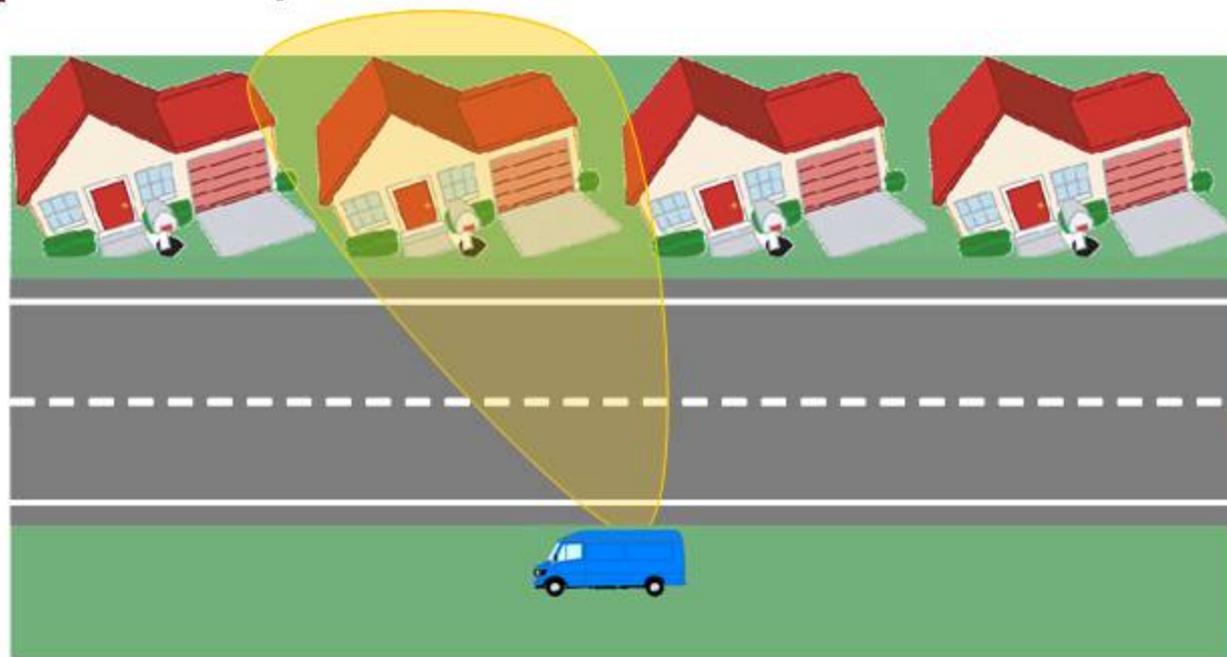
- ❑ Opponents say (in effect): harm to garage-door market outweighs potential for enhanced safety for officers
 - but effect on market is wholly speculative
 - relies on unlikely chain of circumstances
 - police can best judge measures to minimize their risk
- ❑ Balancing of asserted interests -- *i.e.*, garage-door market *vs.* police safety -- may lie outside FCC jurisdiction
 - no clear grant of authority in Communications Act
 - FCC can grant waiver without deciding this question
 - opponents can still raise their challenge in an appropriate forum.

Security Issues

- ❑ Opponents fear device will fall into the wrong hands
 - theft, black market, infringement of technology
- ❑ Law enforcement takes these concerns very seriously
- ❑ Police routinely safeguard firearms, explosives, etc.
- ❑ May add specifications for key or PIN number
 - device could not be used even if misappropriated
- ❑ Willing to work with industry on these issues.

Inadvertent Operation

- ❑ Opponents fear device will trigger nearby doors, alarms
- ❑ But stray activations would make device useless
- ❑ Low power and/or directional antenna to isolate target.



Waiver Request Meets Requirements

- ❑ Opponent claims request is lacking needed information on:
 - how device interacts with range of garage-door systems
 - how device can operate within a reasonable time
- ❑ These are irrelevant to the waiver
 - FCC regulates external emissions, not circuits and algorithms
- ❑ Any such defects in overmaster device are self-limiting
 - device cannot be used if it fails to work or takes too long.

Conclusion

- ❑ No opposition to specific waiver request
- ❑ Device poses no realistic threat of interference under proposed conditions
- ❑ Waiver will offer police added safety in dangerous situations
- ❑ On balance, waiver is plainly in the public interest.

Thank you!

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