

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
CENTRAL MARYLAND AREA) PS Docket 06-229
RADIO COMMUNICATIONS)
)
Request for Waiver of Section 90.535(d))

REQUEST FOR WAIVER

The Central Maryland Area Radio Communications (CMARC) Project Team and the undersigned licensees, pursuant to Section 1.925 of the Commission's rules, hereby request a waiver of provisions in Section 90.535(d) requiring licensees in the 700 MHz band to convert to 6.25 kHz voice channel efficiency by January 1, 2017.¹ The CMARC licensees request an extension of the deadline to January 1, 2024.

The CMARC Project Team is responsible for planning and implementing a regional interoperable wireless radio network for public safety services in seven Maryland jurisdictions that comprise the Baltimore Urban Area Security Initiative: City of Baltimore, City of Annapolis, Anne Arundel County, Baltimore County, Carroll County, Harford County and Howard County. The CMARC area is home to over 2.5 million residents and includes one of the nation's busiest ports, an international airport serving in excess of 22 million passengers per year, 600,000 acres of public parkland, agricultural areas, and a major metropolitan area with important religious, sports, cultural, educational, and government institutions. The area includes several military bases and installations, including Aberdeen Proving Ground, Fort Meade, National Security Administration, Curtis Bay Coast Guard Base, and the United States Naval Academy. The

¹ A list of the licenses subject to this waiver request is contained in Appendix A.

Federal Reserve has a branch in Baltimore and the headquarters of the Social Security Administration is located in Baltimore County.

In 2007, the CMARC Project Team initiated planning to establish a trunked/simulcast Project 25-compliant radio communications system for regional interoperability using channels in the 700 MHz spectrum. The system is intended to complement and integrate existing 800 MHz systems operated by CMARC jurisdictions. Implementation of plans and deployment of equipment was not possible until 2010 as much of the 700 MHz public safety spectrum in the Philadelphia-Baltimore-Washington region was encumbered by analog television stations prior to the end of the digital television transition in June 2009.

The CMARC interoperability system was designed to address the communications needs of regional public safety response teams (Urban Search and Rescue, HazMat Decontamination, *etc.*), regional task forces (Auto Theft Task Force, Joint Terrorism Task Force, Warrant Task Force, *etc.*), regional aviation and marine assets, regional fire operations and police pursuits that frequently crossed jurisdictional boundary lines. System infrastructure was designed to provide efficient interoperable radio communications that could be heard from any point in Central Maryland. The system was deemed operational in July of 2011 and currently provides seamless communications among public safety providers in the Baltimore Urban Area, including approximately 30,000 personnel at the local, state and federal levels of government. To date, over \$7 million in grant and local jurisdiction match funding has been allocated for the 700 MHz regional system.

To conserve limited resources and address reductions in grant funding, the interoperability system was designed to leverage existing dual 700/800 MHz band equipment utilized by CMARC agencies for day-to-day emergency communications. This includes approximately 20,000 subscriber units, nearly all of which are only capable of operating with

Frequency Division Multiple Access (FDMA), and cannot operate at 6.25 kHz efficiency. The two largest CMARC agencies, the City of Baltimore and Baltimore County, recently upgraded to Project 25-compliant infrastructure using 800 MHz channels, though subscribers on those systems are also limited to FDMA, 12.5 kHz efficiency. Therefore, compliance with the 2017 deadline to convert to 6.25 kHz efficiency would require replacing the vast majority of radios currently in use by CMARC jurisdictions.

The decision to proceed with planning the 700 MHz simulcast system in 2007 was based on an understanding that once implemented, 700 MHz-capable equipment would have a life cycle of 10-15 years, and that the system would eventually be converted to TDMA/6.25 kHz operations. Moving directly to TDMA/6.25 kHz was not economically feasible as it would have required replacement of relatively new 800 MHz radio equipment, thus wasting scarce public resources. In any event, there were no standardized Project 25-compliant systems meeting the 6.25 kHz requirement at the time of planning or at the time of deployment in 2010.

CMARC agencies have no reasonable alternative other than to seek a waiver of the 2017 deadline. Most of their existing 700 MHz-capable equipment still has at least 8-13 years of useful life, and replacing that equipment would likely required expenditures in excess of \$100 million, funds that simply do not exist. Moving CMARC's interoperability system to 800 MHz is a theoretical option, but would require abandonment of 700 MHz infrastructure, significant expenditures, and substantial uncertainty as to whether an adequate number of additional 800 MHz band frequencies can be identified. Obviously, abandoning the interoperability network altogether is not an option as it provides critical interoperability across state, local, and federal agencies throughout Central Maryland.

CMARC is aware that the issue of modifying Section 90.535 to postpone the 6.25 kHz efficiency deadline may be included in a soon-to-be-released notice of proposed rulemaking.

However, CMARC cannot wait for the lengthy and uncertain rulemaking process to run its course. CMARC has access to potential funding to move its interoperability system from 700 MHz to 800 MHz (though CMARC has not secured frequencies to accommodate the network, since none are available). However, those funds must be expended by 2014. Thus, CMARC needs to know soon (by summer 2013) whether it can continue its current 12.5 kHz operations on the 700 MHz interoperability network past 2017, or whether it must expend scarce funds for an uncertain 800 MHz replacement.

Section 1.925(b)(3) allows the Commission to grant a waiver if it is shown that either: “(i) the underlying purpose of the rules(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest;” or “(ii) in view of unique or unusual factual circumstances of the instant case, application of the rules(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.”²

The underlying purpose of Section 90.535, to promote spectrum efficiency while allowing licenses a reasonable equipment life-cycle, would not be served by forcing CMARC agencies to comply with the rule or abandon their 700 MHz system. CMARC is unaware of any specific demand for 700 MHz narrowband channels within the CMARC area. Furthermore, the 2017 deadline was adopted at a time when the Commission believed that the DTV transition would be completed by 2007, thus allowing at least a 10-year life-cycle for 700 MHz band equipment installed at that time. In fact, the DTV transition period was uncertain from the beginning and not actually completed until June 2009 as a result of legislation. Faced with uncertain dates for spectrum availability, CMARC was unable to begin significant planning and

2 *See* State of Louisiana, *Order*, DA 12-1643 (Oct. 15, 2012).

deployment until 2010, and the system did not become fully operational until July 2011. Thus, even a minimal ten-year life cycle would extend until 2021, not 2017, as in the current rule.

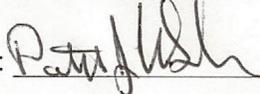
Furthermore, as discussed above, applying the rule in these circumstances would be inequitable, unduly burdensome and contrary to the public interest as CMARC has no reasonable alternative. Meeting the deadline would require abandonment of the 700 MHz interoperability network, wasting public resources to move interoperability to 800 MHz despite uncertain spectrum availability, or replacing all existing 700/800 MHz equipment, for which funding does not exist.

CONCLUSION

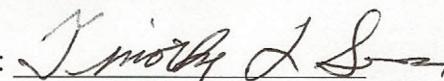
Therefore, for the reasons set forth above, CMARC and its members request that the Commission grant a waiver of Section 90.535(d) and extend the 6.25 kHz efficiency deadline for the licenses set forth in Appendix A.

Respectfully submitted,

CITY OF BALTIMORE

By: 

CITY OF ANNAPOLIS

By: 

ANNE ARUNDEL COUNTY, MD

By: (SEE PAGES THAT FOLLOW)

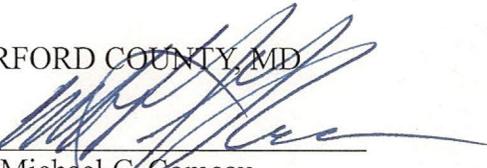
BALTIMORE COUNTY, MD

By: 

CARROLL COUNTY, MD

By: (SEE PAGES THAT FOLLOW)

HARFORD COUNTY, MD

By: 
Michael G. Comeau
Sr. Assistant County Attorney

HOWARD COUNTY, MD

By: 

Date: APRIL 3, 2013

CONCLUSION

Therefore, for the reasons set forth above, CMARC and its members request that the Commission grant a waiver of Section 90.535(d) and extend the 6.25 kHz efficiency deadline for the licenses set forth in Appendix A.

Respectfully submitted,

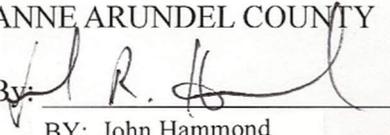
CITY OF BALTIMORE

By: _____

CITY OF ANNAPOLIS

By: _____

ANNE ARUNDEL COUNTY

By:  _____

BY: John Hammond
TITLE: Chief Administrative Officer

BALTIMORE COUNTY

By: _____

CARROLL COUNTY

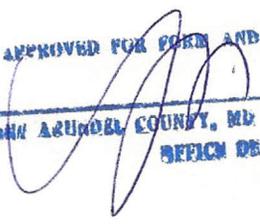
By: _____

HARFORD COUNTY

By: _____

HOWARD COUNTY

By: _____

APPROVED FOR FORM AND LEGAL SUFFICIENCY
BY:  _____ DATE: 3-27-13
ANN ARUNDEL COUNTY, MD
OFFICE OF LAW

Date: MARCH 27, 2013

CONCLUSION

Therefore, for the reasons set forth above, CMARC and its members request that the Commission grant a waiver of Section 90.535(d) and extend the 6.25 kHz efficiency deadline for the licenses set forth in Appendix A.

Respectfully submitted,

CITY OF BALTIMORE

By: _____

CITY OF ANNAPOLIS

By: _____

ANNE ARUNDEL COUNTY

By: _____

BALTIMORE COUNTY

By: _____

CARROLL COUNTY

By: Scott R. Capbell
4-3-13

HARFORD COUNTY

By: _____

HOWARD COUNTY

By: _____

Date: APRIL 3, 2013

**Appendix A - CMARC Agencies -
Call signs and Subscriber Radio quantities**

CMARC Member Agencies	700 MHz Call Sign	Quantity of subscriber radios
Anne Arundel County	WQNH763	2,300
Annapolis City		200
Baltimore City	WQNH768	6,500
Baltimore County		4,700
Carroll County	WQNH714	1,750
Harford County	WQNH702	3,000
Howard County	WQNI382	2,000
Total Subscribers		20,450