



PUBLIC NOTICE

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

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON THE COMMONWEALTH OF VIRGINIA'S REQUEST FOR WAIVER OF COMMISSION RULES TO USE VHF PUBLIC COAST FREQUENCIES TO SUPPORT PUBLIC SAFETY ACTIVITIES

Comment Date: April 20, 2004

Reply Comment Date: April 30, 2004

On February 20, 2004, MariTEL of Mid-Atlantic, Inc. and MariTEL Mississippi River, Inc. (collectively, MariTEL) filed two applications for consent to assign portions of two VHF Public Coast (VPC) geographic licenses to the Commonwealth of Virginia (Virginia).¹ In conjunction with the assignment applications, Virginia filed a request for waiver of Part 80 of the Commission's Rules to permit it to use the subject frequencies to upgrade its analog public safety communications system. Virginia proposes that its system, which will be used only for internal, public safety purposes, be licensed under, and governed by, Part 90 of the Commission's Rules; in the alternative, Virginia seeks a waiver of relevant provisions of Part 80.

Virginia states that its conventional analog radio system is severely congested, difficult to maintain and, not capable of meeting, or expanding to meet, its public safety and emergency communications needs. To address its needs, Virginia developed a plan to implement a trunked, digital state-of-the-art voice and data communications network using narrowband technology to serve federal, state and local agencies. Virginia states that the VHF band offers the most workable spectrum for this new system. It also states that, because its current system uses VHF frequencies, the continued use of the VHF band allows for an easier transition to a new system and lower transition costs. However, sufficient Part 90 spectrum was not available. Consequently, as permitted under Section 80.60 of the Commission's Rules,² Virginia seeks to acquire from MariTEL, which holds the geographic licenses for VPC Service Areas 2 (Call Sign WPOJ533) and 4 (Call Sign WPOJ535), VPC spectrum in central (approximately thirty-five to sixty-five miles from the Atlantic coast and navigable inland waterways) and western (approximately sixty-five miles or more from the coast and navigable waterways) Virginia.³ Virginia

¹ See FCC file numbers 0001583565, 001583569.

² 47 C.F.R. § 80.60.

³ Specifically, the applications propose to partition and disaggregate twelve 12.5 kHz channel pairs (157.2250/161.8250 MHz, 157.2375/161.8375 MHz, 157.2500/161.8500 MHz, 157.2625/161.8625 MHz, 157.2750/161.8750 MHz, 157.2875/161.8875 MHz, 157.3000/161.9000 MHz, 157.3125/161.9125 MHz, 157.3250/161.9250 MHz, 157.3375/161.9375 MHz, 157.3500/161.9500 MHz, and 157.4000/162.0000 MHz) in the central Virginia counties of Amelia, Brunswick, Clarke, Culpeper, Cumberland, Goochland, Greensville, Louisa, Lunenburg, Madison, Nottoway, Orange, Powhatan, Rappahannock, and Warren; and to partition and disaggregate those twelve 12.5 kHz channel pairs and an additional five 12.5 kHz channel pairs (157.2000/161.8000 MHz, 157.2125/161.8125 MHz, 157.3625/161.9625 MHz, 157.3750/161.9750 MHz, and 157.3875/161.9875 MHz) in the

emphasizes that it is not seeking to use VPC channels in areas where they might otherwise be used to meet the demand of marine VHF communications.

In the event that its public safety use of the spectrum is not licensed under, and governed by, Part 90 of the Commission's Rules, Virginia seeks a waiver of Sections 80.123 and 80.371(c)(1)(i)⁴ to permit use of the frequencies for private land mobile radio communications. It also requests a waiver of Section 80.123(e) to allow the base station equipment of its system to operate with a maximum power of 125 watts transmitter output power and 285 watts effective radiated power, consistent with the power levels permitted for operations licensed under Part 90. In addition, Virginia seeks a waiver of Section 80.123(f)'s prohibition on mobile-to-mobile communications on land.

Interested parties may file comments on the waiver request on or before April 20, 2004. Parties interested in submitting reply comments must do so on or before April 30, 2004.⁵ All comments should reference the subject request including the DA number of this Public Notice, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-325, Washington, D.C. 20554.⁶ 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; and (3) Jim Shaffer, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Critical Infrastructure Division, 445 Twelfth Street, S.W., Room 4-C342, Washington, D.C. 20554.

Virginia's applications and waiver requests can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. In addition, the full text of the waiver requests and responsive comments and reply comments filed pursuant to this Public Notice will be available for inspection and duplication during regular business hours in the Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room CY-A257, Washington, D.C. 20554. 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.

western Virginia counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Fluvanna, Franklin, Frederick, Giles, Grayson, Greene, Halifax, Henry, Highland, Lee, Mecklenburg, Montgomery, Nelson, Page, Patrick, Pittsylvania, Prince Edward, Pulaski, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Tazewell, Washington, Wise, and Wythe. MariTEL will retain all of the VPC spectrum in eastern Virginia.

⁴ 47 C.F.R. §§ 80.123, 80.371(c)(1)(i).

⁵ On February 25, 2004, the Commission issued a general Public Notice announcing the filing of the applications. See Public Notice Rep. No. 1754 (rel. Feb. 25, 2004). Comments filed pursuant to the Commission's February 25, 2004 Public Notice will be considered along with comments filed pursuant to this Public Notice.

⁶ 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 East 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).

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 Mr. Jim Shaffer, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau at (202) 418-0687, TTY (202) 418-7233 or via email to james.shaffer@fcc.gov.

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

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