

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Request for Waiver of the)	
State of New York)	
of the Television Interference Rules)	WT Docket No. 06-18
to Implement a 700 MHz)	
Public Safety Communications System)	

**REPLY COMMENTS OF THE NATIONAL PUBLIC SAFETY
TELECOMMUNICATIONS COUNCIL**

The National Public Safety Telecommunications Council (NPSTC) submits these reply comments addressing the request of the State of New York (New York State) that the Commission waive section 90.545 of its rules so that it can implement a 700 MHz public safety communications system in the greater New York City metropolitan area. Section 90.545 addresses the TV/DTV interference protection criteria for land mobile radio facilities. NPSTC supports New York State's waiver request and urges the Commission to approve the request and also establish the parameters by which public safety agencies can obtain access to the 700 MHz spectrum prior to the end of the transition to digital television in 2009.

The National Public Safety Communications Council

NPSTC serves as a resource and advocate for public safety organizations in the United States on matters relating to public safety communications. NPSTC is a federation of public safety organizations dedicated to encourage and facilitate through a collective voice the implementation of the Public Safety Wireless Committee (PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC)

recommendations. NPSTC explores technologies and public policies involving public safety agencies, analyzes the ramifications of particular issues, and submits comments to governmental bodies with the objective of furthering public safety communications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications. The following thirteen organizations participate in NPSTC:

American Association of State Highway and Transportation Officials

American Radio Relay League

American Red Cross

Association of Public-Safety Communications Officials-International

Forestry Conservation Communications Association

International Association of Chiefs of Police

International Association of Emergency Managers

International Association of Fire Chiefs

International Association of Fish and Wildlife Agencies

International Municipal Signal Association

National Association of State Emergency Medical Services Officials

National Association of State Telecommunications Directors

National Association of State Foresters

Several federal agencies are liaison members of NPSTC. These include the Department of Agriculture, Department of Homeland Security (SAFECOM Program and the Federal Emergency Management Agency), Department of Commerce (National Telecommunications and Information Administration), Department of the Interior and the

Department of Justice (National Institute of Justice, Communications Technology (CommTech)).

Summary of Comments

Section 90.545 of the Commission's rules sets forth the interference protection criteria for land mobile operations as to existing TV and DTV broadcast operations. New York State (and QUALCOMM Incorporated in a separate Petition for Declaratory Ruling) seek the Commission's adoption of a *de minimis* standard that protects broadcast interests yet promotes public safety communications access to the 700 MHz spectrum band.

The Association of Public Safety Officials- International (APCO), the Region 24 700 MHz Regional Planning Committee, QUALCOMM Incorporated, and the Maranatha Broadcasting Company, Inc. (Maranatha) support New York State's waiver request. Maranatha, a co channel broadcast licensee in Allentown, Pennsylvania, notes that the waiver is limited in scope and promotes critical improvements to public safety communications. QUALCOMM in its support references its pending petition that would allow different services to co-exist in the 700 MHz band during the remainder of the DTV transition.¹ APCO and the Region 24 700 MHz Regional Planning Committee emphasize that access to the 700 MHz spectrum responds to the critical needs of public safety communications.

Two broadcast interests object to the waiver request. The Mountain Broadcasting Company, licensee of WMBC-TV, expresses concern regarding the interference calculations presented by New York State. WMBC-TV states that the waiver request does not contain sufficient information and urges the Commission to obtain additional

¹ *In the Matter of the Petition for Declaratory Ruling of QUALCOMM Incorporated*, WT Docket 05-07.

information. Licensee WFUT-TV objects to the waiver request stating that it is fatally flawed and should be dismissed.

New York State's Waiver Request Should be Granted and the Commission Should Establish the Parameters for Public Safety Communications to Have Access to the 700 MHz Spectrum Prior to the End of the Transition to Digital TV in 2009.

NPSTC believes that the Commission must move forward with New York State's waiver request and establish the parameters by which public safety agencies may use the 700 MHz spectrum prior to the end of the DTV transition in 2009.² New York State's waiver request is the tangible example of why Congress and the Commission have dedicated the 700 MHz spectrum band to improvements in public safety communications. The challenges the Metropolitan Transportation Authority and the New York State Division of State Police face with inadequate communications are real and cannot be addressed until the 700 MHz band is accessible. The recent enactment of 2009 as the termination date of the digital television transition reaffirms this priority. If New York State is able to use the 700 MHz, police, fire, medical and other emergency services will improve. Without access to the 700 MHz band, much needed improvements are not possible. In contrast to the position of the objecting interests, access now, instead of 2009, will make a real difference.

In virtually every Commission proceeding where one service proposes to coexist with another service in the radio spectrum, incumbents resist and challenge the technical analysis of those proposing change. The circumstances generally make for intractable proceedings, which accrue to incumbent interests of the status quo. Notably, in this proceeding, only 2 of the possible 9 relevant co-channel or adjacent TV broadcast licensees object, including one licensee whose request is for additional information. The

² Public Law 109-171, Deficit Reduction Act of 2005, Title 3.

broadcast industry in general has not objected. While the limited number of objections is not a basis to disregard of the merits of those who object, it does indicate the credibility accruing to New York State's analysis and its cause.

NPSTC believes that two issues are presented for the Commission to resolve and from which New York State's waiver request can be granted.. The first is what standard of interference should be tolerated to allow land mobile operations in the 700 MHz band prior to the termination of the digital television transition. The second are questions addressing New York State's methodology, the values used in its calculations, and updating the information used in its technical analysis.

NPSTC has urged the Commission³, in the context of permitting land mobile and broadcast television operations during the digital transition period, to reject a "no interference" standard, as advocated by one broadcast interest in this proceeding.⁴ NPSTC endorsed the QUALCOMM petition which seeks to establish a *de minimis* standard in this environment. NPSTC agrees that the interference calculation procedures contained in OET Bulletin 69 with regard to Sections 27.60 and 90.545 of the Commission's rules is a reasonable means to calculate the *de minimis* standard set forth in Section 73.623(c)(2), and that the standard apply to land mobile operations. A *de minimis* standard should be adopted to provide a streamlined process to address waivers for access to the 700 MHz band prior to the digital transition termination in 2009.

The *de minimis* standard evolved from the Commission's objective to strike the balance between the advancements digital television will deliver against what these operations will do to existing analog TV broadcast service. Under the standard, digital

³ Reply Comment of the National Public Safety Telecommunications Council, *In the Matter of the Petition for Declaratory Ruling of QUALCOMM Incorporated*, WT Docket 05-07 (March 25, 2005).

⁴ Comment of WFUT TV at 10 (March 13, 2006)

television stations are permitted to make changes to their operations where the change will not result in interference more than a two percent increase in interference to the population served by another broadcast station.⁵

Interests that challenge the application of the *de minimis* standard to public safety land mobile communications in the 700 MHz band are wrong. The importance of the 700 MHz band to the public interest is clear. The irony that digital television should be promoted at the cost of *de minimis* interference to transitioning analog service and not public safety communications cannot withstand scrutiny. Public safety access to the 700 MHz band represents the Commission's priority, as stated in section 1 of the Communications Act, to promote domestic security.

The other objection is based on the sufficiency of New York State's technical analysis predicting the level of interference. It is important to recognize that land mobile communications have coexisted with broadcast television for years, demonstrating how an environment of mobile receivers and transmitters can comport and protect fixed broadcast operations. Sections 90.545 and 90.300 et seq. (land mobile operations in the UHF TV band) represent this fundamental. New York State's technical analysis builds on this base and presents a reasoned and analytic description of how its operations will interact with adjacent and co channel broadcast services.

The objectors' advocacy and accompanying technical analysis is based on what they do not know about the methodology, the calculation factors used and the need for the analysis to reflect current operations. The advocacy enumerates information each licensee believes important to determine the level of interference. NPSTC's concern is

⁵ 47 CFR section 73.623.

that these demands will extend far beyond the Reply Comment period and result in a indeterminate proceeding.

NPSTC recommends that the Commission embrace what is essentially the recommendation of WMBC, to afford New York State and the objecting interests, the opportunity to provide each other and the Commission the additional information needed for each to comprehend the analysis and the factors underlying New York State's conclusions. As reflected by its waiver request and technical analysis, New York State has committed not only enormous investment to its network but substantial resources to this proceeding. It will dedicate the resources needed for sincere interests to understand the analysis. If additional information is needed after this Reply Comment period concludes, the Commission should impose time constraints on the parties so that its own deliberations can proceed expeditiously.

NPSTC urges the parties to understand that no gain will be derived by delaying New York State and that an inflexible adversarial strategy opposing New York State's access to 700 MHz harms the public interest. This is a proceeding where all interests will be served by a cooperative commitment to assisting New York State's effort to improve public safety communications. Delay will only harm the public interest.

Conclusion

New York State's request for waiver to gain access to the 700 MHz spectrum band is a vital initiative that will improve the delivery of police, fire, medical and other emergency services significantly. NPSTC urges the Commission to take favorable action on the request and to establish the parameters by which other agencies may examine the ability to use 700 MHz spectrum prior to the termination of the digital television transition in 2009.

Respectfully submitted,

Vincent R. Stile

Vincent R. Stile, Chair
NATIONAL PUBLIC SAFETY
TELECOMMUNICATIONS COUNCIL
68 Inverness Lane East, Suite 204
Englewood, Colorado 80112
866-807-4755

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