

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

In the Matter of)	
)	
Commonwealth of Virginia, Department of)	WT Docket No. 20-241
State Police Request for Waiver of Section)	
22.565(f) of the Commission’s Rules to)	
Increase Mobile Transmitter Output Power)	
from 60 to 100 Watts for Call Sign WQFA919)	

Reply Comments of APCO International

The Association of Public-Safety Communications Officials (APCO) International, Inc.,¹ submits these reply comments in response to the Wireless Telecommunications Bureau’s Public Notice in the above-captioned proceeding.² The Bureau seeks comment on the Commonwealth of Virginia, Department of State Police’s (VA State Police) request to waive Section 22.565(f) of the Commission’s rules to permit the increase of the existing limit on Part 22 transmitter output power for its mobile transmitters from 60 watts to 100 watts, using a maximum ERP of 150 watts for one Part 22 paging authorization.³ VA State Police has demonstrated with particularity that the underlying purpose of Section 22.565(f) would not be served by applying the rule in this instance and that granting the waiver would be in the public interest. Therefore, the waiver request should be granted.

¹ Founded in 1935, APCO is the nation’s oldest and largest organization of public safety communications professionals. APCO is a non-profit association with over 39,000 members, primarily consisting of state and local government employees who manage and operate public safety communications systems – including 9-1-1 Emergency Communications Centers (ECCs), emergency operations centers, radio networks, and information technology – for law enforcement, fire, emergency medical, and other public safety agencies.

² Wireless Telecommunications Bureau Seeks Comment on the Commonwealth of Virginia, State Police Request for Waiver of Section 22.565(f) of the Commission’s Rules to Increase Mobile Transmitter Output Power from 60 to 100 Watts for Call Sign WQFA919, DA 23-247, *Public Notice*, WT Docket No. 20-241 (rel. Mar. 22, 2023) (“Notice”).

³ Commonwealth of Virginia, Department of State Police Request for Waiver of Section 22.565(f) of the Commission’s Rules to Increase Mobile Transmitter Output Power From 60 to 100 Watts for Call Sign WQFA919, WT Docket No. 20-241 (filed Feb. 16, 2023) (“Waiver Request”).

To obtain a waiver of the Commission’s rules, a petitioner must demonstrate either that:

- (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the waiver would be in the public interest; or
- (ii) in view of unique or unusual factual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁴ VA State Police have satisfied this high hurdle.

As the Bureau notes, the waiver request is “substantially identical” to a prior waiver request the Bureau granted in 2022.⁵ In that instance, the Bureau found that strict application of Section 22.565(f) would limit the services VA State Police could provide on its public safety network and that the underlying purpose of the rules – to afford Part 22 licensees flexibility in providing service to the public and expand access to mobile radio networks and services while preventing harmful interference – would be better served by granting the waiver with modest conditions.⁶ The Bureau considered several factors, including an interference analysis provided by VA State Police and the lack of opposition to the waiver request in making its decision.⁷

Here, VA State Police explains that the instant waiver request is an extension of the request that was granted in 2022,⁸ and the facts supporting the Bureau’s 2022 Order appear to be the same. The proposed power changes would increase capacity for first responder communications and support public safety operations. VA State Police has again provided a

⁴ 47 C.F.R. § 1.925(b).

⁵ Notice at 1 (citing Commonwealth of Virginia, Department of State Police Request for Waiver of Section 22.565(f) of the Commission’s Rules to Increase Mobile Transmitter Power Output from 60 Watts to 100 Watts, DA 22-282, *Order*, WT Docket No. 20-241 (WTB Mar. 31, 2022) (“Order”).

⁶ Order at paras. 8-9.

⁷ *Id.* at 11-12.

⁸ Waiver Request at 1.

detailed interference analysis that concludes there is no risk of harmful interference.⁹ The agency asserts that the increase in mobile transmitter power output on the sixty-four Part 22 channels authorized by the 2022 Order has not caused any interference with other Part 22 licensees.¹⁰ In addition, no oppositions to the waiver request have been filed.

Absent grant of the waiver, VA State Police will be unable to fully transition its public safety system to P25 Phase 2 TDMA technology, meaning first responders would face unbalanced coverage and potentially “critical failure” in which messages from mobile radios are not being received at dispatch.¹¹ Because granting VA State Police’s waiver request is in the public interest and would be consistent with Commission precedent,¹² the Bureau should grant the request.

Respectfully submitted,

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⁹ *Id.* at 11 (explaining that Dr. Kenneth Ballard, the subject matter expert who conducted the interference analysis in 2020, reviewed the initial analysis in consideration of the instant request for call sign WQFA919 and reached the same conclusion, without any amendments or corrections, that there was no risk of harmful interference).

¹⁰ *Id.* at 8.

¹¹ *Id.* at 7.

¹² Order at para. 9.

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