

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Options for 470-512 MHz (T-Band)) PS Docket No. 13-42
Spectrum)

To: Chief, Wireless Telecommunications Bureau
Chief, Public Safety and Homeland Security Bureau

**REPLY COMMENTS
OF THE
ENTERPRISE WIRELESS ALLIANCE**

The Enterprise Wireless Alliance (“EWA” or “Alliance”), in accordance with Section 1.45 of the Federal Communications Commission (“FCC” or “Commission”) rules, respectfully submits its Reply Comments in response to the Public Notice¹ issued jointly by the Wireless Telecommunications Bureau (“WTB”) and the Public Safety and Homeland Security Bureau (“PSHSB”) (WTB and PSHSB, collectively, “Bureaus”) requesting recommendations regarding the FCC’s implementation of Section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012.² The Act requires the Commission, within nine years after the date of its enactment to (1) “reallocate the spectrum in the 470-512 MHz band...currently used by public safety eligibles,” and (2) “begin a system of competitive bidding under Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new initial licenses for use of the spectrum.”³ Further, the Act states that public safety entities must be relocated from the T-Band not later than two years after the auction has been completed and that auction proceeds may be

¹ Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Seek Comment on Options for 470-512 MHz (T-Band) Spectrum, *Public Notice*, PS Docket No. 13-42, 28 FCC Rcd 1130 (rel. Feb. 11, 2013) (“Public Notice”).

² Pub. L. No. 112-96, 126 Stat. 156 (2012) (“Act”).

³ Act § 6103(a).

distributed by the Commerce Department through grants to cover the costs of relocating public safety systems from T-Band spectrum.⁴ The legislation says nothing about the disposition of T-Band spectrum used by Industrial/Business (“I/B”) licensees. There are no provisions in the legislation that would require their T-Band channels to be vacated and auctioned.

In its Comments, the Alliance urged the FCC to abandon any effort to relocate I/B licensees from their operationally critical T-Band spectrum that has been intensively used for decades in the most spectrum congested markets in the county. It recommended that the Commission limit its efforts to implementing the statutory directive to auction public safety frequencies in the band, unless further legislative action relieves the FCC from the obligation to auction any Part 90 T-Band spectrum, as EWA hopes will be the case. It explained that this spectrum plays a vital role in meeting non-public safety communications requirements and that there is no available, comparable spectrum to which these licensees could be relocated. It suggested that if the FCC were to determine that I/B licensee relocation was unavoidable in implementing the Act, then these systems should be moved to a contiguous portion of T-Band spectrum, with all costs paid by the auction winner(s). Finally, the Alliance repeated its objections to the T-Band Freeze adopted by the Commission,⁵ objections it has raised in numerous previous filings with the FCC.⁶ The freeze is neither mandated by the Act nor

⁴ *Id.* § 6103(b), (c).

⁵ See “Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum,” *Public Notice*, 27 FCC Rcd 4218 (WTB/PSHSB 2012) (“Freeze PN”); see also “Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Clarify Suspension of the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum,” *Public Notice*, 27 FCC Rcd 6087 (WTB/PSHSB 2012) (collectively “T-Band Freeze”).

⁶ See e.g., “Public Safety and Homeland Security Bureau Seeks Comment on Request for Waiver Filed by Somerset County, New Jersey to Upgrade Its Public Safety Communications System by Modifying Its Sites and Adding Frequencies in the Television Channel 19 (500-506 MHz) Band and a Part 22 Frequency,” *Public Notice*, 27 FCC Rcd 10907 (PSHSB 2012); Comments of EWA filed on Sept. 20, 2012; see also “Public Safety and Homeland Security Bureau Seeks Comment on Request for Waiver Filed by the Township of Woodbridge, New Jersey to Operate a Trunked Public Safety Communications System Using Part 90 and Part 22 Frequencies in the Television

consistent with the public interest, and is particularly objectionable in both the timing of its implementation and its scope. The Alliance recommended that, if not lifted entirely, the T-Band Freeze should be modified to mirror the FCC freeze on I/B spectrum in the 900 MHz band.⁷

All Comments filed in this proceeding agree with each of EWA's positions. The public safety community pointed to the National Public Safety Telecommunications Council ("NPSTC") Report⁸ as confirmation for the extraordinary disruption and cost that will be incurred if even public safety T-Band spectrum is recovered and auctioned.⁹ That report detailed the almost \$6 billion dollars that would be needed to relocate existing public safety T-Band systems to 700 MHz public safety spectrum, as well as the impact on vital public safety services, a point made graphically in the filing of the Greater Boston Police Council that relied heavily on T-Band spectrum in responding to the recent terrorist attack in that city. Additionally, the NPSTC Report explained that, irrespective of cost, there was not sufficient available 700 MHz (or other comparable spectrum) in New York, Los Angeles, Chicago, Boston or Philadelphia to accommodate the systems that would need to be migrated, and that spectrum availability in Dallas, Houston, Miami, Washington, DC, Pittsburgh, and San Francisco would require further analysis to determine whether it would be adequate. Many of these entities also voiced strong objection to the T-Band Freeze and urged the FCC to reconsider that decision – one that, unlike the Act, is entirely within the FCC's discretion.

Channel 19 (500-506 MHz) Band" Public Notice, 27 FCC Rcd 8238 (PSHSB 2012); Comments of EWA filed on Aug. 7, 2012.

⁷ Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, 19 FCC Rcd 14969 at ¶ 204 (2004).

⁸ NPSTC T-Band Report dated Mar. 15, 2013, filed May 13, 2013.

⁹ *See, e.g.*, Comments of the NPSTC; Association of Public – Safety Communications Officials International; California Public-Safety Radio Association; Los Angeles and Marin Counties, CA; Morris County, NJ; Westchester County, NY; Cities of Los Angeles, Burbank, and Pasadena, CA; City of Yonkers NY Fire Department; Greater Boston Police Council; Interagency Communications Interoperability System; New York City Department of Information Technology and Telecommunications; and Southern California APCO; Northern California APCO; and Los Angeles Regional Interoperable Communications System Joint Powers Authority.

The Land Mobile Communications Council (“LMCC”), an organization representing not only public safety entities but the memberships of EWA, the American Association of State Highway and Transportation Officials, the American Automobile Association, the American Petroleum Institute, Association of American Railroads, Aviation Spectrum Resources, Inc., the Central Station Alarm Association, the Energy Telecommunications and Electrical Association, the Forest Industries Telecommunications, the Intelligent Transportation Society of America, Inc., MRFAC, Inc., PCIA – The Wireless Infrastructure Association, the Telecommunications Industry Association, and the Utilities Telecom Council filed Comments expressing the objections of the I/B community to the forced relocation of their members in response to the Act. In particular, the LMCC addressed the already seriously adverse impact of the T-Band Freeze on the operations of its members. It advised in the strongest terms that the FCC reverse that decision at least until a later date when rules implementing the Act have been proposed, at which time an auction arguably was more imminent. The LMCC provided specific details regarding the impact on the operations of both the freeze and the potential loss of T-Band spectrum on several representative I/B licensees: Channel Industries Mutual Aid; NSTAR Electric Company; Highland Wireless Services, LLC; Atlantic Telecommunications; and RF Design Consultants, Inc.¹⁰

Individual I/B T-Band licensees also filed Comments alerting the Commission to the devastating impact on their operations should they lose their T-Band spectrum. They detailed the impact even this possibility, plus the T-Band freeze, has had on their operations to date. For example, the Pacific Gas and Electric Company described its efforts to migrate multiple, discrete operations into an integrated, interoperable network designed to meet the growing needs of its utility customers and explained that the T-Band channels for which it has applied, but which are

¹⁰ LMCC Comments at 4-9.

subject to the freeze, are essential to achieving the grade of service capabilities required for this critical work.¹¹ NSTAR Electric Company was recently granted a waiver of the T-Band Freeze to enable it to finish deployment of a multi-area T-Band system.¹² However, it reminded the Commission that the company's recent, very significant investment in its upgraded network is at risk should the FCC mandate relocation of I/B licensees. It echoed EWA's position that, if relocation is unavoidable, I/B licensees should be "repacked" into a portion of T-Band spectrum since there is no alternative, comparable spectrum to which these systems can be moved.¹³ Mobile Relay Associates, which employs T-Band spectrum to serve a variety of users in the Los Angeles market, described the many types of niche, but commercially vital, services that are accommodated on its systems and highlighted the importance of T-Band for these purposes in a highly spectrum-limited market.¹⁴

The attached [report prepared for the Alliance by Televate, LLC \("Televate"\)](#) quantifies the estimated cost of repacking I/B T-Band licensees into a single portion of contiguous T-Band spectrum.¹⁵ Based on a high-level review of I/B T-Band systems using both ULS data and information from licensees and vendors, it is Televate's estimate that moving the 764 I/B systems it identified would cost at least \$449,200,000. It is EWA's expectation that this cost would be borne by the auction winner(s) as it has been in other FCC auctions of encumbered spectrum and presumably would be factored into the amount they would bid for the spectrum itself.

For all the reasons described herein and in the record already compiled in this proceeding, the Alliance submits that the FCC need not and should not go beyond the legislative directive to

¹¹ See Comments of the Pacific Gas and Electric Company.

¹² In the Matter of NSTAR Electric Company, Request for Waiver of the Suspension of Acceptance and Filing of Certain Applications for 470-512 MHz (T-Band) Spectrum, *Order*, 27 FCC Rcd 15774 (WTB 2012).

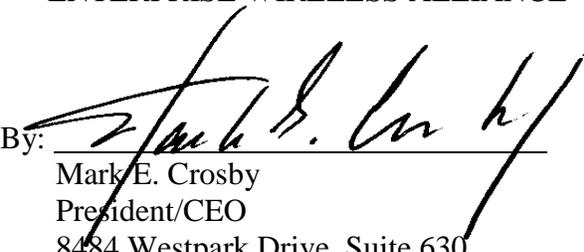
¹³ NSTAR Energy Company Comments at 5-6.

¹⁴ Mobile Relay Associates Comments.

¹⁵ See Attachment A.

relocate public safety T-Band licensees and auction their spectrum. If the Commission concludes that I/B licensees must be moved as well, then EWA sees no comparable spectrum to which they can be relocated and recommends that the FCC pursue the option in the Public Notice to consolidate all such licensees in a contiguous portion of T-Band spectrum. Critically, and irrespective of the Commission's decision regarding the ultimate disposition of this spectrum, the Alliance again urges the FCC to rescind the T-Band Freeze, at least until such time as the imminence of an auction requires a defined spectrum landscape, or modify it consistent with the freeze applicable to 900 MHz I/B spectrum.

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