



December 28, 2020

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, D.C. 20554

**Re: PS Docket No. 13-42
Notice of *Ex Parte* Presentation**

Dear Ms. Dortch:

The Enterprise Wireless Alliance (“EWA”) respectfully submits the attached Request for the modification and then the lifting of the application filing freeze currently imposed on Part 22 and Part 90 applications for frequencies in the 470-512 MHz band (T-Band).

Sincerely,

ENTERPRISE WIRELESS ALLIANCE

A handwritten signature in black ink, appearing to read 'Mark E. Crosby', is written over a white background.

Mark E. Crosby
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Attachment

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

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

**REQUEST FOR MODIFICATION AND THEN
LIFTING OF THE T-BAND FREEZE**

More than eight years ago, in response to a misguided Congressional directive that the FCC was to initiate a process to auction Part 90 Public Safety frequencies in the 470-512 MHz band (“T-Band”) by 2021,¹ the Federal Communications Commission (“FCC” or “Commission”) imposed a stringent freeze on T-Band spectrum (“T-Band Freeze”).² On December 27, 2020, legislation was enacted that, among other actions, repealed the T-Band Mandate.³ The Enterprise Wireless Alliance (“EWA”) urges the FCC to lift the T-Band Freeze as promptly as possible, but to do so in a way that allows T-Band incumbents the opportunity to implement system upgrades and expansions that have been denied them for almost a decade before opening this spectrum to new entities.⁴

EWA has been an active participant in the above-referenced proceeding and has consistently been an advocate for incumbent T-Band licensees who have operated their private internal or commercial dispatch systems without the ability to institute necessary

¹ Middle Class Tax Relief and Job Creation Act of 2012, Publ. L. No. 112-96, § 6103, 126 Stat. 156, 205-206 (2012), (codified at 47 U.S.C. § 1413) (“T-Band Mandate”).

² 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); 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).

³ Consolidated Appropriations Act, 2021 at § 902.

⁴ EWA’s recommendations related only to Business/Industrial/Land Transportation (“B/ILT”) T-Band incumbents. The Public Safety community may prefer a different approach for Public Safety licensees.

enhancements. They have been prohibited from adding or relocating sites needed to address evolving coverage requirements, since sites could only be added or moved upon a demonstration that doing so would not expand their existing coverage. They have been precluded from increasing capacity by adding frequencies at existing sites, even by moving an already licensed frequency from one authorized site to another. The T-Band Freeze has locked incumbent licensees into the systems they deployed almost a decade ago. It has prevented them from responding to normal business opportunities and demands. Now that the spectrum landscape no longer needs to be preserved for the benefit of potential auction winners, there is an opportunity to allow incumbents the flexibility enjoyed by Part 90 licensees in other bands and thereby maximize the efficient use of this spectrum.

To ensure a fair and equitable process, with the understanding that the process must incorporate implementation of efficiency standards that were previously implemented in the Part 90 VHF and UHF bands⁵ but waived for T-Band licensees in conjunction with the T-Band Freeze,⁶ EWA offers the following recommendations:

Phase 1 – The FCC should issue a *Public Notice* announcing that the application freeze will be modified sixty (60) days thereafter to allow incumbent B/ILT licensees to file new or modification applications in their currently licensed market(s). The FCC would also process pending renewal applications,⁷ as well as applications modifying existing systems that were filed

⁵ 47 C.F.R. §90.209(b)(5); *see also* Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Waiver and Other Matters, *Public Notice*, 26 FCC Rcd 9647 (WTB/PSHSB/OET 2011).

⁶ *See* Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Order*, WT Docket No. 99-87, RM-9332, 27 FCC Rcd 4213 (WTB/PSHSB/OET 2012).

⁷ *See* Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Processing of Applications to Renew Part 22 and 90 Licenses for Systems Operating on 470-512 MHz (T-Band) Spectrum, *Public Notice*, PS Docket No. 13-42, 34 FCC Rcd 11136 (2019).

prior to implementation of the T-Band Freeze but that have not been processed.⁸ At the same time, the FCC should re-impose the minimum efficiency standard, effective immediately, for new licenses file in Phase 2 (as discussed below) and within sixty (60) days of issuance of the *Public Notice* for incumbents. However, only applications from B/ILT licensees whose authorizations already meet that standard or whose modification applications request emission designators consistent with it would be accepted during the sixty (60)-day period. It is also recommended that the FCC require these incumbent licensees to certify affirmatively that their systems are constructed and operational in compliance with FCC rules and that service has not been permanently discontinued during the license term. EWA will encourage incumbent licensees to commence consideration of these technical and licensing improvements as soon as possible.

Phase 2 - After the sixty (60)-day period, the T-Band Freeze should be lifted entirely. B/ILT entities may submit applications for new T-Band systems that comply with the minimum through-put efficiency standards in any market in which T-Band spectrum is available.

Incumbents that do not modify their licenses to reflect the minimum efficiency standard until the deadline referenced above will be recognized by B/ILT Frequency Advisory Committees as operating 12.5 kHz-compliant communication systems consistent with the process used in the Part 90 VHF and UHF bands.⁹

T-Band incumbents have suffered the consequences of a nearly decades-long application freeze that has significantly impacted both private internal communication systems and private

⁸ Pending applications for new B/ILT systems would be processed under Phase 2.

⁹ Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Provide Additional Guidance Regarding Postnarrowbanding Licensing for Private Land Mobile Radio Operations in the 150-174 MHz and 421-470 MHz Bands, *Public Notice*, 31 FCC Rcd 127 (WTB/PSHSB 2016).

carrier systems that serve a multitude of entities.¹⁰ Under any fair and equitable policy premise, prior to new entrants, they should be afforded an opportunity to institute necessary upgrades to their communications facilities as they have borne the brunt of the economic and operational consequences of this nearly nine years of enforced stasis.

We appreciate the FCC's consideration of these recommendations and would be pleased to respond to any questions regarding the proposals.

Respectfully submitted,

ENTERPRISE WIRELESS ALLIANCE

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¹⁰ The T-Band Freeze has been particularly onerous for B/ILT licensees since the T-Band Mandate imposed no obligation on the FCC to auction T-Band spectrum on which B/ILT entities operated.

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Law Firm(s)	
Attorney/Author Name(s)	Mark E. Crosby
Primary Contact Email	mark.crosby@enterprisewireless.org
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