

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

In the Matter of)
)
Tennessee Department of Safety and) File No. 0006812947
Homeland Security 800 MHz B/ILT)
Waiver Request)

To: Chief, Public Safety and Homeland Security Bureau

**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 comments in response to the Public Notice seeking comment on the Waiver Request (“Waiver Request”) filed by the Tennessee Department of Safety and Homeland Security (“TDOSHS”) to use an 800 MHz Business/Industrial/Land Transportation (“B/ILT”) Pool channel for “simplex car to car communications” and “tactical field operations” in connection with temporary fixed base stations.¹ Waiver relief to use B/ILT spectrum is requested because the TDOSHS was unable to identify an 800 MHz Public Safety Pool frequency that was not already assigned somewhere in the state. According to the Waiver Request, the B/ILT channel, 810/855.8375 MHz (“Channel”), is not assigned in the State of Tennessee.

What is not clear, either in the Waiver Request or the Public Notice, is whether the TDOSHS is seeking primary or secondary status on the Channel. Both the Waiver Request and the Public Notice acknowledge that the Boeing Company uses the Channel at a site in Madison

¹ Public Safety and Homeland Security Bureau Seeks Comment on Application and Waiver Request Filed by the Tennessee Department of Safety and Homeland Security for 800 MHz Business/Industrial/Land Transportation Frequency, *Public Notice*, File No. 0006812947, DA 16-370 (rel. Apr. 11, 2016) (“Public Notice”).

County, Alabama. The Waiver Request states, and the Public Notice confirms, that the TDOSHS will accept interference from Boeing's operation if the TDOSHS operates in areas proximate to that location. However, neither addresses the interference protection rights of future B/ILT licensees on the Channel.

EWA assumes that the TDOSHS is requesting secondary status and not what effectively would be statewide primary use of a B/ILT channel for temporary fixed units and mobiles, precluding any future use of the Channel in the state by qualified B/ILT entities seeking permanent operations.² The UTC letter referenced in the Public Notice as evidence of B/ILT concurrence with the Waiver Request states specifically that it concurs with the TDOSHS's proposed use on a secondary, non-interference basis. The Alliance would not object to waiver relief granted subject to that condition, but it is difficult to reconcile secondary status with the TDOSHS's search for a channel that is not assigned anywhere within the state, a criterion that suggests it is seeking exclusive use.

If the TDOSHS is proposing secondary, non-interference status on the Channel, it is surprising that it would not prefer to operate on one of the several very lightly used Public Safety ("PS") channels in the state, rather than assume the risk that B/ILT eligible entities might be assigned primary rights to the Channel in the future. For example, 857.0125 MHz is licensed to a single licensee at a single site in the State of Tennessee.³ 858.0125 and 858.0375 MHz are licensed to a county for a single site operation, and each is also used by one SMR licensee that is authorized for only a single site.⁴ Several other channels have only three or four sites licensed

² The Alliance notes that Item 20, Site Status, on the Schedule Ds of the TDOSHS application is blank, which again raises the question as to whether primary or secondary status is being requested.

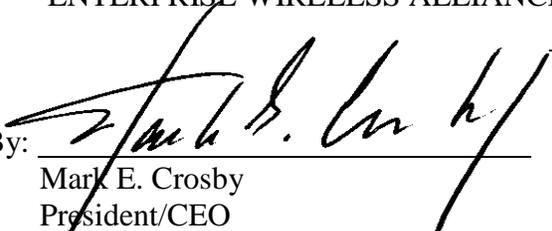
³ The licensee is an SMR that was rebanded to this PS frequency because of the frequency exchange between PS Expansion Band frequencies and interleaved channels as part of the 800 MHz rebanding process. Absent a waiver, this licensee would not be able to expand its operations on the Channel beyond its existing contour.

⁴ These two SMR licensees presumably were moved to their PS frequencies in that same 800 MHz rebanding process and would be subject to the same expansion restrictions.

anywhere in the state. It is not clear whether the TDOSHS would operate on a primary basis on one of these PS channels with an obligation to protect only those very limited areas where they already are licensed to other entities, but with protection rights vis-à-vis subsequent PS applicants, or would have secondary status with the possibility that other PS entities might be assigned the same channel. Either status would seem preferable to secondary status on a B/ILT channel with no protection against future B/ILT operations.

As indicated above, the Alliance would not object to grant of the Waiver Request provided it is approved for operation on a secondary, non-interference basis, and the TDOSHS is fully aware that it cannot cause interference to and must accept interference from any current or future B/ILT entity on the Channel. EWA certainly and, we assume UTC, would object to the grant of a waiver that would afford the TDOSHS primary, protected status on the Channel for what is essentially itinerant statewide use.

ENTERPRISE WIRELESS ALLIANCE

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CERTIFICATE OF SERVICE

I, Linda J. Evans, with the law firm of Lukas, Nace Gutierrez and Sachs, LLP, hereby certify that I have, on this 2nd day of May 2016, caused to be forwarded by first-class mail, postage prepaid, the foregoing Comments to the following:

Mr. Arnold Hooper
Wireless Communications Director
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/s/ Linda J. Evans