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November 4, 2013

Mr. Michael Wilhelm
Deputy Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Weld County, CO
FCC File No. 0005556908

Dear Mr. Wilhelm:

This application remains a subject of dispute between the Enterprise Wireless Alliance (“EWA” or “Alliance”) and the Association of Public-Safety Communications Officials-International, Inc. (“APCO”). EWA objected to APCO’s coordination of two 800 MHz Industrial/Business (“I/B”) channels for use by Weld County, CO (“County”) on the basis that there were two Sprint-vacated channels that were available for assignment to the County, channels reserved exclusively for public safety entities. APCO disagreed, stating that the vacated channels identified by EWA were not available when the County’s application was filed on December 18, 2012 and noting that the Utilities Telecommunications Council (“UTC”) had concurred in the coordination of the I/B channels. By letter dated October 24, 2013, APCO opposed the more recent recommendation of EWA that the FCC resolve this matter by allowing the reinstatement of the County’s license, including the two originally requested I/B channels, and by designating the two Sprint-vacated frequencies as available for I/B applicants in accordance with normal 800 MHz I/B coordination procedures. The Alliance made that suggestion, not because it considered it optimal or even necessary, but as a courtesy to the County, which had complained in an *ex parte* letter to the FCC that changing frequencies would cause it to incur additional cost. The proposed solution would allow the County to proceed with its original system design without depleting the 800 MHz spectrum available for the I/B user community.

APCO’s opposition rests on two arguments, both of which EWA believes are erroneous. First, while the County’s application was submitted originally on December 18, 2012, it has been amended several times since then, including amendments filed well after the Sprint-vacated channels were made available for public safety use. As indicated clearly in ULS, those amendments were considered “major” by the FCC. FCC

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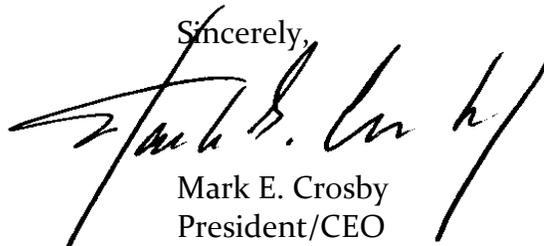
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Rule Section 1.947 states that “Applications for major modifications also shall be treated as new applications for determination of **filing date**, Public Notice, and petition to deny purposes (emphasis added).” Thus, in accordance with the FCC’s rules, the County’s application currently has a receipt date of May 23, 2013, the date of the last major amendment, which is months after the Sprint-vacated channels were made available. It simply is not correct that no public safety channels were available for the County’s use at the time APCO coordinated and filed those major amendments to the original application.¹

The Alliance also submits that APCO is imbuing UTC’s letter with more weight than it deserves. The letter is a single sentence stating that UTC concurs with the County’s use of the I/B channels. UTC presumably was not engaged to undertake any analysis beyond confirming that there were no licensed or earlier-filed pending I/B applications for the same channels that would not receive the required protection from the County’s proposed sites pursuant to FCC Rule Section 90.621(b). EWA assumes that is correct, but it begs the fundamental issue: Are there public safety frequencies available for the County’s use? If the answer is yes, then concurrence from an I/B Frequency Advisory Committee (“FAC”) with regard to I/B channel availability is meaningless.²

We continue to look forward to working with the FCC and the County to resolve this matter promptly and equitably.

Sincerely,



Mark E. Crosby
President/CEO

cc: Michael R. Wallace,
Weld County Director of Public Safety Communications

Farokh Latif
Director, APCO-AFC

¹ Even if the application amendments were not considered “major,” thereby triggering new application receipt dates, fundamental equity would support the assignment of Sprint-vacated channels rather than I/B spectrum. The FCC has granted public safety three years exclusive access to the vacated channels, a spectrum windfall that should be fully utilized before public safety applicants qualify for waivers to access the very limited 800 MHz spectrum available for I/B applicants.

² Because the channels in question are available for all I/B entities, including the Alliance’s members, EWA has an obligation to review both public safety spectrum availability and concurrence from I/B FACs to make its own assessment as to whether it believes a waiver is justified.