



April 6, 2026

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

Re: DA 26-145
File No. 0011761238
Reply

Dear Ms. Dortch:

The Enterprise Wireless Alliance (“EWA”) filed comments in support of the above-identified application and waiver request from the San Francisco Bay Area Rapid Transit District (“BART”). BART acquired a 4.9 GHz geographic area PA authorization in 2015 to ensure reliable communications for a multi-line public transit system – the very public safety purpose for which the spectrum was intended. It has pursued this project diligently. The FCC imposed a temporary freeze on the band in 2020 and, in 2024, the FCC adopted rules requiring that geographic 4.9 GHz PA licenses be replaced entirely with site- and frequency-specific authorizations. In that same Eighth Report and Order, the FCC stated:

We also remind applicants and current licensees facing special circumstances that they may seek a waiver of the freeze pursuant to section 1.925 of the Commission’s rules.¹

BART has filed multiple applications identifying sites but cannot yet identify each of the approximately 1,500 locations along its rail lines at which 4.9 GHz spectrum will be deployed, although the lines themselves are readily identified. Therefore, BART followed the FCC directive and requested waiver relief so it can complete the public safety system on which it has been working for a decade.

¹ See *Amendment of Part 90 of the Commission’s Rules*, WP Docket No. 07-100, Eighth Report and Order, 39 FCC Rcd 12032 at ¶ 55 (2024) (“8th R&O”).

The Association of Public-Safety Communications Officials, International (“APCO”), whose website states it advocates on behalf of public safety, nonetheless filed Reply Comments in the proceeding opposing BART’s waiver request. The Public Safety Spectrum Alliance (“PSSA”), whose website describes it as “an alliance amongst the nation’s leading public safety leaders and associations,” had filed Comments in the proceeding in which it also opposed grant of BART’s waiver request. The arguments made by both organizations are unpersuasive.

Both APCO and PSSA claim that action on the request is premature, that the FCC should take no action but defer the decision to a Band Manager who is to be selected and begin work at some unknown point in the future.² According to the FCC, a primary responsibility of that Band Manager will be “frequency coordination and interference protection for the operations of existing incumbent public safety licenses.”³ BART is just such an incumbent. It is already there and well into the process of deploying a 4.9 GHz system along identified rail lines, a project estimated to cost more than \$1 Billion. Unless APCO and PSSA think the Band Manager might determine BART is not entitled to protection for this massive project throughout its service area, that it needs to abandon this public safety undertaking since a partial system would be no system at all, deferring a decision to some unknown date will only result in increased cost and delays in improved service to and safety for the public during the hiatus.

APCO argues that “the 4.9 GHz band is a shared-use band, and ‘no licensee has a right to exclusive use, or interference free, access to the band.’”⁴ The footnote cites the 8th R&O at ¶ 11 and is the FCC’s description of the band in its original regulatory structure. The footnote also cites 47 C.F.R. § 1209(a). However, that rule states: “Channels...are available on a shared basis only and will not be assigned for the exclusive use of any licensee.” It says nothing about interference rights under the new FCC rules. Indeed, if APCO’s quote were correct, it raises the question of what is meant by the Band Manager’s responsibility to provide “interference protection for the operations of existing incumbent public safety licenses.”

PSSA argues that grant of the waiver request will be “to the detriment of other incumbent 4.9 GHz Band licensees.”⁵ It must be noted that none of the 139 incumbent licensees APCO states are operating in the five counties involved in BART’s request⁶ and

² The FCC’s decision to appoint a Band Manager remains under appeal – including by the PSSA - and there is no indication the FCC intends even to begin the multi-step Band Manager selection process until the Court acts. *See* Petition for Review, Coalition for Emergency Response and Critical Infrastructure v. FCC, No. 24- 1364 (D.C. Cir. Nov. 27, 2024) (consolidated with D.C. Cir. No. 24-1363).

³ 8th R&O at ¶ 38.

⁴ APCO Comments at 2 (the statement cited is in ¶ 3, not ¶ 11). 47 C.F.R. § 1209(a).

⁵ PSSA Comments at 5.

⁶ APCO Reply Comments at n. 10.

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no prospective user have raised any objection to the BART request. Public safety entities, including BART, are fully aware of their need to cooperate and coordinate in use of this and other spectrum bands. It is not realistic to imagine that another public safety entity in BART's service area would seek to deploy a 4.9 GHz system in such proximity to BART's lines that the systems could not co-exist.⁷

All recent FCC decisions in this lengthy proceeding have been predicated on the belief that public safety entities had underutilized the 4.9 GHz band. Whether that is the case in other areas, BART is an example of a governmental entity that has invested significantly in a much-needed 4.9 GHz system that will benefit the more than 400,000 riders it serves every day. Surely the FCC's invitation to pursue waiver relief from the current freeze is intended for just such an applicant. It is not conceivable that the Band Manager, if it were enabled today, would reject BART's efforts to complete its project, the very type of public safety project for which the 4.9 GHz band was allocated.

EWA urges the FCC to reject the efforts by APCO and PSSA to delay BART's ongoing project and instead proceed with its consideration of the waiver relief requested.

Sincerely,

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⁷ Whether AT&T would allow consumer use of its network in that area is unknown. The FCC rules direct the future Band Manager to enter into a sharing arrangement with the First Responder Network Authority that, in turn, operates on a physical network built by AT&T and used for its commercial service. See 8th R&O at ¶ 1.

CERTIFICATE OF SERVICE

I, Linda Evans, hereby certify that I have on this 6th day of April, 2026, caused to be mailed, first-class, postage prepaid, a copy of the foregoing Reply to the following:

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/s/ Linda Evans