

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

In the Matter of

Doyle Fire District, NY) DA 26-366
Waiver Request to License a UHF Channel Pair) File No: 0011914078
From the Industrial/Business Pool)

To: Chief, Public Safety and Homeland Security Bureau

**COMMENTS
OF THE
ENTERPRISE WIRELESS ALLIANCE**

The Enterprise Wireless Alliance (“EWA”), in accordance with Section 1.415 of the Federal Communications Commission (“FCC”) rules, supports the waiver request (“Waiver Request”) filed by the Doyle Fire District (“Doyle FD” or “Applicant”). As described in the Waiver Request, the Applicant has public safety responsibilities throughout a large service area and seeks to add a single UHF Industrial/Business (“I/B”) repeater pair to supplement its current UHF mobile-only system. The Waiver Request is supported by APCO, which states that it has searched UHF public safety frequencies and determined that all are “too close to existing users, have frequency limitations that exclude their use, or do not pass Canadian coordination.”¹ It explains that while it normally would include the results of that search, it has not done so “since it shows numerous frequencies are available, but they are not due to Canadian users and/or frequency

¹ APCO Coordination Statement.

limitations.”² The Waiver Request is supported by a letter of concurrence from the Utilities Technology Council, an I/B FAC.³

EWA appreciates that proximity to the Canadian border makes identifying usable frequencies challenging. Its members that operate above Line A face this same problem, particularly when seeking exclusive channels for more efficient trunked operations. EWA would hope public safety FACs would offer reciprocal cooperation when no usable I/B spectrum is available consistent with FCC rules, including Rule Section 90.187, and/or Canadian approval criteria.

With respect to this Waiver Request, EWA supports it as it does all requests for private land mobile radio (“PLMR”) frequencies outside an applicant’s “designated eligibility category” when it is documented that there are no assignable frequencies within that category. It is guided by its belief that regulatory barriers that prevent available spectrum from being placed into productive use, presumably while reserved for an “unborn” applicant, do not serve the public interest. In an environment where technology allows entities with differing communications requirements to co-exist, many rules intended to group entities with what were assumed to be compatible operating requirements have outlived their usefulness.

EWA has affirmatively supported any number of waiver requests from public safety applicants for the use of PLMR VHF or UHF I/B frequencies or of 800 MHz SMR or Business/Industrial/Land Transportation (“B/ILT”) spectrum. These include Monsey, NY Fire

² *Id.* EWA assumes that APCO, if requested to do so by the FCC or an I/B Frequency Advisory Committee (“FAC”), would provide the results of its frequency search and identify which frequencies would be rejected by Canada and which are unavailable because of frequency limitations specified in Section 90.20(d) or other identified limitations.

³ EWA trusts that Doyle FD was advised by either APCO or UTC that this I/B channel is available on a shared basis. As such, the Applicant understands there are co-channel incumbents, and it may expect additional I/B entities to be licensed for this channel in the future.

District,⁴ County of Aroostook, ME,⁵ Herriman, UT Police Department,⁶ City of Hubbard, OR,⁷ North Carolina State Highway Patrol,⁸ and City of Woodburn, OR.⁹ It also has supported public safety licensees' waiver requests for expanded use of frequencies in the 470-512 MHz band.¹⁰

In a world of limited spectrum resources, EWA believes FCC regulations should not prevent or discourage the assignment of vacant PLMR frequencies when they can be put into productive use providing goods and service for the American public. That is the basis for two pending EWA Petitions for Rulemaking related to Part 90 spectrum. One, RM-11978, would eliminate rules that reserve entirely fungible 800 MHz frequencies for specific eligibility categories, so waivers with their attendant costs and delays are sometimes required to secure vacant “out-of-category” spectrum.¹¹ This situation remains despite the fact that the 800 MHz rebanding process¹² ignored those eligibility classifications, and frequencies already support different categories of licensees with no adverse impact on their operations. The second, RM-11979, recommends deleting an antiquated rule that presumes the communications of certain users, including not-for-profit auto emergency road services, have a higher priority than others and that fee-based concurrences from their FAC gatekeepers are reasonable to gain access to available frequencies. Neither the fees nor the delays involved in securing concurrence are significant, but the rule is a vestige of an earlier time and plays no productive role in responsible spectrum

⁴ File No. 0011089434.

⁵ File No. 0011470989 (lead).

⁶ File No. 0010184781.

⁷ File No. 0011171022.

⁸ File No. 0010444325.

⁹ File No. 0010983172.

¹⁰ *See e.g.*, DA 22-1328, DA 22-1329 and DA 22-1331.

¹¹ Waivers are not only a burden on the applicant, but on FCC staff that must evaluate them and make a determination, often one that must be explained in a written order.

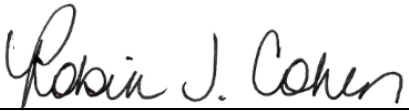
¹² *See Improving Public Safety Communications in the 800 MHz Band, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, WT Docket No. 02-55, 19 FCC Rcd 15969 (2004).*

management. EWA urges the FCC to move forward on those rulemaking petitions at the earliest opportunity.

EWA's position on this Waiver Request is consistent with its position on PLMR spectrum management generally: If frequencies can be assigned to an applicant without any likelihood of causing interference to incumbents, they should be – preferably without waivers, additional fees, or regulatory delays. The Applicant's Waiver Request should be granted.

Respectfully submitted,

ENTERPRISE WIRELESS ALLIANCE

By:  _____

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