

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

In the Matter of)
)
San Francisco Bay Area) DA 26-145
Rapid Transit District) File No. 0011761238
Waiver Request for Operation in)
In the 4.9 GHz Band)

To: Chief, Public Safety and Homeland Security Bureau
Chief, Wireless Telecommunications 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 San Francisco Bay Area Rapid Transit District (“BART”). The Waiver Request seeks a waiver of the 4.9 GHz application filing freeze consistent with the directive of the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau (collectively, “Bureaus”) to seek individualized relief from the freeze.¹ Specifically, BART has requested authority to continue deployment and modification of some 1,500 additional fixed and mobile locations along its transit route and retention of geographic authority to add and move fixed sites throughout its service territory. It proposes a special condition on its licenses that would read: “Waiver of Section 90.1207(c) granted to allow fixed stations to operate at permanent locations on a primary basis within their designated

¹ *Public Safety And Homeland Security Bureau and Wireless Telecommunications Bureau Further Modify Temporary Filing Freeze on the Acceptance and Processing of Certain Part 90 Applications for the 4940–4990 MHz Band*, WP Docket No. 07-100, Public Notice, DA 24-1136, 39 FCC Rcd 12317 (PSHSB/WTB 2024) (*2024 Freeze Modification Public Notice*). BART also requests a waiver of the July 9, 2025, filing date for the submission of granular license data out of an abundance of caution, although there is no deadline for 4.9 GHz waiver requests.

area of operation, and modifications to both fixed and mobile sites are permitted.”² For the reasons detailed below, EWA submits that BART has met the standard for FCC waiver relief ³ and urges prompt action on the Waiver Request.

As explained in the Waiver Request, BART provides heavy rail rapid transit service to a five-county territory in the San Francisco Bay Area Metropolitan region. It has been in operation since the early 1970s and, as of third quarter 2025, was handling approximately 180,000 weekday passenger trips. It had over 50,000,000 annual passenger trips in 2024. The efficient operation of this system is essential to the safety and productivity of the citizens in the area.

When BART recognized that its 50-year-old train control system required updating, it began planning conversion to the new Communications Based Train Control (“CBTC”) network.⁴ Its 4.9 GHz PA geographic license, WQML952, granted in 2010 was optimal for this purpose since it provided the flexibility needed to support a multi-line transit system whose coverage requirements are dictated by the population it is charged with serving. The Waiver Request explains that planning for the CBTC began in 2015, several years before the FCC’s 2018 request for comment on proposals to modify the 4.9 GHz rules, including requiring the registration of site and channel data.⁵ BART selected a vendor in 2020, the same year the Bureaus announced a temporary licensing freeze on PA licenses, but again did not suggest that geographic authorizations would be canceled in the future.⁶ It was not until the 2024 Eighth Report and Order in this proceeding that the FCC adopted rules requiring that geographic PA licenses be replaced entirely with site- and frequency-specific

² Waiver Request at 4.

³ 47 C.F.R. §1.925(b)(3).

⁴ The system is also used by the BART police. Waiver Request at 2.

⁵ See *Amendment of Part 90 of the Commission’s Rules*, WP Docket No. 07-100, Sixth Further Notice of Proposed Rulemaking, 33 FCC Rcd 3261 (2018). Even then, the FCC proposed to “grandfather incumbent operations provided that they file certain technical information...in our licensing database.” *Id.* at ¶ 27. It did not suggest that geographic licenses would be canceled as part of that process.

⁶ See *Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Announce Temporary Filing Freeze on the Acceptance and Processing of Certain Part 90 Applications for the 4940–4990 MHz Band*, WP Docket No. 07-100, Public Notice, 35 FCC Rcd 9522 (PSHSB/WTB 2020).

authorizations.⁷ By this time, BART was almost a decade into the design and deployment of its new train control system, a design that presumed the flexibility inherent in geographic licenses.

BART is in the process of installing and testing the CBTC and expects substantial completion in the next five years. The budget for the CBTC project is more than 1 Billion dollars. The project's timeline is consistent with projects of this complexity, size, and cost that must be undertaken in stages. BART's Waiver Request satisfies the FCC's standard for relief. Grant of the request is essential for the successful completion of this more than decade-long undertaking to improve the safety, reliability, and efficiency of the nation's seventh largest transit system.

Importantly, BART is accomplishing exactly what the FCC has sought in its more than two-decade investigation into how best to ensure the 4.9 GHz band "is efficiently and intensely utilized in support of public safety missions...."⁸ Throughout the proceeding, the FCC has expressed its concern that the band is underutilized for public safety operations. In its Eighth Report and Order, it determined to issue a nationwide overlay license to a to-be-selected Band Manager that will be authorized to enter into a spectrum sharing arrangement with the First Responder Network Authority ("FirstNet"). FirstNet will be allowed to utilize "unassigned" 4.9 GHz band spectrum,⁹ but "does not have the authority to disallow proposed public safety operations or otherwise limit public safety operations once a public safety entity is licensed to operate in the band,"¹⁰ and the Band Manager "will be responsible for frequency coordination and interference protection for incumbent public safety licensees...."¹¹ Given BART's well-defined service area and the fact that it has stated any sites beyond those already licensed will be "within 2 kilometers of BART's existing CBTC network,"¹²

⁷ See *Amendment of Part 90 of the Commission's Rules*, WP Docket No. 07-100, Eighth Report and Order, FCC 24-114 (2024) (Eighth Report and Order).

⁸ Eighth Report and Order at ¶ 1.

⁹ *Id.* at ¶ 27.

¹⁰ *Id.* at ¶ 39.

¹¹ *Id.* at ¶ 41.

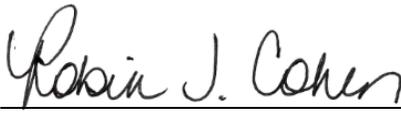
¹² Waiver Request at 4.

the Band Manager will be required to protect that geographic area. The simplest, most efficient way to do that will be through retention of BART's geographic license.¹³ It authorizes operation within 60 kilometers of a central location, a definition that encompasses the entire planned CBTC network. This will not in any way undermine FirstNet's responsibility to promote intensive use of 4.9 GHz spectrum, since this spectrum already is and will continue to be intensively used in that geographic area by BART.

BART's CBTC project is consistent with the FCC's objective for the 4.9 GHz band. It makes intensive use of this spectrum for public safety operations, including the BART Police, and should be supported by grant of BART's Waiver Request.

Respectfully submitted,

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¹³ Allowing BART to retain its geographic authorization and minimizing the number of applications it is required to file for sites within that service area would be consistent with the FCC's efforts to reduce regulatory burdens on licensees and on the FCC's own staff responsible for processing 4.9 GHz applications.