

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

In the Matter of)	
)	
Petition for Orders to Show Cause Why)	Call Signs: WQUI888, WPUC290,
19 Licenses for 896-901/935-940 MHz)	WQVW552, WPJZ221, WPKT872,
Business/Industrial Land Transportation)	WPUV824, WQTB335, WQTC271,
Pool Channels and The Enterprise Wireless)	WPEY402, WQVN203, WQVX521,
Alliance’s Frequency Coordination)	WNJL371, WNQL213, WQTE755,
Authority Should Not Be Revoked)	WQTG697, WQTG700, WPPG985,
)	WQUV855, WPVI804, WQVE909,
)	WQUA702, WQUT209, and
)	WQUW935.

To: Chief, Wireless Telecommunications Bureau

**PARTIAL OPPOSITION TO PETITION
FOR ORDERS TO SHOW CAUSE
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, hereby submits its Partial Opposition to the June 26, 2015 Petition for Orders to Show Cause (“Petition”) filed by Spectrum Networks Group, LLC (“SNG”).¹ In addition to arguing that certain 900 MHz licenses should be revoked, the Petition claims that the Commission should conduct an inquiry as to whether the Alliance should be decertified as a Part 90 frequency coordinator based on EWA’s handling of a single application.²

The Alliance has already addressed the 5G Application once³ and the issue of the scope of frequency coordinator responsibilities twice⁴ in response to SNG complaints. EWA will

¹ This Partial Opposition addresses only that portion of the Petition that seeks EWA’s decertification as a Part 90 frequency coordinator and the two applications that relate to that decertification request.

² Petition at 19-20. FCC File No. 0006325482 (“5G Application”).

³ See Nov. 6, 2014 Letter to Marlene H. Dortch, Secretary, FCC from Mark E. Crosby, President/CEO, EWA re FCC File No. 0006325482 (“Nov. 2014 Letter”).

explain again for SNG's benefit the responsibilities and limitations the Commission has imposed on FCC-certified frequency coordinators in the hope that this final effort will put the matter to rest.

The FCC in 1986 defined the information on an application that is subject to review by coordinators and that which is reserved for FCC consideration.⁵ In that proceeding, the Commission was responding to 1982 amendments to the Communications Act in which Congress specifically recognized the role that coordinators play in the spectrum management process.⁶ The FCC noted that defining the scope of that role required a balancing of interests:

On the one hand, the guidelines accompanying the Communications Amendments Act encourage us to improve the quality of recommendations and to minimize processing delays. Ensuring that applications filed with the Commission are complete and in general compliance with the applicable rules will promote those goals. On the other hand, we do not want to overburden coordinator resources and capabilities, particularly by having them review data elements that are not essential to frequency coordination. After careful consideration, we agree with the comments of NABER that coordinators should not have to review the entire application but should be responsible for reviewing those matters pertaining to the top portion of the current Form 574. Thus, we will require coordinators to assure that applications are complete and that data items 1-25 on the Form 574 application are correct.....

Coordinators will not be required to make a final determination on eligibility, permissible usage, or whether the use of a particular communication facility is in the public interest....We will continue to review each application and to make all necessary public interest judgments.⁷

A sample Form 574 is attached as Attachment 1. Consistent with the bifurcation described above, the applicant's self-declared eligibility, as well as other certifications required of all applicants, are on the bottom half of the Form 574.

⁴ See Nov. 2014 Letter; June 24, 2015 Letter to Marlene H. Dortch, Secretary, FCC from Mark E. Crosby, President/CEO, EWA re FCC File No. 0006838311.

⁵ Private Land Mobile Radio Services (Frequency Coordination), *Report and Order*, PR Docket No. 83-737, 103 FCC2d 1093(1986) ("FC Order").

⁶ The Communications Amendments Act of 1982, P.L. 97-259, 96 Stat. 1087, Sept. 13, 1982.

⁷ FC Order at ¶ 20.

Thus, in accordance with current FCC rule and policy, frequency coordinators are not charged with investigating or even authorized to question whether an applicant is actually engaged in the activity described in its eligibility statement. The legitimacy of an applicant that requests the use of a particular frequency because it claims to be engaged in a business that qualifies for that use must be accepted by a coordinator at face value. If an applicant answers the questions on the FCC Form 601 “correctly,” for example by stating that it is going to use 900 MHz Business/Industrial/Land Transportation (“B/ILT”) frequencies for private internal use, even if the business in which the applicant is engaged is the operation of a radio communications sales and service shop, EWA has no authority to challenge that self-certification.⁸ It has no authority to question the inter-relationship among parties to various applications or to decline to coordinate applications that it believes raise eligibility, ownership, or public interest concerns. Indeed, EWA recently requested clarification and received informal guidance from the Commission that it could not decline to coordinate applications that EWA was concerned might be under common control and prepared for speculative investment purposes as long as there was nothing in the applications that was inconsistent with FCC requirements. Should the Commission expand the scope of coordinator responsibility to include eligibility and other issues, the Alliance will modify its review process accordingly.⁹

The 5G Application was coordinated and filed by EWA after EWA had advised the FCC that a mutually exclusive application¹⁰ had been coordinated and therefore granted in error and after the FCC’s Universal Licensing System (“ULS”) showed that the grant of the GS Application had been reversed. As explained in the Nov. 2014 Letter, EWA reviews and

⁸ Entities that provide communications services, like other companies, have employees and business activities that might well warrant the use of 900 MHz B/ILT spectrum for private, internal purposes.

⁹ EWA has urged the Commission to convene an industry meeting to consider the role frequency coordinators might plan in addressing applicant eligibility and compliance with other FCC requirements. See, e.g., June 9, 2015 EWA *Ex Parte* - WT Docket No. 15-32.

¹⁰ FCC File No. 0006249956 filed by Golden State Communications (“GS Application”).

coordinates many thousands of applications each year. The FCC recognized in 1986 that it would impose an unreasonable burden on coordinators to be responsible for the *bona fides* of each of those applicants and, thus, reserved for itself the task of evaluating the eligibility and permissibility of use of coordinated applications. Coordinators are not charged with investigating the ownership and business records of applicants as SNG did with respect to the 5G Application and the GS Application.¹¹ (Had EWA done so, it is not clear what it could have done with that information in light of FCC-imposed limits on coordination review authority and the Commission's recent confirmation that the Alliance must process facially compliant applications.) This is not to say that the Alliance was unaware of the relationship between the two. When EWA contacted Golden State to advise that the Alliance had coordinated the application in error and had requested its dismissal, the applicant asked whether his building maintenance and landscaping company did qualify for use of the frequencies. Because the activity he described was eligible for 900 B/ILT frequencies, the 5G Application was coordinated and filed with the FCC.

SNG's real complaint appears to be that 19 applicants over approximately 30 years of 900 MHz B/ILT frequency coordination activity *allegedly* secured these channels for use in commercial systems while SNG's request for a waiver to do so was denied.¹² It volunteers that if the denial of its waiver request were reversed, it would not object to the FCC granting waivers to the other licensees as well.¹³

¹¹ Petition at 11-12.

¹² Petition at 2-3. While obvious, it should be noted that EWA questioned the applications for 900 MHz B/ILT frequencies filed on behalf of SNG customers and subsequently by SNG itself not as a frequency coordinator, since it did not coordinate those applications, but as a trade association representing the interests of B/ILT-eligible entities. It did not challenge the validity of the eligibility statements but stated that, taken at face value, they did not meet the FCC eligibility requirements for these frequencies. SNG ultimately acknowledged that fact and on that basis submitted the waiver request referenced in the Petition.

¹³ *Id.* at 3.

EWA coordinated some of the licenses targeted by SNG. Others were coordinated by other FCC-certified 900 MHz frequency coordinators. Some of the authorizations in question were granted at least as far back as the mid-1990s, well before conversion to the current electronic ULS. Some were for new authorizations while others, which required no coordination, were assignments from existing licensees. If the Commission determines that an investigation into the origins of some or all of these authorizations is warranted, EWA will cooperate with the FCC and with any entity whose application was coordinated by the Alliance at their request and to the best of its abilities given the passage of time and the limited scope of its original application review.

Respectfully submitted,

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July 9, 2015

ATTACHMENT 1

Federal Communications Commission

APPLICATION FOR PRIVATE LAND MOBILE AND GENERAL MOBILE RADIO SERVICES

IMPORTANT NOTE: All applicants MUST include the PROPER FEE with their application and MUST FILE those applications at the PROPER FEE AIDIN. Refer to the current fee publication or contact the Consumer Assistance Branch, Federal Communications Commission, Gettysburg, PA 17326 (717) 337-1212.

EXPIRES DATE: 8/15/89

Frequency (MHz)	Channel	Power (W)	Class	Coordination	Altitude (ft)	ERP	EA	Frequency (MHz)	Channel	Power (W)	Class	Coordination	Altitude (ft)	ERP	EA
A 462.650	FBA	1	20K0F3E	50	90			430	250	39-25-55 N	77-30-15 W				
B 462.650	FB	1	20K0F3E	40	73			450	60	39-30-33 N	77-31-04 W				
G 462.650	FXI	1	20K0F3E	30											
H 462.650	MO	6	20K0F3E	50											
I 462.650	MO	6	20K0F3E	50											
J 462.650	FBA	1	20K0F3E	5											

SAMPLE APPLICATION NUMBER 10

For a GMRS system consisting of one community repeater; one base station; one small base station, one small control station meeting the 20 ft. antenna height criteria; and mobile units to operate on both frequencies.

14. Station Address (For use only if station is located in a rural area)

15. City

16. State

17. Zip Code

18. License Class

19. License Type

20. Location of Elements Controlled From This Mobile System (If not the same as 14, list the location of each element with antenna model, 20 ft. antenna height, and the antenna and cable following. An aerial height tolerance with antenna model 20 ft. (See instructions).)

21. Applicant's Name (See instructions)

22. Mailing Address (Number & Street, P.O. Box or R.F.D.)

23. City

24. State

25. Zip Code

26. Give the name of the nearest aircraft landing area, and the distance and direction to the nearest runway

Altitude (ft)	Direction	Distance (mi)
230	SSE	6 mi
35	SE	12 mi

27. Provide the elevation of the structure on which your antenna is mounted and the height above ground to the top of the structure. (See antenna figures 1-1 and 2-1 for examples.)

28. How much of your structure or other tower has been used with the FCC's rules for the tower, the tower under which built and the FCC's rules for the tower?

29. Applicant's Classification

30. Association

31. Eligibility (Eligible/Not Eligible)

32. Application is for (check one)

33. Does application include the complete system?

34. Supplemental Information for Trunked and Conventional Systems 806-824/831-849 MHz and 856-901-935/940 MHz frequency bands

35. Specification of antenna modified, if applicable

36. If other than one station, list all aspects of existing standards to be modified, combined or provided

37. Individual completing this application is (check one)

38. Name of individual completing this application

39. Telephone No.

40. Signature of individual completing this application

41. Date

FOR COORDINATOR USE ONLY:

42. Signature of Coordinator

43. Date

CERTIFICATE OF SERVICE

I, Linda J. Evans, hereby certify that on this 9th day of July, 2015, I provided copies of the foregoing by e-mail in pdf format or, alternatively, by first-class mail, postage prepaid, to the following:

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/s/ Linda J. Evans