

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

In the Matter of)
)
Illinois American Water Company) PS Docket No. 21-32
Request to Share 800 and 700 MHz)
Public Safety Frequencies)

To: Chief, Public Safety and Homeland Security Bureau

**COMMENTS
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, respectfully submits its response to the Public Notice seeking comment on the Waiver Request (“Waiver Request”) filed by the Illinois American Water Company (“ILAW”).¹ The Waiver Request seeks authority to share use of 800 and 700 MHz frequencies allocated for public safety operations and utilized in the State of Illinois’ STARCOM21 network. Because ILAW is not a public safety entity and therefore is not eligible for its own authorization on these frequencies, it requests a waiver of FCC Rule Section 90.20 to enable it to share use of the 800 MHz frequencies in that network and to be deemed situationally eligible to utilize the 700 MHz frequencies on a secondary, preemptible basis during emergency events involving preservation and safe delivery of water resources or removal of wastewater.²

EWA supports ILAW’s request as fully consistent with decades of FCC precedent. It is another example of an instance where shared use of public safety frequencies by Critical

¹ *Public Safety and Homeland Security Bureau Seeks Comment on Illinois American Water Company Request to Share 800 and 700 MHz Public Safety Frequencies*, Public Notice, PS Docket No. 21-32, DA 21-994 (rel. Feb. 1, 2021) (“Public Notice”).

² Public Notice at 1 (citing Waiver Request at 6-7).

Infrastructure Industry (“CII”) entities, particularly as that term is defined by the Department of Homeland Security (“DHS”),³ promotes both maximum utilization of spectrum and the public interest.

I. LONG-STANDING FCC PRECEDENT SUPPORTS GRANT OF THE WAIVER REQUEST.

It has been FCC policy for decades to allow shared use of public safety spectrum by non-public safety entities upon a showing that shared use will serve the public interest. Some of the decisions cited in the Waiver Request were authorized as long ago as 2004,⁴ and others likely preceded even that date. More recent precedent includes a decision to allow sharing arrangements in Tennessee,⁵ Michigan,⁶ and Ohio.⁷ ILAW’s Waiver Request provides ample support for a finding that the public will be served by allowing it to share both the 800 MHz and 700 MHz spectrum under consideration. The Waiver Request includes written support from the Illinois State Police. It also states that Motorola Solutions, Inc., a partner in the STARCOM21 network with the Illinois Department of Innovation and Technology (“DoIT”), has recommended ILAW’s use of that network to facilitate critical communication during emergency or disaster situations.⁸

The Waiver Request provides extensive detail about ILAW’s operations, its emergency response obligations, the frequencies it intends to contribute to the STARCOM21 network, the equipment it intends to deploy on that network, and the network capacity it expects to utilize. It explains the commitment it has made to operate on the network only during emergencies

³ See U.S. Department of Homeland Security. *NIPP 2013: Partnering for Critical Infrastructure Security and Resilience*. Available at: <https://www.dhs.gov/sites/default/files/publications/national-infrastructure-protection-plan-2013-508.pdf> (July 7, 2017). Because commercial communications facilities generally have access to spectrum dedicated to their use, they typically have no need to share public safety frequencies.

⁴ See *Entergy Nuclear Indian Point 2*, Order, 19 FCC Rcd 21256 (Chief, PSCID, WTB 2004); see also *Dominion Virginia Power*, Order, 19 FCC Rcd 12254 (Chief, PSCID, WTB 2004).

⁵ *Middle Tennessee Electric Membership Corporation*, Order, 34 FCC Rcd 2455 (PSHSB 2019).

⁶ *State of Michigan et al*, Order, 27 FCC Rcd 214 (PSHSB 2012).

⁷ *State of Ohio and FirstEnergy Corp.*, Order, 31 FCC Rcd 8758 (PSHSB 2016).

⁸ Waiver Request at 2.

involving the provision of water or wastewater management, all situations it properly describes as involving “the health of its workers and the general public and safety of property.”⁹

In light of the extensive FCC precedent consistent with approval of this type of shared use and the information provided in the Waiver Request, EWA suggests that the Public Safety and Homeland Security Bureau (“Bureau”) would have been well-justified in granting waiver relief on its own without first seeking public comment. It is difficult to imagine what input might be submitted in response to the Public Notice that would cause the Bureau to deny a request from an entity that provides essential services to the public and that is supported by the operators of the facilities it seeks to share. The Bureau certainly is qualified to evaluate the merits of the filing and determine whether the relief requested would serve the public interest. In fact, EWA wonders if a showing as extensive as was provided in the Waiver Request is necessary when the affected parties agree that shared use would be beneficial. A more streamlined approach could conserve time and resources for the parties involved and for the FCC, thereby providing the public with the benefits this system collaboration offers more expeditiously.

II. FCC POLICY SHOULD BE TO ALLOW PUBLIC SAFETY AND CRITICAL INFRASTRUCTURE INDUSTRY ENTITIES TO SHARE SPECTRUM WHENEVER FEASIBLE.

EWA has long advocated for more shared use of spectrum by public safety and CII, in particular the broader definition of CII used by DHS.¹⁰ There is a history of successful sharing, as evidenced by the decisions cited above, wherein entities determined that interoperability would be beneficial, as well as situations, for example, such as the sharing that takes place on 800 MHz General Category and on microwave frequencies where public safety and non-public

⁹ Waiver Request at 6.

¹⁰ See n. 3.

safety licensees co-exist compatibly on immediately adjacent frequencies. Because their private internal systems have similar configurations and they have comparable operational requirements, allowing shared use of a band is not only doable, but maximizes the efficient use of that band.¹¹

The FCC and Congress have been relatively generous in allocating spectrum for use by public safety entities. The public safety user community has access to dedicated frequencies at low-band, VHF, UHF, 470-512 MHz, 700 MHz, 800 MHz, and 4.9 GHz, all of which are made available without cost on the basis that such costs would be paid by the public. The spectrum options for CII entities are more limited, and there are no broadband allocations designated exclusively for their use. Instead, they often must compete for frequencies on which to deploy the broadband systems that are needed in today's digitized world against national or regional commercial carriers.

EWA recognizes that public safety's use of its spectrum is vital to the safety of the citizens they serve. However, the services provided by many CII entities also are critical not only to the well-being of the public but to the economic wherewithal of the nation. It is for this reason that EWA supports CII access to the 4.9 GHz band on a co-equal basis and not, as some public safety advocates have recommended, only with the endorsement of a public safety entity and with utilization limited to services that protect the safety of life, health, or property. EWA's comments in WP Docket No. 07-100 set out its position on this issue, and its belief generally that CII entities would be good neighbors with public safety in bands where capacity remains available. Moreover, allowing such use would result in expanded equipment offerings that would benefit public safety as well as other licensees.

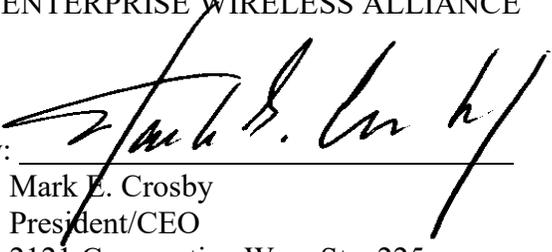
¹¹ By contrast, consumer-focused commercial networks are configured differently and have very different operating characteristics.

III. CONCLUSION

The Waiver Request should be granted as consistent with decades of FCC precedent and with the public interest. Further, the FCC should take a holistic view of the opportunities for sharing between public safety and CII entities. Experience confirms that they can co-exist compatibly, that expanding the universe of licensees will lead to a more robust equipment market, and that shared use makes eminent sense from a spectrum utilization perspective.

Respectfully submitted,

ENTERPRISE WIRELESS ALLIANCE

By: 

Mark E. Crosby
President/CEO
2121 Cooperative Way, Ste. 225
Herndon, VA 20171
(703) 528-5115
mark.crosby@enterprisewireless.org

Counsel:

Elizabeth R. Sachs
Lukas, LaFuria, Gutierrez & Sachs, LLP
8300 Greensboro Drive, Ste. 1200
Tysons, VA 22102
(703) 584-8678
lsachs@fcclaw.com

March 3, 2021