

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

In the Matter of )  
 )  
Commonwealth of Virginia, Department ) WT Docket No. 20-241  
Of State Police Request for Waiver of )  
Section 22.565(f) of the Commission’s Rules )

To: Chief, Wireless Telecommunications 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<sup>1</sup> requesting comment on the Request for Waiver of FCC Rule Section 22.565(f) (“Waiver Request”) filed by the Commonwealth of Virginia, Department of State Police (“VA State Police), seeking to deploy mobile transmitters operating at 100 watts output power rather than the permitted 60 watts.<sup>2</sup> The Alliance supports the Waiver Request and recommends that it be granted expeditiously. It further urges the Commission to take action to reconcile the Part 22, Subpart E rules with the rules governing Part 90, an issue raised more than six years ago in WT Docket 14-180.<sup>3</sup> The FCC received unanimous support for greater operational flexibility on this Part 22 spectrum from the land mobile community and the

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<sup>1</sup> *Wireless Telecommunications Bureau Seeks Comment on the Commonwealth of Virginia, Department of State Police Request for Waiver of Section, 22.565(f) of the Commission’s Rules to Increase Mobile Transmitter Output Power from 60 to 100 Watts*, Public Notice, WT Docket No. 20-241, DA 21-125 (rel. Feb. 12, 2021) (“Public Notice”).

<sup>2</sup> The Waiver Request specifies that the mobiles will transmit a maximum ERP of 150 watts. The rules do not specify an ERP limit for mobiles operating on this spectrum.

<sup>3</sup> *Wireless Telecommunications Bureau Reminds Paging and Radiotelephone Service Licensees of Certain Technical Rules and Seeks Comment on the Need for Technical Flexibility*, Public Notice, WT Docket No. 14-180, 29 FCC Rcd 12673 (WTB 2014) (“Part 22 PN”).

Comments proposed a number of specific steps that could be taken toward that end, but the matter has received no further attention in the intervening years. Action in that proceeding is overdue and likely would have eliminated the need for the instant Waiver Request thereby conserving both FCC and VA State Police resources.

**I. THE WAIVER REQUEST DEMONSTRATES A NEED FOR THE RELIEF SOUGHT WITHOUT ADVERSE IMPACT ON ANY OTHER PARTY.**

The Waiver Request presents a straight-forward situation. The VA State Police have relied on the Statewide Agencies Radio System (“STARS”) network to meet public safety communications requirements for fifteen years with coverage of 97% of the Commonwealth’s population. The system, like many land mobile systems, uses a combination of Part 90 and Part 22, Subpart E spectrum.<sup>4</sup>

The VA State Police now need to increase capacity on the network and have determined that upgrading from FDMA to more spectrally efficient TDMA technology is the optimal solution. The network will gain capacity without requiring additional channels, an approach that EWA supports and the FCC should endorse. However, as explained in the Waiver Request, the upgrade would result in coverage loss because of an imbalance between talk-in and talk-out mobile coverage, a problem that can be addressed by increasing mobile output power from 60 to 100 watts.

The Waiver Request includes a technical analysis prepared by Dr. Kenneth Ballard of CTA Consultants, LLC, which supports the claim that the output power increase will not cause interference to other Part 22 licensees, whether adjacent channel licensees in the STARS operating area or co-channel licensees in adjacent markets. Of course, in the unlikely event that Dr. Ballard’s conclusions are not correct and interference occurs, EWA would expect the VA

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<sup>4</sup> STARS also uses spectrum licensed under Part 80 of the FCC rules.

State Police to respond quickly and eliminate the problem. Because the relief requested would not adversely affect other parties and would allow deployment of a more spectrally efficient system, EWA supports grant of the Waiver Request.

**II. THE FCC SHOULD MOVE PROMPTLY TO ADOPT A NOTICE OF PROPOSED RULEMAKING IN WT DOCKET NO. 14-180 THAT IS CONSISTENT WITH THE COMMENTS FILED IN THE PROCEEDING.**

EWA was pleased that the Commission recognized the interplay of Part 90 and Part 22, Subpart E frequencies and initiated WT Docket No. 14-180 on its own motion to address those issues. The Part 22 PN focused on modifying the Part 22 technical rules to allow greater flexibility, noting certain differences between the Part 90 and Part 22 provisions. It suggested that updating the Part 22 rules “could result in licensees deploying innovative technologies, deploying narrowband equipment, or using offset frequencies if they hold adjacent channel blocks.”<sup>5</sup>

The FCC received comments from a wide variety of land mobile licensees in response to its inquiry. All supported rule changes that would allow greater flexibility. Many highlighted the reality that frequencies authorized under both Parts of the FCC rules were being used in the same systems, as they are in the STARS network, so reconciling the technical provisions was logical and, indeed, necessary. The Land Mobile Communications Council (“LMCC”), which represents Industrial/Business and Public Safety segments of the land mobile community, as well as many of its equipment vendors through the participation of the Telecommunications Industry Association, submitted detailed Comments addressing a number of rule changes it believed would be appropriate. Other parties also made constructive recommendations. Yet despite this unanimous reaction to the FCC’s initiative, six years have passed and no action has been taken. In 2018, several utilities and utility industry representatives, supported by the LMCC, reminded

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<sup>5</sup> Part 22 PN at 2.

the Commission that this proceeding had not moved forward and emphasized the importance of reconciling these various rules.<sup>6</sup> Those pleas have gone unanswered.

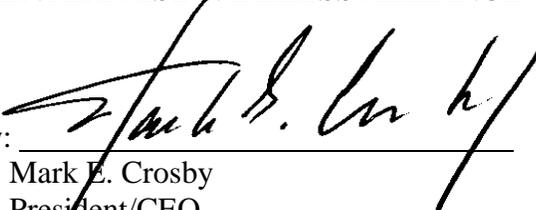
EWA recognizes that the Commission has many important and often complex issues for which it is responsible. Nonetheless, it is at a loss to understand why the FCC would have raised these issues on its own motion, received consistently supportive and thoughtful comments from all segments of the land mobile industry, and then seemingly ignored its own expectation that modifying the Part 22, Subpart E rules would lead to more efficient spectrum utilization and deployment of more technically advanced equipment.

### III. CONCLUSION

EWA supports grant of the Waiver Request for the reasons stated herein. But waiver relief should not have been necessary. The Alliance again urges the FCC to finish an initiative it began by adopting a Notice of Proposed Rulemaking to do away with unnecessary technical distinctions between the rules governing Part 90 and Part 22, Subpart E frequencies either by revising the latter or, perhaps more logically, by moving that Part 22 spectrum into Part 90 so that all frequencies operate under a common set of technical standards.

Respectfully submitted,

ENTERPRISE WIRELESS ALLIANCE

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<sup>6</sup> See, e.g., Letter from Maynard Schnell, Counsel to Nebraska Public Power District to Marlene H. Dortch, Secretary, FCC, WT Docket No. 14-180 (filed Aug. 2, 2018); also signed by New York State Electric & Gas Corporation, PacifiCorp, and Utilities Technology Council; see also, Letter From David B. Smith, President, LMCC, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 14-180 (filed Sept. 26, 2018).

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