



June 26, 2017

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: ***Ex Parte* Communication**
WP Docket No. 16-261
WT Docket No. 17-79

Dear Ms. Dortch:

The Enterprise Wireless Alliance (“EWA” or Alliance”) has reviewed the June 5, 2017 *ex parte* filing in the above-identified proceedings submitted by the Wireless Infrastructure Association (“WIA”) (“WIA *ex parte*”) regarding a WIA meeting with Chairman Pai. As described in the WIA *ex parte*, the parties discussed multiple wireless issues, including policies with which the Alliance agrees regarding streamlining the wireless deployment processes.¹ However, as EWA has made clear in its comments in the Private Land Mobile Radio (“PLMR”) proceeding² and in *ex parte* communications regarding that proceeding, the Alliance disagrees strongly with WIA’s statement that what it describes as “open access” to spectrum in the 800 MHz Expansion Band and Guard Band (“EB/GB”) will promote meaningful competition for EB/GB channels or otherwise serve the public interest.

The Part 90 800 MHz spectrum, including spectrum in the EB/GB, is allocated for primary voice, land mobile use by public safety, critical infrastructure, business enterprise, and non-cellular commercial provider licensees. It is one of a limited number of bands where PLMR entities can license spectrum to build and operate their own private systems when consumer-oriented commercial networks, including broadband networks, do not meet their specific operational requirements. The Land Mobile Communications Council (“LMCC”) is

¹ Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, *Notice of Proposed Rulemaking and Notice of Inquiry*, WT Docket No. 17-79, 82 FCC Rcd 21761 (rel. Apr. 21, 2017).

² Amendment of Part 90 of the Commission’s Rules to Improve Access to Private Land Mobile Radio Spectrum, *Notice of Proposed Rulemaking*, WP Docket No. 16-261, 31 FCC Rcd 9431 (2016) (“PLMR NPRM”).

an umbrella organization whose membership consists of organizations, including WIA, that collectively represent all PLMR user categories. It has recommended adoption of a time-limited opportunity for incumbent licensees to apply for EB/GB channels when that spectrum is made available by the WTB,³ a recommendation opposed by WIA. The LMCC and its members, other than WIA, support this limited preference so that incumbent 800 MHz licensees have an opportunity to acquire channels for system expansion before the spectrum is made available to new entrants in a market. These incumbents include public safety systems of all sizes, electric, oil, and gas utilities, transportation providers, such as airlines and package delivery companies, manufacturing enterprises, service organizations, and local two-way dispatch providers; the full range of organizations that provide goods and services to the American public, as well as those that maintain the safety and security of the country. These licensees have had very limited opportunities for system expansion during the lengthy 800 MHz rebanding process. In the opinion of the LMCC and EWA, allowing them a time-limited opportunity to add system capacity and thereby improve the efficiency of their operations promises a measurable benefit to the American public. After that period, remaining spectrum would be available to all entities eligible under Part 90 rules.

EWA described in detail in its April 25, 2017 *ex parte* communication in this proceeding why the “open access” promoted by WIA and M2M Spectrum Networks, LLC (“M2M”) would be contrary to the FCC’s efforts to promote a fair competitive opportunity for eligible applicants. Instead, it must be expected to produce the same coordinated effort by M2M and its affiliated entities, Spectrum Networks Group, LLC and Smartcomm License Services, LLC (collectively, the “M2M Affiliates”) as occurred in the primarily rural markets where the FCC has already made EB/GB spectrum available. By soliciting unknowledgeable applicants with an interest in spectrum only as an investment opportunity, and then leasing their channels, the M2M Affiliates were able to evade the FCC rules governing the number of initial channels available to an entity in any market.

Their success in finding trusts, doctors, dentists, other individuals, and LLCs – communications novices – to file in markets like Minot, North Dakota and Sioux City, Iowa suggests that the number of M2M-related applicants will be very substantial when the FCC makes this spectrum available in New York, Los Angeles, Chicago, and other such markets. It is uncertain whether the prior frequency coordination process required to prevent the submission to the FCC of mutually exclusive applications can work, given the volume of applications the M2M Affiliates might be able to generate. It surely cannot prevent M2M from stacking the deck in its favor when competing for spectrum against entities such as Federal Express, Torrance Refining, and Chaney Enterprises. These are 800 MHz incumbents that learned recently that they could not add needed capacity to existing systems due to lack of available channels. They would put EB/GB spectrum into productive use immediately once available. But neither they, nor other incumbents such as BG&E, ARINC, and Consolidated Edison will enlist third parties to file applications on their behalf.⁴ Nor should they have to

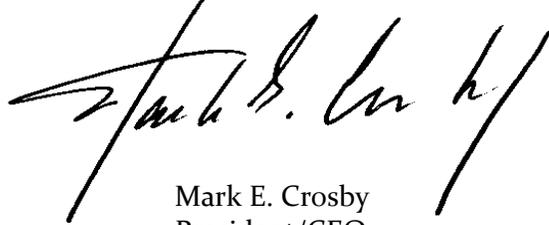
³ Petition for Rulemaking of the Land Mobile Communications Council, RM-11719 (filed Mar. 27, 2014) (“LMCC Petition”).

⁴ In its April 25th *ex parte* communication, EWA asked the Commission whether the M2M Affiliates’ arrangements with applicants/licensees are consistent with the FCC’s rules and policies. If they are, then the Alliance intends to notify its members that they should solicit third parties to affiliate with them and file

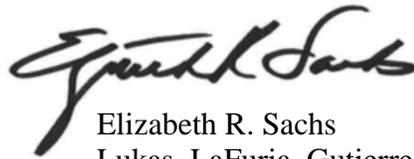
resort to such measures. How WIA, an organization that represents PLMR users, can argue that this “open access” will promote competition and benefit the public is a mystery to the Alliance.

EWA would be pleased to meet with the offices of the Chairman and other Commissioners to discuss this issue in greater detail.

Sincerely,



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applications if they want a reasonable opportunity to acquire EB/GB channels in urban areas. The Commission has not responded to that question.

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