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February 12, 2016

Mr. Roberto Mussenden  
Public Safety & Homeland Security Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Mr. Rodney Conway  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Request for Clarification  
PS Docket No. 13-229

Gentlemen:

The FCC recently modified its rules to allow the licensing of Vehicular Repeater Systems (“VRS”) on six 173 MHz channels that previously were available to business/industrial/land transportation (“B/ILT”) and public safety<sup>1</sup> users on a shared basis for data telemetry systems only.<sup>2</sup> Under the new rules, B/ILT and public safety entities are eligible to license VRS as well as data telemetry systems on these channels. EWA was an advocate for this spectrum sharing opportunity and was instrumental in securing consensus frequency coordination protocols to mitigate the potential for interference between these disparate system types. On February 3, 2016, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau (“Bureaus”) issued a Public Notice in which they approved the protocols.<sup>3</sup> The same PN announced March 15, 2016, as the date on which entities may submit applications for VRS.

On February 8, 2016, EWA submitted an email request to the Bureaus requesting clarification of certain matters addressed in the PN. Since then, another matter has been brought to EWA’s attention by a public safety frequency advisory committee (“FAC”) that also requires FCC clarification.

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<sup>1</sup> There are entities, principally certain types of agencies within municipalities, that may establish eligibility as either a B/ILT or public safety licensee.

<sup>2</sup> Amendment of Sections 90.20(d) and 90.265 of the Commission’s Rules to Facilitate the Use of Vehicular Repeater Units, PS Docket No. 130229, *Report and Order*, 30 FCC Rcd 8864 (2015).

<sup>3</sup> Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Announce They Will Begin Accepting Applications for the Operation of Mobile Repeaters on Six Remote Control and Telemetry Channels in the VHF Band on March 15, 2016, *Public Notice*, DA 16-119 (rel. Feb. 3, 2016) (“PN”).

It has been EWA's expectation from the outset of this proceeding that all FCC-certified FACs would be authorized to process both VRS and data telemetry applications in accordance with the FCC's rules and the consensus protocols, regardless of the applicants' eligibility category. This view is premised on the fact that these six channels are not allocated on a primary basis to either B/ILT or public safety applicants, but are shared equally by them. While the consensus coordination protocols are designed to provide the necessary geographic separation between incompatible data telemetry and VRS operations, B/ILT and public safety data telemetry systems may operate on the same channel and B/ILT and public safety VRS operations may share a channel. The same operational rules regarding permissible bandwidths, power levels, justification for additional channels, and acceptable areas of operation for VRS govern B/ILT and public safety operations. The consensus protocols for these channels are applied identically, whether the applicant claims B/ILT or public safety eligibility.

Thus, there is no provision, either in the FCC rules or in the approved protocols, for the application of subjective criteria that would apply uniquely to B/ILT or to public safety applicants. A B/ILT or public safety FAC, given the same information, should be expected to arrive at the identical frequency coordination outcome.<sup>4</sup> In fact, EWA and perhaps other B/ILT FACs have successfully coordinated numerous public safety VRS systems on B/ILT channels pursuant to waivers. The recent rule change was in response to the argument that the range of VHF public safety spectrum was not adequate to accommodate both primary VHF public safety operations and VRS use given current filter technology, thereby necessitating such waivers. This history of processing public safety VRS applications on B/ILT channels should put to rest any concern about the ability of a B/ILT FAC to handle such applications properly.

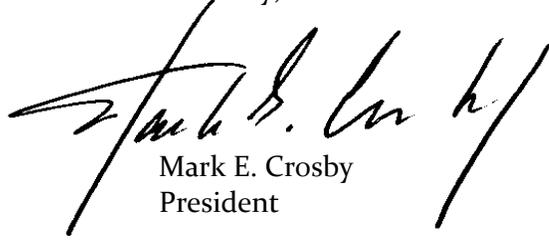
EWA appreciates that coordination of data telemetry and VRS applications on these six channels requires the highest level of technical expertise and professionalism. With all due respect to public safety FACs, EWA is confident that it and other B/ILT FACs have both the capability and expertise to process applications in conformance with the FCC's rules and policies. As long as the technical criteria adopted by the Commission are followed and information is exchanged among FACs as it is for Sprint-vacated 800 MHz channels, B/ILT and public safety licensees will enjoy the appropriate level of system protection. For this reason, EWA recommends that the FCC clarify that the coordination rules for these six channels will mirror those applicable to Sprint-vacated spectrum; specifically, that all qualified FACs are permitted to process applications for any entity eligible to operate on these channels.

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<sup>4</sup> The "Sprint-vacated" 800 MHz spectrum coordination process permits applicants to utilize the services of either a B/ILT or public safety FAC. That process has worked seamlessly since, as with these six channels, there is a clearly defined frequency selection process that must be followed by all FACs that have elected to coordinate Sprint-vacated spectrum. See Public Safety and Homeland Security Bureau Announces Applications and Licensing Procedures for Channels Relinquished by Sprint Nextel Corporation in the 809-809.5/854-854.5 MHz Band, *Public Notice*, WT Docket No. 02-55, 23 FCC Rcd 18343 (2008).

We look forward to hearing from you regarding these matters, and please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Crosby". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark E. Crosby  
President

cc: David Furth  
Roger Noel