

October 17, 2018

VIA ELECTRONIC FILING

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

**Re: WP Docket No. 16-261
Ex Parte Letter**

Dear Ms. Dortch:

The undersigned parties (“Parties”) wish to advise the Commission about one additional, critical issue in the draft Report and Order in the above-identified proceeding. In its October 5, 2018 *Ex Parte* letter regarding this same proceeding, the Enterprise Wireless Alliance (“EWA”) noted that the Commission was declining to adopt the Land Mobile Communications Council (“LMCC”) recommendation to use F(50,50) curves to assess both coverage and interference contours for 800 MHz interstitial channel assignments. EWA reminded the FCC that the LMCC had explained the rationale for its proposal in earlier stages of this proceeding.¹ Upon further review, the Parties have identified fundamental issues with the contour matrix in proposed Rule Section 90.621(d)(3) that need to be corrected before that matrix can be used in the 800 MHz coordination process.

As an initial matter, and as proposed by the LMCC, the Parties urge the FCC to exercise oversight over the matrix, and to solicit public notice and comment should the LMCC propose to change it, but not to incorporate the matrix in the rules themselves. The applicable contours should be identified in the rules, but not these more granular derating factors used in the coordination process. The membership of the LMCC, including the Parties, represent all Part 90 FCC-certified Frequency Advisory Committees (“FACs”) authorized to coordinate 800 MHz spectrum. It was their collective technical judgment in 2015 that the matrix submitted to the FCC in their Reply Comments in WP Docket No. 15-32 represented a prudent approach to coordinating 800 MHz interstitial channels based on then available equipment options. The LMCC recommended not including the matrix in the rules, so that they would be able to update it to incorporate further technology improvements following public notice and comment, but without having to go through a rulemaking proceeding, a process that typically takes a minimum of several years. The matrix is already more than three years old and does not reflect any equipment updates in the interim. It may be outdated even before adoption, an analysis that will require discussion with the vendors whose equipment operates on this spectrum.

The Commission has used this approach – adopt the applicable contours but leave the more detailed coordination criteria to the LMCC - without objection or subsequent problems in various Part 90 bands. For example, the Adjacent Channel Contour Values Table used by FACs in coordinating VHF and UHF exclusive channels under FCC Rule Section 90.187(d)(1)(C) was

¹ See RM-11572, LMCC *Ex Parte* Letter dtd. Oct. 3, 2014; see also WP Docket No. 15-32, LMCC Reply Comments dtd. May 26, 2015 at n. 3.

reviewed by the FCC and subjected to public comment.² However, the Table is not in the rules, so that additional refinements can be incorporated as appropriate, again after review by the Commission and following an opportunity for the public to comment. A similar approach was used in defining a Consensus Protocol for Vehicular Repeater System (“VRS”) coordination³ and in establishing the applicable coordination procedures for the 12.5 kHz offset channels in the 470-512 MHz band.⁴ Those decisions have facilitated timely introduction of more advanced technologies into the Part 90 ecosystem and minimized time-consuming FCC rulemaking while allowing for public input into the process. The Parties urge the Commission to reconsider its decision and delete proposed Rule Section 90.621(d)(3) in favor of the well-tested and more efficient process for approving detailed coordination analyses.

Whether or not the Commission accepts that recommendation, the Parties still urge it to adopt the LMCC’s recommended use of a F(50/50) curve for the interference contour, a factor that will be specified in the rules. The FACs that constitute the LMCC represent all users of 800 MHz spectrum. After careful consideration, they determined that an F(50/50) curve, with appropriate derating factors, would allow the use of interstitial channels in areas where spectrum is needed, while still providing appropriate protection for adjacent 25 kHz bandwidth licensees. A reversion to the F(50/10) curve for determining interference contours, in the opinion of the LMCC, would undermine the purpose of this proceeding, which is to create additional spectrum opportunities for this user community.

Finally, if the Commission chooses to retain the F(50/10) curve, it still must allow for modification of the matrix before it can be used by FACs to coordinate 800 MHz spectrum. The matrix is no longer correct, since the derating factors in it are based on the use of the LMCC-recommended F(50/50) curve for the interference contour. The derating factors will need to be amended to maintain an appropriate level of interference protection in light of that FCC decision, since the corrections possibly are on the order of a 14 dB difference. Once the rules have been amended to include interstitial channels, coordination of applications for 800 MHz Mid-Band spectrum at distances less than those specified in the FCC’s co-channel spacing rules will need to be delayed until the matrix is modified.⁵ If this correction becomes necessary, the Parties urge the FCC to make the process as expeditious as possible, so that this long-awaited spectrum can be made available promptly.

This letter is being filed electronically, in accordance with Section 1.1206(b) of the Commission’s Rules, 47 C.F.R. § 1.1206(b), for inclusion in the record in this proceeding.

² Amendment of Part 90 of the Commission’s Rules, WP Docket No. 07-100, *Fifth Report and Order*, FCC 13-52 at ¶¶ 8(2013) (“Fifth R&O”).

³ 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, PS Docket No. 13-229, *Public Notice*, DA 16-119 (Feb. 3, 2016).

⁴ Fifth R&O at ¶¶ 13-14.

⁵ All FACs will need to comply with the matrix when coordinating applications at those lesser distances.

Kindly refer any questions or correspondence regarding this matter to the undersigned.

Respectfully submitted,

/s/ Jeffrey S. Cohen
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/s/ David Smith
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/s/ Brett Kilbourne
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cc via e-mail:
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