

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

In the Matter of)	
)	
Amendment of Part 90 of the Commission’s Rules)	WP Docket No. 07-100
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands)	WT Docket No. 06-150
)	

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 comments in response to the Public Notice seeking comment on the October 24, 2013 National Plan Recommendations Final Report (“Report”) filed by the National Public Safety Telecommunications Council (“NPSTC”).¹ The Report provides a public safety-oriented blueprint for rule changes at 4.9 GHz, suggested with the intention of assisting the Commission in achieving its objective “to consider approaches to spur robust and efficient use in this band.”² EWA participated actively in the NPSTC working group that undertook an analysis of the band in response to the FCC’s concern that this spectrum was relatively underutilized. Specifically, at

¹ Public Safety and Homeland Security Bureau Seeks Comment on National Public Safety Telecommunications Council’s 4.9 GHz National Plan Recommendations Final Report, *Public Notice*, WP Docket No. 07-100, PS Docket No. 06-229, WT Docket No. 06-150, DA 13-2096 (rel. Oct. 30, 2013) (“Public Notice”).

² In the Matter of Amendment of Part 90 of the Commission’s Rules; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Service Rules for the 698-746, 747-762 and 777-792 MHz Bands; WP Docket No. 07-100, PS Docket No. 06-229, WT Docket No. 06-150, *Fourth Report and Order and Fifth Notice of Proposed Rulemaking*, 27 FCC Rcd 6577 (2012) (“5th FNPRM”).

NPSTC’s request, EWA served as Co-Chair of the 4.9 GHz working group’s “Critical Infrastructure Use and Conditions Task Team” (“CII Task Team”) that included representatives from other CII industry associations. For the benefit of the 4.9 GHz Working Group, the CII Task Team prepared a detailed report summarizing industry comments in response to WT Docket No. 07-100; detailed nineteen (19) CII use cases;³ and offered four (4) recommendations regarding the future use of the 4.9 GHz band: (1) CII and organizations engaged in similar activities seeking to deploy fixed operations in the 4.9 GHz band may do so on a co-equal basis, with public safety entities assuming adherence to adopted frequency coordination protocols; (2) CII and organizations engaged in similar activities may, subject to adopted frequency coordination protocols, independently hold 4.9 GHz licenses; (3) licensees, whether CII or public safety, are free to enter into collaborative spectrum and/or system sharing agreements with one another for economic and other reasons, but such agreements are not a 4.9 GHz spectrum access requirement; and (4) applicants seeking 4.9 GHz licenses are free to utilize the services of any FCC-certified frequency advisory committee authorized to assist applicants who wish to deploy fixed operations in the band. While the Report did not adopt all positions supported by the CII Task Team as discussed more fully below,⁴ EWA is satisfied that the approach outlined in the Report would represent an important first step toward “improved spectrum efficiency and greater use of the 4.9 GHz band.”⁵

The 5th FNPRM posed a number of questions regarding how expanded eligibility and changes in the frequency coordination and FCC licensing approaches might foster more intensive

³ The use cases also presented 4.9 GHz applications specific to the airline industry, including deployment on aircraft ramps for a multitude of safety-related applications such as fueling operations, deicing operations, aircraft loading (weight and balance) applications, and aircraft maintenance applications (e.g., video from scopes and high-resolution diagrams).

⁴ To EWA’s knowledge, no CII Task Team members participated in NPSTC discussions that determined which Task Team recommendations were to be included in the Report.

⁵ 5th FNPRM at ¶ 1.

deployment in a band that had been allocated exclusively for use by public safety entities and appeared to the Commission to be less than optimally utilized. Among other alternatives, the Commission asked whether eligibility should be expanded to include CII entities on a primary basis or even commercial service providers if only on a secondary basis.⁶ It suggested that doing so might “improve the availability, variety, and economics of equipment that uses the band.”⁷

EWA wishes to reaffirm at the outset the position it took in its Comments in response to the 5th FNPRM.⁸ While the membership of the Alliance includes a significant number of commercial service providers, after careful consideration EWA did not support expanding 4.9 GHz eligibility to carriers. It reached this conclusion in recognition of the very substantial amount of broadband spectrum already allocated for commercial users and the potential that their operation in this band could compromise its primary purpose. It also noted the urgent need for broadband capacity for private, internal licensees, including those within the current CII definition,⁹ and suggested that eligibility be expanded to include such use.

For this reason, EWA was pleased to participate in the task teams¹⁰ that considered the issue of expanded private user eligibility and associated coordination/licensing issues as part of the NPSTC 4.9 GHz working group. The Alliance supports most of the Report’s recommendations with regard to these matters. It is particularly pleased that representatives of private and public safety interests have agreed to the shared, co-primary use of two 5 MHz channels by public safety agencies and CII entities. As a practical matter, non-public safety entities could not be expected to invest in the advanced technologies they plan to deploy in this

⁶ *Id.* at ¶¶ 42-3.

⁷ *Id.* at ¶ 43.

⁸ See Comments of EWA filed Nov. 1, 2012.

⁹ See 47 C.F.R. § 90.7.

¹⁰ These included the “Frequency Coordination, Database, Data Registration” task team, as well as the CII Task Team.

band without assurance that their investment would receive and retain primary status. The Alliance agrees with the FCC that this broader primary access will foster a more responsive, robust, and economically competitive equipment marketplace, a result that will redound to the benefit of public safety entities as well.

Although generally satisfied that the discussions leading to the Report produced compromises that are consistent with the FCC's desire to see the band more intensively used, there are a few areas where the Alliance recommends adoption of rules other than those proposed by NPSTC.

1) Private Licensees Eligible for Primary Use of 4.9 GHz Spectrum.

The Report recommends that non-public safety access to this spectrum be limited to entities that fall within the CII definition in Rule Section 90.7. This definition had its origins in Congressional action over a decade ago and, in the Alliance's opinion, is overly restrictive in this context. EWA does not challenge any of the licensee categories that are included, but disagrees that this list is exhaustive in defining private internal licensees whose use of 4.9 GHz would promote public safety without undermining the primary purpose of the band.

For example, on what basis should it be assumed that a 4.9 GHz system operated by a not-for-profit auto towing organization would be more likely to promote public safety than a comparable system operated by an air carrier at an airport facility? Would use of this spectrum by a metropolitan transit system necessarily serve a more critical public safety function than use by a private school bus operator?

As noted above, EWA agrees that commercial wireless systems should not be permitted in this band but it urges the FCC to take a more expansive approach and allow all licensees of private internal systems co-primary access to the frequencies designated for shared public

safety/non-public safety use. Spectrum in this range has specialized, limited utility and relatively high entry costs in terms of equipment and system design/implementation. It simply is not spectrum that would be useful to the majority of Part 90 internal licensees. But in the Alliance's opinion, it could offer meaningful public safety benefits when deployed by private entities willing to invest in its deployment. For that reason, EWA and other non-public safety members of the CII Task Team, including those representing entities that qualify as CII, recommended the following definition of eligible users:

Application for and use of the 4.9 GHz band shall be made available to CII and those entities whose use of the spectrum shall directly benefit public safety or activities that enhance the ability to protect property, the environment, and the American public, which shall include the safety and security of the American workforce.¹¹

Adoption of this broader definition would permit greater utilization of this band, a primary FCC objection in the 5th FNPRM. It would expand the universe of equipment purchasers, which the Commission concluded could benefit public safety entities as well. Importantly, the technical characteristics of the band would naturally limit the number of private internal licensees beyond CII eligibles that could put it to productive use, thereby alleviating any concern on the part of public safety that their own access to this spectrum would be unreasonably curtailed.

2) Frequency Coordination

The Report recommends that only public safety coordinators be permitted to coordinate applications for the 4.9 GHz band, including applications from whatever non-public safety entities are permitted to operate on this spectrum. It explains this position on the basis that coordination will require complex interference prediction tools, will require coordinators to exchange information on a regular basis, and will require the coordinator to obtain information

¹¹ Report at n. 14.

that is not in the FCC database from existing public safety licensees.¹² It also states that public safety coordinators “have the best understanding of public safety needs and the importance of protecting public safety licensees from harmful interference.”¹³

EWA appreciates that coordination in the 4.9 GHz band will require the highest level of technical expertise and professionalism. With all due respect to public safety coordinators, the Alliance is confident that EWA and other organizations such as the American Petroleum Institute (“API”), the Association of American Railroads (“AAR”), the American Automobile Association (“AAA”), and the Utilities Telecom Council (“UTC”) have both the capability and commitment to process applications in conformance with whatever rules and policies the FCC adopts. Some of these entities already exchange information regularly with public safety coordinators when handling applications for Sprint-vacated spectrum and adhere to the specialized procedures for processing such requests.¹⁴ In fact, that arrangement confirms not only that these organizations have the expertise needed to perform accurate, reliable coordination in accordance with the requirements established by the FCC, but also that they have demonstrated an ability to coordinate public safety applications that provide the requisite protection for their operations. As long as the technical criteria adopted by the Commission for the 4.9 GHz band are followed by all frequency coordinators, every licensee will enjoy the appropriate level of interference protection.

For this reason, EWA recommends that the FCC adopt coordination rules for this band that mirror those applicable to Sprint-vacated spectrum. All qualified coordinators would be permitted to process applications for any entity eligible to operate in the band. At a minimum,

¹² *Id.* at 12.

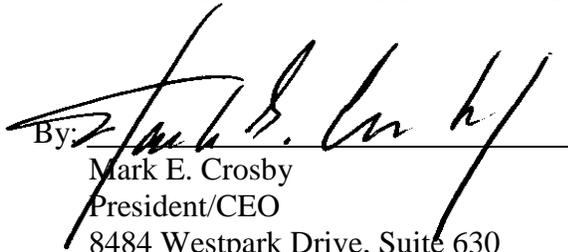
¹³ *Id.*

¹⁴ 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).

however, non-public safety coordinators must be authorized to handle applications from non-public safety entities. Any specialized knowledge public safety coordinators possess regarding the needs of public safety entities is entirely comparable to the in-depth understanding EWA, API, AAR, AAA, UTC and others have with respect to the requirements of their constituents. Allowing coordination of such applications by organizations the FCC has recognized as representing the interests of these users will ensure that all qualified applicants receive comparable access to this spectrum.

EWA looks forward to working with NPSTC and the FCC in promoting the more robust utilization of this important band under rules that are consistent with the Report as modified by the recommendations herein.

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