

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

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

To: The Commission

**REPLY COMMENTS  
OF THE  
ENTERPRISE WIRELESS ALLIANCE**

The Enterprise Wireless Alliance (“EWA” or “Alliance”), in accordance with Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) rules, respectfully submits its Reply Comments in the above-entitled proceeding.<sup>1</sup> The Comments filed in response to the FNPRM reflect substantial agreement among interested parties in key areas and provide a foundation for adoption of rules that will permit the more intensive utilization of this spectrum.

The FNPRM raised a number of questions about the future use of the 4.9 GHz band. In particular, the FCC sought comment about the optimal coordination and licensing approach and about eligibility to hold licenses in this band.

With regard to eligibility, the record reflects significant support for expanding its scope, albeit not as broadly as the FNPRM had contemplated. The Commission had tentatively concluded that “expanding eligibility for commercial use on a secondary basis would benefit and

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<sup>1</sup> Amendment of Part 90 of the Commission's Rules, *Fourth Report and Order and Fifth Further Notice of Proposed Rulemaking*, WP Docket No. 07-100, 27 FCC Rcd 6577 (2012) (“FNPRM”).

reduce regulatory burdens on non-public safety entities.”<sup>2</sup> This proposal was not supported by the commenting parties, virtually all of which affirmatively opposed allowing commercial operations in this band.

In its Comments, the Alliance had noted that the FCC already has made substantial broadband spectrum available for commercial wireless systems. EWA expressed concern that allowing commercial licensees eligibility at 4.9 GHz, even on a secondary basis, would compromise the availability of this spectrum for public safety and other private, internal users. This concern was echoed by a number of parties. For example, Motorola Solutions, Inc. (“MSI”) stated that opening the band for commercial use “could quickly exhaust the available supply of 4.9 GHz licenses....”<sup>3</sup> The National Public Safety Telecommunications Council (“NPSTC”) agreed, saying that “Opening the 4.9 GHz band to general commercial use, could impact the capacity available for public safety operations, set the stage for increased security problems and further complicate the frequency coordination process....At the same time, commercial licensees do already have a number of options in other spectrum bands to meet their needs.”<sup>4</sup> Thus, the record does not support a finding that allowing commercial operations in this band is needed to ensure its intensive utilization and does raise substantive concerns about the impact their operations might have on primary operations. EWA urges the FCC not to expand eligibility to include commercial usage on a co-primary or secondary basis.

There also is substantial agreement in the record that expanding eligibility to include certain private, internal users would be appropriate, although the views are not consistent with regard to which entities should be eligible and for what types of operations. All commenting

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<sup>2</sup> FNPRM at ¶ 43.

<sup>3</sup> MSI Comments at 5.

<sup>4</sup> NPSTC Comments at 8-9; *see also*, Joint Comments of the Forestry Conservation Communications Association, the International Association of Fire Chiefs and the International Municipal Signal Association (“FCCA/IAFC/IMSA”) at 13-14.

parties supported eligibility for specific categories of Critical Infrastructure Industries (“CII”) eligibles, in particular utilities when working in conjunction with public safety users.<sup>5</sup> In its Comments, the Alliance had supported CII eligibility, but also recommended that the FCC expand the types of entities that should qualify under that designation. It noted, for example, that there was no logical rationale for including railroads while excluding air transportation providers and urged the FCC to take this opportunity to reconsider which categories of users are most likely either to support public safety operations or to be compatible with them. Since the Commission has concluded that 4.9 GHz spectrum is underutilized, allowing access to private, internal licenses with a need for licensed broadband capacity would benefit the public without jeopardizing public safety operations in the band.

Comments filed by the Utilities Telecom Council (“UTC”) and jointly by the American Petroleum Institute, the Energy Telecommunications and Electrical Association and the National Rural Electric Cooperative Association (“API/ENTELEC/NRECA”) reaffirmed this position. For example, UTC explained that expanded eligibility would “advance several, overarching national policy objectives, including energy independence, environmental quality, homeland security and public safety.”<sup>6</sup> API/ENTELEC/NRECA described situations in which CII entities work cooperatively with public safety licensees, but also noted that the 4.9 GHz band represented a rare opportunity for their members to secure licensed broadband spectrum “to conduct their critical infrastructure businesses safely, reliably, efficiently and in the public interest.”<sup>7</sup> There is a broad range of businesses that rely on wireless communications to conduct their operations safely and efficiently, many of which are capable of co-existing with public

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<sup>5</sup> See, e.g., Comments of the Association of Public-Safety Communications Officials-International, Inc. (“APCO”) at 3-4; Comments of NPSTC at 9; Comments of FCCA/IAFC/IMSA at 14-15.

<sup>6</sup> UTC Comments at 6.

<sup>7</sup> API/ENTELEC/NRECA Comments at iii.

safety users. They did so with no difficulty in the original 800 MHz General Category Pool and could do so again at 4.9 GHz with proper spectrum management as discussed below.

In the FNPRM, the Commission requested comments on the coordination and licensing requirements that would optimize efficient use of this band. All commenting parties appear to agree that the current system of informal notification will not be adequate to support a more intensively used 4.9 GHz band, particularly if eligibility is expanded beyond governmental entities.<sup>8</sup> The Alliance agrees as well and supports the general consensus that a national database should be developed for the band in which technical information would be maintained in sufficient detail to permit meaningful spectrum management of mobile, point-to-point, and point-to-multipoint systems. There is less commonality of opinion with regard to whether that database should be developed and maintained by the FCC or by a third party. As with all licensed bands, it is best from a spectrum management standpoint that the FCC maintain the 4.9 GHz license database. Other parties that have a desire to support those seeking licenses in the 4.9 GHz band are free to access the FCC's database or to develop their own databases as necessary to conduct spectrum availability analyses, system compatibility reviews, licensing assistance, and related activities that would support more intensive use of 4.9 GHz band. EWA has no preference as to the number or general qualifications of third-party providers, as long as the FCC is confident that they can provide reliable services to potential users.

Some representatives of the public safety community have proposed that a national plan be developed for this band under the auspices of NPSTC, which plan would be used to evaluate frequency requests.<sup>9</sup> The Alliance appreciates NPSTC's offer to take on this responsibility, but cautions that the FCC first must determine which entities will be eligible for this spectrum before

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<sup>8</sup> See, e.g., APCO Comments at 2; FCCA/IAFC/IMSA Comments at 6; NPSTC Comments at 5; MSI Comments at 2.

<sup>9</sup> See, e.g., Comments of NPSTC a 5-6; Comments of APCO at 2; Comments of FCCA/IAFC/IMSA at 6-8.

delegating this task to any subset of qualified users. Should eligibility be broadened as recommended by EWA, UTC and API/ENTELEC/NRECA, all interested parties would need to participate in discussions about how best to maximize use of this spectrum. Moreover, it is unclear how long it would take to develop a national plan and what the status of the band would be in the interim.

As envisioned by NPSTC, the plan would be developed in collaboration with frequency advisory committees (presumably the four public safety committees that comprise the Public Safety Communications Council), with regional planning committees (“RPCs”) and with the public safety community.<sup>10</sup> Since NPSTC notes that, to date, only nine (9) of the fifty-five (55) RPCs have developed regional 4.9 GHz plans,<sup>11</sup> its expectation that a national plan could be developed and approved by the many stakeholders involved in just six months<sup>12</sup> may prove optimistic. Even assuming that deadline could be met, and the plan could be vetted by affected entities and approved by the FCC in another three months,<sup>13</sup> NPSTC notes correctly that existing licensees might need up to a full year thereafter to conform their operations to the newly adopted national plan.<sup>14</sup> It is unclear whether the national database would be developed during this same period, although any data collected from existing licensees might need to be modified subsequently as those licensees adjust their operations consistent with the national plan. If licenses continue to be issued during the plan’s gestation period, this system reconfiguration process could be significant.

EWA would not necessarily oppose a national plan, provided its development includes meaningful input from all stakeholders. However, that effort clearly could have a significant

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<sup>10</sup> NPSTC Comments at 5.

<sup>11</sup> *Id.* at 6.

<sup>12</sup> *Id.* at 5.

<sup>13</sup> *Id.* at 6.

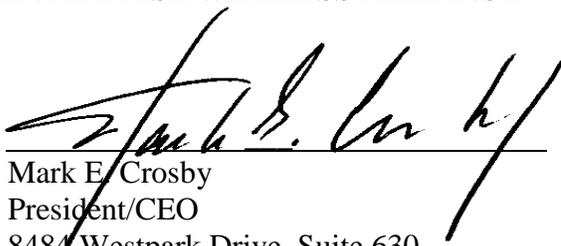
<sup>14</sup> *Id.* at 5.

impact on the availability of this spectrum for the foreseeable future, a factor that should be considered when weighing the potential benefits of pursuing that approach.

Finally, and consistent with the comments above, the decision about which frequency advisory committees should be authorized to coordinate 4.9 GHz applications – assuming, of course, that the FCC adopts a coordination requirement – is dependent on the Commission’s decision about eligibility for the band. If the scope of eligibility is broadened, as EWA believes it should be, the universe of qualified coordinators should be expanded as well. The FCC already has established a useful model for avoiding mutual exclusivity when multiple coordinators all have access to the same spectrum in the context of 800 MHz Nextel-vacated spectrum.<sup>15</sup> This same approach could be used in the 4.9 GHz band and would produce the same salutary results.

Respectfully submitted,

ENTERPRISE WIRELESS ALLIANCE

By:   
Mark E. Crosby  
President/CEO  
8484 Westpark Drive, Suite 630  
McLean, Virginia 22102  
(703) 528-5115

Counsel:  
Elizabeth R. Sachs  
Lukas, Nace, Gutierrez & Sachs, LLP  
8300 Greensboro Dr., Ste. 1200  
McLean, VA 22102  
(703) 584-8678

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<sup>15</sup> See, e.g., Public Safety and Homeland Security Bureau Announces Application and Licensing Procedures for Channels in Non-Border Regions Relinquished by Sprint Nextel Corporation in the 809.5-815/854.5-860 MHz Band, *Public Notice*, DA 12-1839 (rel. Nov. 27, 2012).

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| <b>Contact Info</b>   |  |             |
| <b>Name of Filer:</b> Enterprise Wireless Alliance  |  |             |
| <b>Email Address:</b> lsachs@fcclaw.com   |  |             |
| <b>Attorney/Author Name:</b> Elizabeth R. Sachs   |  |             |
| <b>Lawfirm Name (required if represented by counsel):</b> Lukas, Nace, Gutierrez & Sachs, LLP   |  |             |
| <b>Address</b>  |  |             |
| <b>Address For:</b> Law Firm  |  |             |
| <b>Address Line 1:</b> 8300 Greensboro Dr.  |  |             |
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