

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

In the Matter of)
)
Central Ohio Joint Fire District) File No. 0005023518
Request for Waiver to Operate Vehicular)
Repeater Units on a Federal Frequency)

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 FCC Public Notice seeking comment on the waiver request (“Waiver Request”) filed by the Central Ohio Joint Fire District (“COJFD”).¹ The Waiver Request asks that the Commission assign frequency 172.225 MHz (“Frequency”) for vehicular repeater systems (“VRS”) to be used by the COJFD. The proposal is supported by the Association of Public-Safety Communications Officials International (“APCO”), one of the four FCC-certified public safety frequency advisory committees (“FACs”), but opposed by the Forestry Conservation Communications Association (“FCCA”), also an FCC-certified public safety FAC.

The COJFD has requested waiver relief under Section 337(c) of the Communications Act² and specifically asks for a waiver “of any applicable FCC Rules.” It asserts that deploying

¹ Public Safety and Homeland Security Bureau Seeks Comment on Central Ohio Joint Fire District Request for Waiver to Operate Vehicular Repeater Units on a Federal Frequency, *Public Notice*, DA 12-1414 (rel. Aug. 29, 2012).

² 47 U.S.C. § 337(c).

VRS on the Frequency would serve the public interest by improving “on-scene” information exchanges and interoperability, thereby making productive use of fallow spectrum. It states, and APCO agrees, that the Frequency is the most suitable for this purpose since it provides what both entities describe as the necessary frequency separation between the COJFD’s VHF operating frequency and the frequency on which the VRS units manufactured by Pyramid Communications, Inc. (“Pyramid”) would transmit.³

FCCA argues that the COJFD failed to request waivers of various rules that make the Frequency unavailable for its use. In particular, it states that the Frequency is allocated primarily for Federal Government use and only secondarily for non-Federal entities engaged in forest firefighting and conservation activities and, even then, only to those operating in areas west of the Mississippi River. It disagrees that the concurrence letter from the Ohio Department of Natural Resources satisfies the FCC’s requirements and notes that the application is not accompanied by the necessary letter of concurrence from the United States Department of Agriculture.

Both the COJFD application and FCCA’s objection have been on file with the FCC since January of this year. The pleading cycle in this proceeding will end on October 1, 2012. It is expected that the Commission will not issue a decision on the matter in 2012.

EWA takes no position on whether the waiver requested by the COJFD should be granted in light of the Federal Government’s primary jurisdiction over the Frequency in areas east of the Mississippi River. However, it urges the FCC to address the broader issue of VRS spectrum

³ The Waiver Request states that the required separation is 10 MHz. Waiver Request at 2. In its June 27, 2011 Petition for Rule Making, supplemented and amended on August 16, 2011, Pyramid, the manufacturer of the equipment proposed by the COJFD, advised that a separation of at least 2-5 MHz is needed. *See Public Safety and Homeland Security Bureau Seeks Comment on Pyramid Communications, Inc.’s Petition for Rulemaking to Facilitate the Use of Vehicular Repeater Units by Public Safety Licensees in the VHF Band*, RM-11635, DA 11-1717 (rel. Oct. 14, 2011) (“Pyramid Petition”). The Commission recently stated that its own analysis of Pyramid equipment indicated that optional filters could reduce the separation requirement to 2 MHz. *See In the Matter of Wayne County Sheriff Department, Order*, DA 12-1163 at ¶10 (PSHSB 2012) (“Wayne County Order”).

availability by taking action promptly on the pending Pyramid Petition. It is clear that certain private land mobile radio users, both Public Safety and Industrial/Business, have a compelling need for the communications capability provided by VRS devices. It also is clear that using such devices requires a separation between the regular and VRS transmit frequencies that is exceedingly difficult to achieve using regularly assignable frequencies in the Part 90 VHF band, and that frequently involves a waiver of the prohibition against inter-service sharing of spectrum between Public Safety and Industrial/Business entities. The lack of designated VRS frequencies in a part of the band that offers the requisite minimum separation triggers waiver requests such as that at issue herein and in the Wayne County proceeding. These individual requests require financial and time investments on the part of the applicant, the FCC, and often, as in this instance, multiple frequency advisory committees that have differing views regarding the appropriate spectrum for these devices.

The record in the Pyramid Petition proceeding closed on November 18, 2011, almost a full year ago. The Commission received a substantial number of comments from a broad array of industry participants, thereby confirming the importance of addressing the general VRS spectrum issue directly and promptly.⁴ The FCC apparently has completed an independent assessment of the technical requirements of VRS units, or at least those devices produced by Pyramid, and has drawn certain conclusions about the separation that is needed between frequencies.⁵ Based on that analysis, the Commission now should be in a position to issue a Notice of Proposed Rulemaking in which it lays out the Commission's proposal for accommodating VRS devices. The Alliance urges the FCC to adopt rules as expeditiously as

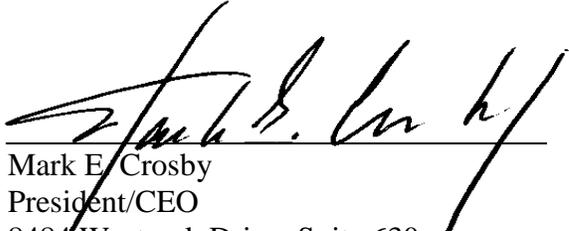
⁴ Comments were filed, among others, by APCO, FCCA, Utilities Telecom Council, American Petroleum Institute, International Municipal Signal Association/International Association of Fire Chiefs, EWA, and a number of public safety entities that use or would like to use VRS devices.

⁵ See Wayne County Order.

possible so that entities such as the OCJFD may know in advance whether there is suitable spectrum to support an investment in VRS on-scene technology solutions.

Respectfully submitted,

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