

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

In the Matter of)	
)	
Amendment of Part 90 of the Commission's Rules)	
to Permit Terrestrial Trunked Radio (TETRA))	WT Docket No. 11-69
Technology)	
)	
Request by the TETRA Association for)	ET Docket No. 09-234
Waiver of Sections 90.209, 90.210 and)	
2.1043 of the Commission's Rules)	

To: The Commission

**REPLY TO THE TETRA ASSOCIATION
RESPONSE TO REQUEST FOR FURTHER CLARIFICATION
FILED BY
ENTERPRISE WIRELESS ALLIANCE**

The Enterprise Wireless Alliance (“EWA” or “Alliance”) provides the following reply to the Response (“Response”) filed by the TETRA Association (“Association”) to the Alliance’s Request for Further Clarification in this matter.¹ With all due respect to the Association, and despite EWA’s desire not to prolong this exchange, the Alliance must respectfully disagree with the Association’s reading of the Federal Communications Commission’s (“FCC” or “Commission”) Order on Clarification in this proceeding.²

EWA and the Association seemingly agree that EWA has sought to clarify two points in the original FCC Waiver Order in the proceeding.³ First, the Alliance asked the FCC to clarify inconsistent statements in the Waiver Order. On the one hand, the Waiver Order stated that prior

¹ Request for Further Clarification filed by Enterprise Wireless Alliance, WT Docket No. 11-69 (filed Oct. 26, 2011) (“Further Clarification Request”).

² *Order on Clarification*, WT Docket No. 11-69 and ET Docket No. 09-234, 26 FCC Rcd 13360 (rel. Sept. 28, 2011) (“Clarification Order”).

³ *Notice of Proposed Rule Making and Order*, WT Docket No. 11-69 and ET Docket No. 09-234, 26 FCC Rcd 6503 (rel. Apr. 26, 2011) (“Waiver Order”).

coordination would not be required when the only change was to reflect the TETRA emission.⁴ On the other hand, in granting that exemption, the Commission relied on an Order applicable to Part 90 narrowbanding that provided much more limited relief. The narrowbanding rules “provide an exemption from the frequency coordination requirement for modification applications that only reduce authorized bandwidth while remaining on the original center frequencies, and do not seek any other changes in technical parameters.”⁵ EWA’s Further Clarification Request again asked the FCC to affirm that the TETRA exemption applied only when the licensee’s bandwidth was being reduced with no other changes in the technical parameters since the Clarification Order included inconsistent statements on this point.

In its Response, the Association says that this question has been asked and answered in the Clarification Order and that “EWA offers no reason now for the Commission to reconsider its settled decision.”⁶ But the Alliance provided a very specific reason why further clarification was needed. In the Clarification Order, the FCC stated that it did not intend to adopt a broader exception for modifications to implement TETRA technology than it had for applications implementing narrowband technology.⁷ However, it then provided an example that stated that an increase in the authorized bandwidth would be exempt from prior coordination:

For example, a change from emission designator **20k0D1W** to a TETRA emission designator of **21k0D1W** would not require coordination.⁸

Thus, as in the original Waiver Order, the FCC’s supposedly “settled decision” is internally inconsistent. The Further Clarification Request asked the FCC to resolve this continued ambiguity by affirming that applications involving TETRA technology are subject to all

⁴ Waiver Order at n. 59.

⁵ Amendment of Part 90 of the Commission’s Rules, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, WP Docket No. 07-100, 25 FCC Rcd 2479 at ¶ 7 (2010).

⁶ Response at 3.

⁷ Clarification Order at ¶ 10.

⁸ *Id.*

applicable Part 90 frequency coordination requirements, including the narrowbanding exemption, a position with which the TETRA Association previously concurred.⁹

Second, in its Further Clarification Request, EWA again asked the Commission to state explicitly that TETRA may be deployed only in systems that are classified as “exclusive” under applicable Part 90 rules and, thus, are exempt from the normal Part 90 monitoring requirements. This did not seem to be a controversial request as earlier-filed Reply Comments by the TETRA Association agreed that “TETRA is not suitable for operating in shared channels.”¹⁰ In its Response, the Association argues that since “the Commission addressed [the fact that TETRA may be deployed only in systems exempt from normal Part 90 monitoring requirements in the Clarification Order], there is no reason for the Commission to reconsider its decision at this juncture.”¹¹

If that were the case, EWA would not have requested further clarification. Unfortunately, however, the Clarification Order does not address this second issue at all. It is entirely silent on the question of deploying TETRA systems on other than exclusive channels where monitoring is not required. It was for that reason that the Alliance urged and continues to urge the FCC to confirm that TETRA technology may only be deployed in systems that are not subject to Part 90 monitoring requirements.

⁹ See Consolidated Response of the TETRA Association at p. 5 filed on June 8, 2011.

¹⁰ See Reply Comments of the TETRA Association at p. 12, filed on Aug. 9, 2011. The instant Response concludes by stating that “...it appears EWA is attempting to impose a shared channel constraint on a part of the spectrum in which such a constraint is not required and not justified.” The Alliance is uncertain what is meant by either a “shared channel constraint” or to what part of the spectrum the Association is referring. If, contrary to its earlier position, the Association now is suggesting that TETRA should be eligible for deployment on shared channels in any Part 90 bands that are subject to a monitoring requirement, EWA emphatically disagrees.

¹¹ Response at 3.

Respectfully submitted,

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November 14, 2011

CERTIFICATE OF SERVICE

I, Linda J. Evans, with the law firm of Lukas, Nace Gutierrez and Sachs, LLP, hereby certify that I have, on this November 14, 2011, caused the foregoing Reply to the TETRA Association Response to Request for Further Clarification Filed by Enterprise Wireless Alliance to be e-mailed to the following:

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