

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

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| 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 CONSOLIDATED RESPONSE  
OF THE  
TETRA ASSOCIATION**

The Enterprise Wireless Alliance (“EWA” or “Alliance”) respectfully submits this Reply to the June 8, 2011 Consolidated Response (“Response”) filed by the TETRA Association (“Association”) in the above-identified proceeding.<sup>1</sup> The Alliance requests that the Federal Communications Commission (“FCC” or “Commission”) accept this Reply, which is being submitted one day after the June 20, 2011 filing deadline. Although both EWA and undersigned counsel are listed with their correct addresses on the Certificate of Service accompanying the Response, neither received a copy of the filing by mail and were unaware that this pleading had been submitted.<sup>2</sup>

The Alliance’s Request for Clarification or, In the Alternative, for Limited Reconsideration in this proceeding addressed only a single issue: whether prior frequency

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<sup>1</sup> *Notice of Proposed Rule Making and Order*, ET Docket No. 09-234, FCC 11-63 (rel. Apr. 26, 2011) (“*Waiver Order*”).

<sup>2</sup> The National Public Safety Telecommunications Council also has no record of receiving its mailed service copy of the Response.

coordination is required for licensees that wish to convert existing systems to TETRA equipment pursuant to the *Waiver Order*. In its Response, the Association first asserts that EWA has not shown good cause for not participating in the earlier stages of this proceeding, although the Association nonetheless addresses the substance of the Alliance's Petition.<sup>3</sup> In fact, however, EWA did participate in this proceeding as one of the constituent members of the Land Mobile Communications Council ("LMCC"), which filed Comments on January 15, 2010. In those Comments, the LMCC urged the FCC to proceed by rulemaking rather than waiver, so that the necessary technical issues could be addressed. Moreover, as discussed *infra*, and as the Association itself agrees, the single issue raised by EWA in its Petition was not addressed in the Association's waiver request and so was not known to be an issue until adoption of the *Waiver Order*.

In its Response, the Association dismisses EWA's concern about the applicability of frequency coordination requirements to entities converting to TETRA technology stating the following:

There is no reason to believe that the FCC's applicable coordination rules would be suspended because TETRA technology is being used, or as a result of the grant of the waiver request, which did not seek a waiver of the frequency coordination rule.<sup>4</sup>

The Alliance agrees that the Association did not seek waiver relief on this point and is pleased to see that the Association seemingly agrees that the current frequency coordination requirements should be maintained for systems filing under the *Waiver Order*.

But the Association is incorrect in its statement that there is no reason to believe the *Waiver Order* suspended the normal coordination rules with regard to licensees wishing to convert to TETRA equipment pursuant to the FCC's decision. As explained in its Petition, EWA

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<sup>3</sup> Response at n. 7.

<sup>4</sup> *Id.* at 5.

requested clarification or reconsideration of this point because of the following statement in the *Waiver Order*:

We conclude that frequency coordination should not be required for modification applications filed pursuant to this waiver where the only change is to reflect the TETRA emission.<sup>5</sup>

The Alliance's Petition explained that exempting such modifications from the coordination requirement was inconsistent with current FCC rules and directly contrary to the Commission's decision last year with regard to the need for coordination in analogous situations. There, the FCC stated the following:

As a result [of the Commission mandate that most Part 90 licensees below 512 MHz will be required to migrate from 25 kHz operation to 12.5 kHz or narrower operation on their existing frequencies by January 1, 2013], **we amend our rules to 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.**<sup>6</sup>

Clearly, a modification in emission evidencing a change in technical parameters from analog to digital technology would not qualify for an exemption from the coordination requirement as established by the FCC just one year ago. The Alliance agrees with the Association that relief from the coordination requirement was not requested in its waiver and that there is no basis for adopting such an exemption uniquely for conversions to TETRA technology. To the extent that the *Waiver Order* seemingly states the contrary, it should be clarified or reconsidered with regard to that specific point.

EWA explained in its Petition that the Commission has described frequency coordination as a proven means "to ensure the quality of frequency selections, expedite licensing, and improve

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<sup>5</sup> *Waiver Order* at n. 59.

<sup>6</sup> 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) (citations deleted; emphasis added).

spectrum efficiency to the benefit of private land mobile users.”<sup>7</sup> Since the Association does not disagree and has confirmed that no coordination waiver was requested, EWA again respectfully requests the FCC to clarify its statement in the *Order* and confirm that prior frequency coordination is required before converting an existing system to TETRA technology.

Respectfully submitted,

ENTERPRISE WIRELESS ALLIANCE

By: \_\_\_\_\_ /s/

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June 21, 2011

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<sup>7</sup> See *Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Seek Comment on the Petition by Enterprise Wireless Alliance Requesting the Creation of New, Full Power, Interstitial 12.5 kHz Channels in the 800 MHz Band*, Public Notice, 24 FCC Rcd 12461 (2009).

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 21<sup>st</sup> day of June, 2011 caused to be mailed, first-class, postage prepaid, a copy of the foregoing to the following:

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