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June 21, 2013

VIA ELECTRONIC MAIL: Ruth.Milkman@fcc.gov

Ruth Milkman, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Request for Temporary Waiver
Part 90 Conditional Licensing Authority Above 470 MHz**

Dear Ms. Milkman:

By letter dated June 4, 2013, the Enterprise Wireless Alliance (EWA) requested that the FCC establish a separate licensing queue for Part 90 applications above 470 MHz until the Commission is able to dispose of the extraordinary volume of applications triggered by the January 1, 2013 narrowbanding requirement.¹ EWA explained that while FCC Rule Section 90.159 provides for the conditional licensing of the very significant number of Part 90 applications in the bands below 470 MHz that satisfy the requirements of that rule, thereby enabling them to begin operation 10 business days after their applications are filed with the FCC, that opportunity is not available for applicants in the bands above 470 MHz. This creates the anomalous situation whereby, for example, a licensee proposing to upgrade from analog to digital equipment, which requires a modification of the emission designator, can deploy its new technology 10 business days after its below-470 MHz application is filed, yet must wait many months if the system is in the 470-512 MHz, 800 MHz, or 900 MHz bands.

After further consideration, EWA believes that a better short-term solution would be a temporary waiver of FCC Rule Section 90.159(b) to apply it to Part 90 applications above 470 MHz that meet the other conditions of that provision.² Specifically, the Alliance requests that the FCC waive the "below 470 MHz" limitation for applications filed on or before December 31, 2013. The waiver can be expressly conditioned with the proviso that if the Commission is able to make significant progress

¹ See 47 C.F.R. § 90.209(b).

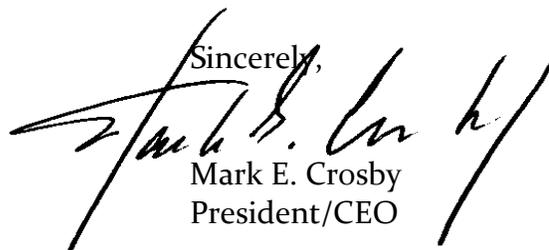
² EWA is addressing this letter only to the Wireless Telecommunications Bureau ("WTB") because it appears that the Public Safety and Homeland Security Bureau ("PSHSB") has not experienced the same volume of applications as WTB and, thus, the same processing delays. The Alliance has no objection to an extension of the relief requested herein to public safety applications if the PSHSB and its constituents think it appropriate.

in addressing the WTB license application processing backlog before that date, it may choose to terminate the waiver relief earlier. Of course, if the volume of WTB applications continues at its current accelerated pace, the FCC also could conclude that the relief should be extended as necessary.

EWA submits that waiver relief is warranted both as an informal request for Commission action pursuant to Rule Section 1.41 and in accordance with the waiver standard for individualized relief in Rule Section 1.925. The number of rebanding-related applications filed with the WTB, and the attendant backlog in processing all WTB applications, represents the type of unique or unusual factual circumstance for which waiver relief is intended. Restricting conditional authority to applications involving frequencies below 470 MHz during this period would be inequitable and unduly burdensome to applicants that could not have anticipated a processing time two or three times longer than has been the norm for many years and who did not factor such delays in their business planning. Allowing these applicants to initiate service consistent with the requirements of Section 90.159(b) would serve the public interest by permitting the more timely deployment of new or modified systems that serve both private, internal and commercial communications needs. Because systems below and above 470 MHz would gain this right under identical conditions, extending conditional authority to systems above 470 MHz on a temporary basis poses no increased risk of interference to other users or operations that might prove to be inconsistent with applicable FCC requirements.

For the reasons described herein, EWA requests that the WTB proceed promptly to authorize the temporary waiver relief requested herein for both applications currently awaiting processing and for those that may be filed at the FCC.

Please feel free to contact me if you have any questions about this request.

Sincerely,

Mark E. Crosby
President/CEO

cc: Roger Noel (via email)
Terry Fishel (via email)