

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of:)
)
Requests for Waiver of Various Petitioners to) PS Docket No. 06-229
Allow the Establishment of 700 MHz Public)
Safety Wireless Broadband Networks)

To: The Commission

**COMMENTS OF THE
TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

The Telecommunications Industry Association (TIA) hereby submits comments to the Federal Communications Commission (Commission) in the above-captioned proceeding.¹

TIA appreciates the opportunity to discuss effective methods to ensure that local and regional waiver grantees coordinate with States to ensure seamless interoperability and provide access to infrastructure key to public safety.

TIA represents the global information and communications technology (ICT) industry through standards development, advocacy, tradeshow, business opportunities, market intelligence and world-wide environmental regulatory analysis. For over 80 years, TIA

¹ *In the Matter of Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Public Safety Wireless Broadband Networks*, PS Docket No. 06-229 (rel. Dec. 1, 2010) (Dec. 1, 2010 700 MHz Waiver PN).

has enhanced the business environment for broadband, mobile wireless, information technology, networks, cable, satellite, and unified communications. TIA is accredited by the American National Standards Institute (ANSI).

SUMMARY

TIA supports the Petitions for waiver proposed in the December 1, 2010, 700 MHz Waiver PN (Petitions) by Miami-Dade County, FL, the City of Indianapolis and Marion County, IN, and the State of West Virginia (Petitioners).² Further, TIA continues its support for granting all appropriate State, local, and regional Petitions seeking authority to deploy public safety broadband systems in the 10 megahertz of 700 MHz public safety broadband spectrum currently licensed to the Public Safety Spectrum Trust (PSST) (763-768/793-798 MHz). While TIA urges the Commission to take steps to ensure the deployment of a nationwide interoperable broadband public safety network, TIA recognizes the life-saving benefits of early deployment of local and regional interoperable broadband public safety networks.

In reviewing these and other Petitions, TIA urges that the Commission recognize the importance of ensuring coordination of multiple Petitions that would cover overlapping regions. TIA suggests that the Commission require coordination plans between overlapping jurisdictions and the relevant State and establish mechanisms within existing requirements to ensure such coordination. Additionally, TIA reiterates its

² See Miami-Dade County Request for Waiver – Expedited Action Requested (filed Sept. 21, 2010); City of Indianapolis and Marion County Request for Waiver (filed Oct. 10, 2010); State of West Virginia Request for Waiver (filed Nov. 9, 2010).

recommendation to give public safety the opportunity to establish sharing agreements with entities that will further public safety's core mission to operate in the 700 MHz public safety broadband network. These provisions, taken together, will dramatically increase interoperable communications among key entities protecting public safety.

DISCUSSION

I. TIA SUPPORTS THE WAIVER REQUESTS AND URGES THE COMMISSION TO FACILITATE COORDINATION BETWEEN WAIVER APPLICANTS WITH OVERLAPPING JURISDICTIONS.

While generally supporting swift approval of the Waiver Petitions, TIA urges the Commission to take steps to facilitate coordination agreements, with consent of appropriate State authorities, between overlapping waiver jurisdictions. In addition, the Commission should examine what the appropriate role of states should be in coordinating deployments under final 700 MHz public safety broadband network rules and under statewide waivers.³ This will ensure that 700 MHz public safety broadband networks can be properly managed, used to their full potential, and operate seamlessly. If the Commission does not address the topic of coordination between Waiver grantees whose jurisdictions overlap, effective use of the 700 MHz public safety broadband spectrum use may be undermined due to disputes or technical inconsistencies that are not resolved in a timely manner.

³ See Harris Corporation Request to Refresh the Record, PS Docket No. 06-229 (filed Dec. 9, 2010).

TIA suggests that the Commission build upon its requirement that regional or local Petitioners coordinate with State authorities.⁴ In its Waiver Order, the Commission identified that State coordination of local or regional Waiver grantees will “facilitate seamless operation of adjacent networks and development of mutually agreed-upon protocols within the State.”⁵ Under this requirement, any regional Petitioner, regardless of potential overlap with another Petitioner’s region, must coordinate with its State’s appropriate officer or entity in order for a Waiver to be granted. TIA strongly supports such coordination, and contends that a logical step to continue such statewide coordination is to ensure that overlapping jurisdictions have coordinated amongst each other, in consultation and with consent of the relevant State or States.

To that end, the Commission should require that all Petitions identify any geographic overlap between that Petition and any others previously submitted. Should overlap be identified, the Petition should include a plan for coordination in their Interoperability Report and submit a certification of commencement of coordination with the overlapping jurisdiction and the State prior to the Commission’s approval of a De Facto License. TIA suggests that, after approval of the De Facto Licenses, each Petitioner certify in their required Quarterly Report that any coordination plan submitted to the Commission is being met.

⁴ Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket No. 06-229, *Order*, 25 FCC Rcd 5145, ¶ 51 (2010) (*Waiver Order*).

⁵ *Id.*

II. THE COMMISSION SHOULD ALLOW USE OF THE PUBLIC SAFETY INTEROPERABLE BROADBAND NETWORKS FOR SERVICES THAT FURTHER THE PROTECTION OF LIFE, HEALTH AND PROPERTY.

TIA emphasizes the need for the Commission to allow use of the public safety interoperable broadband networks services that will further the protection of life, health and property in the Petitioners' regions.⁶ As TIA has made clear, a broad range of authority supports the Commission allowing the use of the 700 MHz public safety network on a secondary basis by any services, including critical infrastructure and emergency support, which may not instantly appear to meet Section 337's public safety definition.⁷ Further, the National Broadband Plan supports allowing public safety licensees to partner with critical infrastructure entities to allow use of the public safety network through leasing or similar mechanisms, thereby generating revenue that can be used to build or improve the public safety broadband network."⁸

The Commission has previously determined that public safety can lease its broadband spectrum on a secondary basis to entities not strictly within the definition of public safety, as defined under Section 337. In allowing the Public Safety Broadband Licensee (PSBL) to provide access on a secondary and preemptible basis to commercial operations

⁶ See Comments of TIA, PS Docket No. 06-229 (filed Oct. 18, 2010).

⁷ See, e.g., Service Rules for the 698-746, 747-762 and 777-792 Bands; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, WT Docket No. 06-150, PS Docket No. 06-229, Second Further Notice of Proposed Rulemaking, 23 FCC Rcd 8047, ¶¶30, 56, 72 (2008) (*700 MHz Second Further Notice*); see also the 4.9 GHz Band Transferred from Federal Government Use, *Memorandum Opinion and Order and Third Report and Order*, WT Docket No. 00-32, FCC 03-99, ¶ 16 (rel. May 2, 2003) (*4.9 GHz MO and O and Third R and O*).

⁸ Federal Communications Commission, *Connecting America: The National Broadband Plan*, 315 (Mar. 16, 2010) (National Broadband Plan).

within the public safety broadband spectrum, the Commission held that Section 337(a)(1) does not prohibit the PSBL from entering into a lease for commercial operations.⁹ By establishing a leasing arrangement with commercial entities designed to ensure that any commercial use does not undermine the principal purpose of the services provided over the spectrum to protect the safety of life, health, or property, as required by Section 337,¹⁰ the Commission found that commercial operations would “maximize the efficient use of the spectrum by permitting full use of the public safety broadband spectrum.”¹¹ By this same reasoning, TIA submits that similar leasing arrangements, as described in the 700 MHz Second Report and Order, would considerably aide all entities that provide protection of life, health and property in a given region, but may fall outside the precise definition of a “public safety service.”

TIA believes that coordination between public safety 700 MHz users and entities that provide services that offer protection of life, health and property, in sectors such as public utilities, transportation, medical, and educational services, will promote the maximum efficiency of use of the spectrum. Highly collaborative groups already exist that demonstrate to the Commission the benefits of such arrangements. For example, the

⁹ See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket 03-264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules, WT Docket No. 06-169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, *Second Report and Order*, FCC 07-132 at ¶¶ 412, 413 (2007) (700 MHz Second Report and Order).

¹⁰ See *id.* at ¶ 414.

¹¹ *Id.* ¶ at 416.

Nevada Shared Radio System, consisting of Nevada’s two primary electric utility companies, the Nevada Department of Transportation, the Nevada Department of Public Safety, Washoe County, and local, State, Federal, and tribal organizations, has successfully brought these entities to together since 1995 to plan for and implement the most efficient use of public and private resources in an 800 MHz Enhanced Digital Access Communication (EDAC) system utilizing more than 90 sites.¹² In addition, the State of Nevada 700 MHz Broadband Wireless Network Consortium (SONNet), whose members include law enforcement, fire departments, regional and statewide transportation departments, parole and probation services, state universities, and a private statewide utility, is a current 700 MHz public safety broadband network waiver applicant that intends to operate in the same spirit.¹³ By allowing for and encouraging collaborative efforts such as these, the Commission will ensure spectrum use that will reap the benefits of convergence and collaboration for years to come. To this end, the Commission should allow for the establishment of sharing agreements for secondary spectrum access between waiver entities and entities that will further the protection of life, health and property in the Petitioners’ regions.

¹² See *Ex Parte* Letter from Robert Chisel, Assistant Director, Nevada Department of Transportation to Marlene H. Dortch, Secretary, Federal Communications Commission, PS Docket No. 06-229 at 1 (filed Oct. 18, 2010) (Nevada DOT *Ex Parte*); See also Mark Pallins, *Public Safety and Private Utility...A Unique Partnership*, Law and Order Magazine, July 2009, available at http://www.pspc.harris.com/media/Law%20Jul09%20pg42%20w%20ad_tcm27-10451.pdf (noting that, for example, the Nevada utilities in the Nevada Shared Radio System have agreed to concentrate radio coverage on remote areas, while the Nevada Department of Transportation focused on roadway coverage to maximize efficient use of the system).

¹³ Las Vegas Metropolitan Police Department, Washoe County Sheriff’s Department, the Washoe Regional Communications System, the Nevada Department of Transportation, and NV Energy, representing the State of Nevada 700 MHz Broadband Wireless Network (SONNet) Request for Waiver – Expedited Action Requested (filed May 13, 2010); Nassau County, NY Request for Waiver (filed May 14, 2010); See also Nevada DOT *Ex Parte* (noting that, upon approval of their waiver, the consortium will “immediately begin collaborating on how to bring the benefits of interoperable 700 MHz broadband capabilities to users whose obligation it is to best serve the taxpayers and utility ratepayers in the State of Nevada”).

CONCLUSION

For the foregoing reasons, TIA urges the Commission to take into consideration its views
in this proceeding.

Respectfully submitted,

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