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March 6, 2019

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

**Re: Notice of *Ex Parte* Presentations; WT Docket No. 17-200**

Dear Ms. Dortch:

On March 4, 2019, the undersigned counsel and representatives of Lower Colorado River Authority (“LCRA”) met separately with Erin McGrath, Legal Advisor, Wireless, Public Safety and International to Commissioner Michael O’Rielly; Rachel Bender, Wireless and International Advisor to Chairman Ajit Pai; Umair Javed, Legal Advisor, Wireless and International to Commissioner Jessica Rosenworcel; and William Davenport, Chief of Staff and Senior Legal Advisor for Wireless and International to Commissioner Geoffrey Starks. The representatives of LCRA for these meetings were Jason Ervin, Senior Director Telecommunications; Raul Garcia, Legal Counsel; Clint Harp, VP Transmission Strategic Services and Milam Mabry of Mabry Public Affairs. On March 5, 2019, Mr. Ervin, Mr. Garcia, and Mr. Mabry, along with undersigned counsel met with Will Adams, Legal Advisor to Commissioner Brendan Carr.

In each of these meetings, LCRA discussed the draft Notice of Proposed Rulemaking (“900 MHz Draft NPRM”) seeking comment on a proposal to realign the 900 MHz band to create a broadband segment and to reserve the remainder of the band for narrowband operations.<sup>1</sup> Attached is a document that briefly summarizes LCRA’s 900 MHz system and the potential impact of the proposed rulemaking.

LCRA urged the Federal Communications Commission (“FCC” or “Commission”) to clarify that any realignment of the 900 MHz band would be truly voluntary. The Commission

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<sup>1</sup> *Review of the Commission’s Rules Governing the 896-901/935-940 MHz Band*; WT Docket No. 17-200; Draft Notice of Proposed Rulemaking, FCC-CIRC1903-O2 (rel. Feb. 22, 2019) (“900 MHz Draft NPRM”).

suggests that “a voluntary process may not be successful in all markets, particularly those with a substantial number of incumbents.”<sup>2</sup> However, if the realignment process is intended to be voluntary, the Commission should let the marketplace decide if there is a need for broadband services using the 900 MHz band in each market and if realignment is in the public interest.

The Commission proposes two scenarios in which a prospective broadband licensee could complete the realignment process. Under the first scenario, the broadband licensee could reach an agreement to clear from the broadband segment all covered incumbent licensees and relocate them to the new narrowband segment. Alternatively, the broadband licensee would be required to demonstrate how it will protect the site-based incumbents that elect to remain in the broadband segment through compliance with minimum spacing criteria.

It is unclear from the draft proposal whether under this second scenario, the applicant could still become the broadband licensee even if the covered incumbents do not agree to the proposed protection requirements. The Commission states that “[u]nder our proposal, the prospective broadband licensee must either reach an agreement to clear or demonstrate how it will provide interference protection to, all covered incumbents in the county for which it seeks a 3/3 megahertz broadband license.”<sup>3</sup> LCRA urges the Commission to clarify that either scenario – whether relocation or protection of covered incumbents – must be voluntary through agreement between the covered incumbents and the broadband licensee. LCRA recommends the Commission clarify that the prospective broadband licensee must demonstrate either (i) agreement by covered incumbents to relocate from the broadband segment, or (ii) agreement by covered incumbents to protection through compliance with minimum spacing criteria or letters of concurrence to lesser base station separations.

LCRA recommends Section 27.1509(a)(2) of the draft rules be written as follows: “The applicant must have reached ~~an~~ agreement(s) to ~~either~~-relocate all covered incumbents licensees from the 900 MHz BB spectrum or agreement(s) to provide interference protection to all covered incumbents licensees. The applicant may use its current 900 MHz holdings in the narrowband segment, ~~not to exceed the incumbent’s current spectrum holdings in the relevant county,~~ to relocate covered incumbents licensees; and”

LCRA urged the Commission to seek comment on the eligibility requirements for applicants to become the broadband licensee, rather than propose a rule that would exclude site-based licensees from eligibility. As part of any market-driven voluntary exchange process, incumbent site-based licensees and geographic licensees should be able to develop a transition plan whereby an incumbent site-based licensee is eligible to acquire a broadband license in the relevant market. In certain markets, an incumbent site-based licensee may be best positioned to hold the broadband license because of the site-based licensee’s expertise, amount of spectrum holdings, existing network architecture, or other reasons. Therefore, the Commission should not preclude site-based licensees from eligibility, but should seek comment on the eligibility

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<sup>2</sup> 900 MHz Draft NPRM at ¶ 25.

<sup>3</sup> *Id.* at ¶ 32; See also 900 MHz Draft NPRM at ¶ 29.

restrictions. In order for the Commission to be better informed about the existing spectrum landscape, the Commission should also seek comment on the extent to which geographically licensed Specialized Mobile Radio (“SMR”) incumbents currently provide service throughout their licensed areas.

LCRA discussed that the draft voluntary realignment proposal is too rigid in certain aspects and does not take into account that the specific needs of incumbent site-based licensees may differ from those of geographic-based licensees and that the need for broadband is not uniform throughout the country. LCRA recommended that the Commission request comment on a voluntary realignment process that would give incumbent site-based and geographic-based licensees greater flexibility to negotiate and determine the best way to realign the 900 MHz band in each market, if they agree to voluntarily realign the band.

Among other things, licensees should have flexibility to determine the appropriate size of the broadband segment in each market, the timeline for any relocation, and which incumbent licensee is best positioned to be the broadband licensee for a given market. In some markets where there are large site-based incumbents, it may make more sense to allocate a 1.4/1.4 MHz broadband segment instead of 3/3 MHz. In other markets, it may make more sense to consider a 5/5 MHz broadband segment. Allowing the licensees in each market to determine the appropriate size of the broadband segment and the timeline for relocation would enable the parties to deploy broadband as the operational need for it arises.

LCRA also raised concerns with the draft proposal to limit the amount of spectrum the prospective broadband licensee could offer for purposes of relocation of site-based incumbents.<sup>4</sup> Due to the fact that site-based incumbents will be more closely-spaced together in the new narrowband segment and because of the increase in the noise floor caused by the broadband operations, site-based narrowband licensees will need to deploy additional sites and will need additional channels beyond what they may currently have in order to maintain current levels of reliability. LCRA urges the Commission to reconsider including this as a proposal within the *900 MHz Draft NPRM*.

LCRA urged the Commission to seek comment on the benefit of having specific eligibility and transition rules for markets with large, site-based incumbents that may be too large to support both a 3/3 MHz broadband provider and the existing narrowband land mobile radio systems in their respective regions. In markets where incumbent, site-based licensees meet certain thresholds in terms of the number of licenses or channels, the Commission should consider excluding those markets from any realignment or allow the parties to develop a more flexible approach with different rules on the size of the broadband segment, the need for a guard band, or other issues that takes into account the varied incumbent uses and intensity of use in particular geographic markets.

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<sup>4</sup> *900 MHz Draft NPRM* at ¶ 36.

LCRA requested the Commission seek comment on the need for the prospective broadband licensee to fully reimburse site-based licensees for any costs that they may incur in relocating to the new narrowband segments. While the Commission suggests that relocation costs may be relatively low and that relocation may only contemplate retuning and additional antennas to alleviate interference that may occur after incumbents are relocated, LCRA discussed that it would incur significant costs associated with additional sites and channels in order to operate its system at its current reliability levels. In order for LCRA to operate its 900 MHz system for mission critical communications and its public safety customers free from interference and with an extremely high level of reliability, LCRA will have to invest significant amounts of capital. The broadband licensee should be required to reimburse LCRA for those costs as part of any transition plan.

LCRA recommended the Commission seek comment on the benefits of requiring a guard band within the 3/3 MHz broadband segment to protect against harmful interference to site-based licensees in the newly allocated adjacent narrowband segments. While the Commission proposes to make broadband licensees responsible for preventing harmful interference to narrowband operations and for resolving any interference in the shortest time practicable,<sup>5</sup> LCRA recommended the Commission incorporate this requirement into the proposed rules. For example, the Commission could include a proposed rule that reads: “The 900 MHz BB licensee is responsible for preventing harmful interference to 900 MHz Narrowband operations and for resolving any interference in the shortest time practicable.”

As part of the Transition Plan required with a prospective broadband licensee’s application for a new 900 MHz broadband license, the applicant should be required to describe how they will comply with this requirement to prevent harmful interference and resolve it in the shortest time practicable. LCRA suggests Section 27.1503(g)(4) of the proposed rules read as follows: “a description of how the applicant will **prevent harmful interference to 900 MHz Narrowband operations and resolve any interference in the shortest time practicable and the agreement(s) with all covered incumbent licensees regarding how the applicant will provide interference protection to, and/or relocate from the broadband segment, all covered incumbents licensees, and**”

LCRA also suggested that the Commission request comment on the benefits of appointing a Transition Coordinator who would act as a neutral, third-party with responsibility for evaluating the Transition Plans and overseeing the relocation process. The Commission should invite comment on whether this would help to ensure that the interference protection needs of site-based narrowband incumbents are being properly addressed by the broadband licensee and that the implementation of any realignment is accomplished in a manner that is fair and efficient, including that the negotiations between incumbents to clear the band are conducted in good faith and that site-based incumbents are properly reimbursed by the broadband licensee for any costs they incur in being relocated to the new narrowband segment.

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<sup>5</sup> *Id.* at ¶ 73.

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In accordance with the Commission's rules, one copy of this *ex parte* notice is being filed electronically for inclusion in the record of this proceeding.

Respectfully submitted,

**Lower Colorado River Authority**

/s/ Kevin M. Cookler

Kevin M. Cookler

Lerman Senter PLLC

Counsel to Lower Colorado River Authority

cc: Will Adams  
Rachel Bender  
William Davenport  
Umair Javed  
Erin McGrath





# LCRA Radio Network

## ESSENTIAL FOR PUBLIC SAFETY & FLOOD MANAGEMENT

*Central Texas communities rely on the Lower Colorado River Authority's 900-megahertz radio system to provide reliable communications and information when it's needed most. Our network facilitates more than 3 million conversations a month.*

### **Flood early warning system**

It supports LCRA's Hydromet, an extensive network of more than 275 rain and streamflow gauges in 35 counties that helps public agencies monitor real-time conditions on the lower Colorado River and provides an early warning system for people living in areas prone to flooding. It also transmits data from the City of Austin's 80-gauge Flood Early Warning System.

### **Emergency response & disaster recovery**

More than 45 cities, counties, electric utilities and other organizations including public safety and first responders rely on it to carry out mission-critical communications during emergencies and disaster assistance.

### **Critical business operations**

More than 8,800 mobile radio users in 60 counties throughout Central Texas use it to communicate about daily business operations. LCRA relies on the radio network to provide vital public services, including reliable electricity and a safe water supply for millions of Texans.

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## VITAL PUBLIC SERVICES

LCRA and other organizations that provide critical public services rely on our radio network for daily business operations.

### **We serve:**

Fire departments  
Law enforcement  
Emergency medical services  
Public transportation systems

Municipal services  
Electric utilities  
Flood management agencies  
School districts

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### **Impact of proposed FCC rulemaking on 900 MHz band**

LCRA is proud to provide the communities we serve our cost-effective, reliable communications service. The Federal Communications Commission's proposal to reconfigure the 900 MHz band to facilitate wireless broadband use by a variety of businesses would result in significant interference to our 900-megahertz radio system. In order to combat this interference and keep our system reliable, LCRA would be required to add additional equipment at a cost of millions of dollars.