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AMERICAN PETROLEUM INSTITUTE

March 12, 2020

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**RE: Notice of Ex Parte Presentation**  
***Review of the Commission's Rules Governing the 896-901/935-940 MHz Band***  
**WT Docket No. 17-200**

Dear Ms. Dortch:

On March 12, 2020, Suzanne Lemieux from the American Petroleum Institute ("API"),<sup>1</sup> and API members Sara Banaszak of ExxonMobil, and Misty McGowen of Phillips 66, together with API counsel Jennifer Richter and Shea Boyd of Akin Gump Strauss Hauer & Feld LLP, met via teleconference with Will Adams, Wireless Advisor to Commissioner Carr.

In this meeting, API and its members impressed on the Commission the need to pause and refrain from approving any type of order in the above-referenced proceeding until Anterix has undertaken the necessary work and conversations to understand the impact of its proposals on the critical narrowband communications of API members in the 900 MHz band. As the Commission knows, API members, such as ExxonMobil and Phillips 66, own and operate critical oil and gas refining facilities and petrochemical facilities that are essential to the domestic and global economy. These companies use their 900 MHz narrowband channels 24 hours a day, seven days a week, 365 days a year for emergency and safety communications that protect their facilities and the surrounding communities.<sup>2</sup> The amount of spectrum at stake is small, but critical to API members' narrowband communications and to safety inside and outside of their facilities.

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<sup>1</sup> API is a national trade association representing more than 600 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members before federal and state regulatory agencies. The API Telecommunications Subcommittee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

<sup>2</sup> See Letter from C. Douglas Jarrett, Counsel to Ad Hoc Refiners Group, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket 17-200, 5-11 (filed January 17, 2020).

Unfortunately, Anterix has not, to date, produced interference studies, detailed transition plans, or remediation plans that alleviate the substantial concerns raised by API and its members in the docket. It is not acceptable to knowingly move forward with a new band plan that could cause interference to the safety communications of refineries and petrochemical facilities, or to rely on remedies after the fact. Moreover, the Commission and Anterix need to be clear that a 3x3 MHz LTE channel has neither the speeds, nor the bandwidth to support the “refinery of the future” and is of no value to API’s members.<sup>3</sup>

The FCC cannot require our nation’s refineries to give up spectrum they critically need, in exchange for a new band plan that holds no value, and poses substantial risks to the integrity of critical safety communications. The following undertakings by Anterix are necessary, at a minimum, before action can be taken in this proceeding:

- Anterix needs to provide studies demonstrating that the new band plan will not result in broadband interference to critical narrowband communications systems, which can be evaluated and verified by the FCC and industry. For incumbents that can (and want to) “voluntarily” transition to the new band plan, Anterix needs to study the co-channel and adjacent channel interference to impacted narrowband 900 MHz licensees that are using the spectrum for safety and emergency communications, and propose mitigations that will ensure protection of those licensees. The risks associated with the Anterix proposal must be understood and concrete mitigation proposals must be evaluated and approved by all interested stakeholders.
- Anterix needs to demonstrate that the existing rules, generally establishing 70 mile separation distances between co-channel 900 MHz licensees, and which were designed to separate co-channel *narrowband* operations, will be sufficient to prevent both co-channel and adjacent channel *broadband* interference to incumbents.
- In certain areas with high narrowband utilization including, but not limited to, Houston/Gulf Coast and Los Angeles, the “math” of the proposed Anterix transition simply does not work.<sup>4</sup> Similar congestion and a scarcity of available narrowband channels also is a material challenge in other major metropolitan markets including, but not limited to, New Orleans, San Francisco, and New York. Anterix needs to present an actionable transition plan that demonstrates how current and future narrowband operations will be satisfied in these markets, with a smaller amount of spectrum. Anterix and the Commission need to understand where the proposed

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<sup>3</sup> Commercial wireless broadband technology does not have the functionality (push to talk, point to multipoint, etc.), reliability (priority during emergencies and disaster response), safety (all commercial handsets currently create spark risks, device form factor for use with safety gear), or performance (sufficient propagation in challenging RF environments with high noise and metallic, blast-proof structures) characteristics of existing 900 MHz narrowband systems that are functioning as needed to support API members. Industry is actively working on new technology and solutions that will allow use of off-the-shelf equipment and commercial wireless bands, but best estimates place completion of these efforts at ten years from now.

<sup>4</sup> See Letter from C. Douglas Jarrett, Counsel to Ad Hoc Refiners Group, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket 17-200 (filed January 17, 2020) (presenting analysis showing the lack of available channels in the Houston MTA); Letter from C. Douglas Jarrett, Counsel to Ad Hoc Refiners Group, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket 17-200 (filed February 25, 2020) (presenting analysis showing lack of available channels in the Los Angeles MTA).

transition to the new band plan cannot work because there are not enough narrowband channels available to accommodate the transition,<sup>5</sup> and how those markets will be protected.

Anterix has just recently contacted API for meetings with API and its members. API is working to set up a joint meeting with Anterix. The Commission must allow time for those conversations and the necessary evaluations to take place, and allow time for consultation with the Commission, before any action is taken in this proceeding.

To the extent API and Anterix are able to reach a positive understanding that supports moving to the new 900 MHz band plan, the Commission's support is needed with the following:

- The Commission must ensure that incumbent users have access to enough channels in the future to satisfy expected growth. At least 20 additional narrowband channels must be reserved in the Houston MTA, for example, with similar reserves in the New York, San Francisco, Los Angeles and New Orleans MTAs.
- The Commission must decline to require a mandatory transition process. The proposed 3x3 MHz broadband channels cannot be used by all narrowband incumbents, and there are no viable spectrum alternatives for narrowband communications. Maintaining and protecting use of the 900 MHz band for API members is essential for safety and emergency communications.

The essential point here is that the 900 MHz band is essential to the operations of API's members, and the operations of API members are essential to the economy in the United States and global economies. The Commission cannot leave disruption of these critical industry players to chance. API and its members, the purported beneficiaries of Anterix's proposal, do not see a positive cost/benefit analysis in the Anterix plan. The cost to critical industries, such as our nation's refineries and petrochemical facilities, is too high, when weighed against the absence of "benefits" from a 3x3 MHz broadband channel.<sup>6</sup> The risks associated with the Anterix proposal for the 900 MHz band, with no apparent benefits for API members, suggests that there is no reason for positive Commission action at this time. API asks the Commission to pause before making any decisions in this proceeding that will put at risk the communications systems utilized by API member companies to conduct day to day operations and for emergency response communications.

Respectfully submitted,

/s/ Suzanne Lemieux

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<sup>5</sup> The Commission should consider the fate of the 900 MHz narrowband channels in the broader context of spectrum for utilities that has been diminished for years – 800 MHz operations reduced, and T-Band and 6 GHz operations on the chopping block. A holistic approach to ensure this industry has access to sufficient narrowband channels is needed. 900 MHz narrowband channels have served as the overflow resource as other bands have been compromised or taken away. If the Anterix plan is adopted, API members will have nowhere left to go.

<sup>6</sup> The Commission may want to refresh the record in this proceeding. The antiquated spectrum management approach, to channelize the 900 MHz band instead of using modern, dynamic spectrum techniques that will protect incumbents and make vacant spectrum available, should be seriously reconsidered.