

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

In the Matter of)	
)	
Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands)	PS Docket No. 13-87
)	
National Public Safety Telecommunications Council Petition for Rulemaking on Aircraft Voice Operations at 700 MHz)	RM-11433
)	
National Public Safety Telecommunications Council Petition for Rulemaking to Revise 700 MHz Narrowband Channel Plan)	RM-11433
)	
Region 24 700 MHz Regional Planning Committee Petition for Rulemaking)	WT Docket No. 96-86 PS Docket No. 06-229
)	
State of Louisiana Petition for Rulemaking)	RM-11577

Petition for Partial Reconsideration of Motorola Solutions, Inc.

In accordance with Section 1.429 of the Federal Communications Commission’s (“Commission” or “FCC”) Rules, Motorola Solutions, Inc. (“Motorola Solutions”), hereby seeks partial reconsideration of the *Order on Reconsideration* adopted in the above-captioned rulemaking.¹ Specifically, Motorola Solutions asks that the Commission revise the effective date of the modifications to rule sections 2.1033(c)(20) and 90.548 adopted in the *Order on Reconsideration*. The Commission should either postpone the effective date or, alternatively, suspend enforcement of the new rule provisions until complementary proposals affecting Section

¹ *Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands, et al.*, PS Docket 13-87, *et al.*, Order on Reconsideration and Further Notice of Proposed Rulemaking, 81 FR 66830 (2016) (*Order on Reconsideration*).

90.548 that are the subject of the *Further Notice*² in this same proceeding are addressed in a future order.

For background, the Commission adopted a Report and Order in this proceeding in 2014 that, in part, intended to better encourage equipment manufacturers to participate in a voluntary program established jointly by the Department of Homeland Security and the National Institute of Standards and Technology to assess whether equipment designed to operate in the 700 MHz narrowband channels conforms to interoperability standards proscribed in Section 90.548 of the Commission's Rules.³ To accomplish that goal, the Commission adopted a new rule – Section 2.1033(c)(20) – to require applications for certification of equipment capable of operating on the 700 MHz interoperability channels to include a Compliance Assessment Program Supplier's Declaration of Conformity and Summary Test Report or, alternatively, to include a document detailing how the applicant for certification determined that its equipment complies with Section 90.548 and is interoperable across vendors.⁴

Acting on a Petition for Reconsideration filed by the Telecommunications Industries Association (TIA)⁵ in response to the *2014 Report and Order*, the Commission modified the language of Section 2.1033(c)(20) in the instant *Order on Reconsideration* to “eliminate any ambiguity regarding the timing of CAP testing or the equivalent and whether CAP testing applies

² *Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands, et al.*, PS Docket 13-87, *et al.*, Order on Reconsideration and Further Notice of Proposed Rulemaking, 81 FR 65984 (2016) (*Further Notice*).

³ *Proposed Amendments to the Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands, et al.*, PS Docket 13-87, *et al.*, Report and Order, 29 FCC Rcd 13283 (2014) (*2014 Report and Order*).

⁴ *Id.* at ¶ 60.

⁵ Petition for Reconsideration by the Telecommunications Industry Association, PS Docket No. 13-87, Jan. 2, 2015.

to the equipment certification process.”⁶ As modified by the *Order on Reconsideration*, the rule now reads as follows:

§2.1033(c)(20): Before equipment operating under part 90 of this chapter and capable of operating on the 700 MHz interoperability channels (*See* §90.531(b)(1) of this chapter) may be marketed or sold, the manufacturer thereof shall have a Compliance Assessment Program Supplier's Declaration of Conformity and Summary Test Report or, alternatively, a document detailing how the manufacturer determined that its equipment complies with §90.548 of this chapter and that the equipment is interoperable across vendors. Submission of a 700 MHz narrowband radio for certification will constitute a representation by the manufacturer that the radio will be shown, by testing, to be interoperable across vendors before it is marketed or sold.

A corresponding revision to Section 90.548(c) was also added:

§90.548(c): Transceivers capable of operating on the interoperability channels listed in §90.531(b)(1) shall not be marketed or sold unless the transceiver has previously been certified for interoperability by the Compliance Assessment Program (CAP) administered by the U.S. Department of Homeland Security; provided, however, that this requirement is suspended if the CAP is discontinued. Submission of a 700 MHz narrowband radio for certification will constitute a representation by the manufacturer that the radio will be shown, by testing, to be interoperable across vendors before it is marketed or sold. In the alternative, manufacturers may employ their own protocol for verifying compliance with Project 25 standards and determining that their product is interoperable among vendors. In the event that field experience reveals that a transceiver is not interoperable, the Commission may require the manufacturer thereof to provide evidence of compliance with this section.

In summary, Section 2.1033(c)(20) and Section 90.548 will require manufacturers to either obtain or develop documentation confirming compliance with the interoperability standards proscribed in Section 90.548 before the equipment can be marketed or sold in the U.S.⁷

In accordance with the ordering clauses in the *Order on Reconsideration*, this policy is slated to

⁶ *Order on Reconsideration* at ¶ 15.

⁷ Section 2.803 of the FCC's Rules defines the limitations on permissible marketing activities of radio frequency devices prior to equipment authorization.

become effective on October 31, 2016, *except that*, the newly adopted rule revisions contain information collection and recordkeeping requirements. Thus, the revisions to Section 2.1033(c)(20) will not become effective until approval has been given by the Office of Management and Budget (“OMB”), a process of indeterminate length that often takes several months, if not years, to complete.⁸ Note that the initial information collection and recordkeeping requirements of Section 2.1033(c)(20) as adopted by the *2014 Report and Order* have yet to be approved by OMB so the original rule has not yet become effective or been enforced.⁹

While newly revised Section 2.1033(c)(20) awaits OMB review before becoming effective, the rule that it addresses – Section 90.548 – remains under consideration in the *Further Notice* phase of this proceeding. On February 1, 2016, the P25 CAP Advisory Panel submitted a list of 15 recommended features sets and capabilities to facilitate interoperable communications when P-25 radios operate in the conventional mode using the common air interface on the designated 700 MHz interoperability channels.¹⁰ The *Further Notice* seeks comment on these recommended feature sets and capabilities, including whether to incorporate all, some or additional features into the Commission’s rules.¹¹ In so doing, the *Further Notice* argues that “codifying all, some or additional feature sets and capabilities into our rules would promote a transparent, standards-based process for ensuring that equipment manufactured and used on the 700 MHz narrowband interoperability channels in the conventional mode will provide agencies using radios of different manufacturers the ability to communicate effectively with one another

⁸ See 47 C.F.R. § 2.1033 available at www.ecfr.gov (last visited October 30, 2016).

⁹ *Id.*

¹⁰ *Further Notice* at ¶ 35.

¹¹ *Id.* at ¶¶ 36, 37.

and coordinate operations.”¹² While seeking comment on whether specifying feature sets and capabilities would “provide manufacturers added certainty in testing for interoperability”, the *Further Notice* asks whether the feature sets and capabilities proposed by the P25 CAP Advisory Panel should be codified in Section 90.548 of the FCC’s rules.

The deadline for filing comments to the *Further Notice* was October 26, 2016. All commenters addressing this issue support codification of the P25 CAP Advisory Panel’s in at least some form. APCO, for example, states that “[c]odifying baseline feature sets and the Commission’s recent action to require CAP compliance or the equivalent prior to the marketing or sale of equipment will substantially promote interoperability.”¹³ Likewise, “TIA agrees that a minimum set of features for interoperability should be specified and that this interoperability should be demonstrable via P25 CAP testing (or equivalent manufacturer proof of interoperability).”¹⁴ While offering some modifications to its original technical recommendations, the P25 CAP Advisory Panel itself affirms the view that “[c]odifying the baseline feature sets into the rules would provide a regulatory requirement to test for baseline interoperability features for the 700 MHz interoperability channels.”¹⁵

Upon review of the record generated by the *Further Notice*, it is logical to conclude that there is a strong likelihood that the provisions of Section 90.548 will be amended in the near future to further refine and better detail the interoperability baseline feature sets necessary for operation on the defined 700 MHz interoperability channels. Motorola Solutions believes that

¹² *Id.*

¹³ Comments of APCO, PS Docket No. 13-87, October 26, 2016, at 3.

¹⁴ Comments of the Telecommunications Industry Association, PS Docket No. 13-87, October 26, 2016, at 4.

¹⁵ Comments of the Project 25 Compliance Assessment Program Advisory Panel, PS Docket No. 13-87, October 26, 2016 at 2.

the provisions of Section 2.1033(c)(20) requiring manufacturers to demonstrate compliance with Section 90.548 should not become effective until at least that time when the provisions of Section 90.548 are finalized. Deferring implementation of that requirement until those feature sets are fully described will provide manufacturers with greater certainty on what features should be tested prior to commencing sales. It will also ensure that users will receive equipment with a more complete set of interoperability features necessary to ensure compatibility across all vendor product lines. Finally, deferring implementation of the Section 2.1033(c)(20) will enable the Commission to take a more holistic view on the implementation of its newly adopted policies with respect to CAP compliance, which are a significant departure from its past support for a voluntary program.

Providing certainty on regulatory implementation will benefit all affected parties without risk of a significant downside. As stated earlier, implementation is already deferred due to the need for OMB approval. By acting expeditiously and encouraging robust dialogue between all affected parties, the Commission could likely adopt a consensus approach for CAP compliance in a time frame that may not exceed the OMB review process.

Respectfully submitted,

/s/ Chuck Powers

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