

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of:)	
)	
Encouraging the Provision of New)	GN Docket No. 18-22
Technologies and Services to the Public)	
)	

**REPLY COMMENTS OF
THE NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL**

The National Public Safety Telecommunications Council (NPSTC) submits these reply comments in response to the Notice of Proposed Rulemaking (NPRM) in the above captioned proceeding.¹ The NPRM seeks comment on how best to implement Section 7 of the Communications Act which requires the Commission to determine whether any new technology or service proposed in in the public interest within one year after an associated petition or application is filed. NPSTC has reviewed the first round comments and adds its input to the proceeding.

¹ Notice of Proposed Rulemaking, *Encouraging the Provision of New Technologies and Services to the Public*, GN Docket No. 18-22, released February 23, 2018.

The National Public Safety Telecommunications Council

The National Public Safety Telecommunications Council is a federation of public safety organizations whose mission is to improve public safety communications and interoperability through collaborative leadership. NPSTC pursues the role of resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC has promoted implementation of the Public Safety Wireless Advisory Committee (PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC) recommendations. NPSTC explores technologies and public policy involving public safety telecommunications, analyzes the ramifications of particular issues and submits comments to governmental bodies with the objective of furthering public safety telecommunications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications.

The following 16 organizations serve on NPSTC's Governing Board:²

- American Association of State Highway and Transportation Officials
- American Radio Relay League
- Association of Fish and Wildlife Agencies
- Association of Public-Safety Communications Officials-International
- Forestry Conservation Communications Association
- International Association of Chiefs of Police
- International Association of Emergency Managers
- International Association of Fire Chiefs
- International Municipal Signal Association
- National Association of State Chief Information Officers
- National Association of State Emergency Medical Services Officials
- National Association of State Foresters
- National Association of State Technology Directors
- National Council of Statewide Interoperability Coordinators
- National Emergency Number Association
- National Sheriffs' Association

² These comments represent the views of the NPSTC Governing Board member organizations.

Several federal agencies are liaison members of NPSTC. These include the Department of Homeland Security (the Federal Emergency Management Agency, the Office of Emergency Communications, the Office for Interoperability and Compatibility, and the SAFECOM Program); Department of Commerce (National Telecommunications and Information Administration); Department of the Interior; and the Department of Justice (National Institute of Justice, Communications Technology Program). Also, Public Safety Europe is a liaison member. NPSTC has relationships with associate members: The Canadian Interoperability Technology Interest Group (CITIG) and the Utilities Technology Council (UTC), and affiliate members: The Alliance for Telecommunications Industry Solutions (ATIS), Open Mobile Alliance (OMA), Telecommunications Industry Association (TIA), TETRA Critical Communications Association (TCCA), and Project 25 Technology Interest Group (PTIG).

NPSTC Comments

Section 7 was added to the Communications Act in 1983, 35 years ago, and specifies the following:³

(a) It shall be the policy of the United States to encourage the provision of new technologies and services to the public. Any person or party (other than the Commission) who opposes a new technology or service proposed to be permitted under this Act shall have the burden to demonstrate that such proposal is inconsistent with the public interest.

(b) The Commission shall determine whether any new technology or service proposed in a petition or application is in the public interest within one year after such petition or application is filed. If the Commission initiates its own proceeding for a new technology or service, such proceeding shall be completed within 12 months after it is initiated.

The NPRM indicates that while the Commission has applied the provisions of section 7 to petitions for rulemaking and waiver and several other categories of proceedings, it has not adopted

³ NPRM at paragraph 3.

rules or guidance how it would implement section 7. Accordingly, the NPRM proposes to adopt rules describing guidelines and procedures to implement the section 7 policy goals. In summary, a petitioner or applicant would need to request treatment under Section 7 as a new technology or service and address how its proposal meets the Section 7 guidelines and qualifications the Commission ultimately adopts in this proceeding. If such a request is made, for example with a Petition for Rulemaking, the Commission's Office of Engineering and Technology, in consultation with a representative from the applicable service Bureau with subject matter expertise, would have 90 days to determine if the petition qualifies for Section 7 treatment. If yes, the Commission has one year from the filing date to determine if the proposed new technology or service is in the public interest and to take some action. The NPRM indicates that in the event OET decides the petition does not qualify for Section 7 treatment, the petition would then be subject to normal processing.

The goal of faster action is certainly laudable and needed. Therefore, NPSTC supports the Commission's proposal. As the first round comments in this proceeding highlight, the action required by Section 7 does not necessarily mean a final Commission decision. For example, it could be issuance of an NPRM to move the process forward. Still, NPSTC, like other commenters, is concerned the actual implementation of determining which petitions and applications qualify under the proposed guidelines could be very challenging.

NPSTC also believes some additional clarity may be needed on how the Commission will meld its proposed process on Section 7 guidelines and procedures with the Technological Advisory Council (TAC) spectrum policy recommendations, should any of the TAC recommendations ultimately be enacted for various services.⁴ NPSTC notes that much of the workload for

⁴ Public Notice, *Office of Engineering and Technology Seeks Comment on Technological Advisory Council Spectrum Policy Recommendations*, ET Docket No. 17-340, released December 1, 2017.

implementation of both its proposed Section 7 process and the TAC spectrum policy recommendations falls on the Office of Engineering and Technology (OET). In its comments on the TAC spectrum policy recommendations, NPSTC advised that the TAC recommendations which included a call for greater reliance on quantitative analysis would result in a significant increase in workload for OET, and likely would require the Commission to employ additional engineers in its workforce.⁵ NPSTC believes implementation of the proposed Section 7 guidelines and process would also place additional workload on OET, and reiterates that additional engineers may be needed.

How well the one year deadline to make determinations on requests for new technologies or services can be implemented remains to be seen. On June 11, 2018, the Commission's "Unified Agenda" of major items and other significant proceedings was published in the Federal Register.⁶ A review of the 27 pages of proceeding listed shows that significant action often takes longer than one year and sometimes multiple years. Real spectrum management is complex and there are some issues for which the Commission may legitimately need more than one year to resolve. In addition, providing additional time sometimes enables various stakeholders with opposing views to come to agreement.

NPSTC has experienced relatively fast action by the Commission in some situations and unexplainably slow action in others. For example, on May 27, 2014, NPSTC submitted a Petition for Rulemaking to modify the Part 90 rules so that railroad police could access public safety interoperability and mutual aid channels. The Commission, through its Public Safety and Homeland Security Bureau, acted very quickly and placed the petition on Public Notice May 30, 2014 just three days later. The comment/reply comment cycle ended on July 15, 2014. The Commission released a

⁵ NPSTC Comments, ET Docket No. 17-340, January 31, 2018.

⁶ FR 27244, June 11, 2018.

follow-up NPRM on September 1, 2015 with Federal Register Notice of the NPRM on September 29, 2015 that set November 30, 2015 as the end of the comment/reply comment cycle. A follow-up Report and Order released August 23, 2016 provided a well-reasoned decision enabling railroad police to access the public safety interoperability and mutual aid channels. In summary, initial action by the Commission was very expeditious and the multi-step process from the date NPSTC filed the Petition for Rulemaking to the date the FCC issued its final decision spanned approximately 27 months.

In contrast, there are proceedings for which the long delays in follow-up action and decision-making are seemingly unexplainable. For example, an initiative by the land mobile community to make more efficient use of its spectrum and create additional opportunities for operations by adding interstitial channels in the 800 MHz band in has spanned nine years to date without a decision, despite the fact that stakeholders in the band support the proposal.

On April 29, 2009, the Enterprise Wireless Alliance submitted a Petition for Rulemaking to implement interstitial channels in a portion of the 800 MHz band administered under Part 90 of the rules. The Commission placed the petition on public notice on October 8, 2009, with the comment/reply cycle ending November 24, 2009. Most commenters supported the thrust of the EWA petition. Over five years spanned before the Commission released an NPRM on February 9, 2015.⁷ In comments submitted in May 2015, NPSTC and most other stakeholders supported the implementation of interstitial channels, with the caveat that adequate protection for operations on the main channels be implemented through the frequency coordination process. The Land Mobile Communications Council, i.e., the umbrella organization of all Part 90 certified frequency coordinators, submitted reply comments in late May 2015 that provided guiding principles and a

⁷ NPRM in WP Docket No. 15-31, RM-11572.

matrix specifying interference contours that can be used for all known combinations of adjacent channel system types. NPSTC submitted an ex parte letter June 8, 2015 supporting the LMCC recommendations and urging the Commission to move forward, as did other organizations.

The land mobile industry proposed a mechanism to make more efficient use of the existing spectrum, developed the detailed frequency coordination approach needed to implement more efficient use and brought the Commission support of stakeholders in the band. Even after all that was accomplished, it has still been three additional years with no Commission decision. It is not clear if this particular situation is one that could fall within the purview of Section 7. However, NPSTC believes some steps need to be taken to avoid such seemingly unexplainable delays, whether or not an issue qualifies under Section 7. The relatively fast action on the railroad police issue cited above shows that much more expeditious treatment is certainly possible.

Conclusion

NPSTC appreciates the opportunity to provide input on the Commission's proposed Section 7 guidelines and procedures. In general, NPSTC supports the goals of the proposal. NPSTC has experienced some proceedings that are relatively fast and others that are unexplainably delayed. More expeditious action is often needed on various petitions and rulemaking proceedings, whether or not a specific issue qualifies for Section 7 treatment.

NPSTC also recommends some consideration on how the proposed Section 7 guidelines and process would meld with Technological Advisory Council (TAC) spectrum policy recommendations, should any of the TAC recommendations ultimately be enacted. Much of the workload for implementation of both the proposed Section 7 process and the TAC spectrum policy recommendations falls on the Office of Engineering and Technology and therefore, NPSTC believes the Commission may need additional engineers in its workforce.

Ralph A. Haller, Chairman

A handwritten signature in dark ink, appearing to read "Ralph A. Haller", with a long horizontal flourish extending to the right.

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