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July 16, 2019

VIA ELECTRONIC MAIL

Lisa M. Fowlkes, Chief
Public Safety and Homeland Security Bureau
Donald Stockdale, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: PS Docket No. 13-42

Dear Ms. Fowlkes and Mr. Stockdale:

The Enterprise Wireless Alliance (“EWA”) has become aware that the application processing staffs of the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau (collectively, “Bureaus”) have been directed not to process applications for renewal of Part 90 licenses operating on spectrum in the 470-512 MHz band (“T-Band”). Instead, the applications are being held in pending status.¹ EWA assumes that decision is in anticipation of the FCC taking action at some future date in response to Section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012 (“Act”), which directs the FCC to (1) reallocate T-Band spectrum being used by public safety eligible entities and (2) begin an auction of that spectrum in 2021.²

It is unfortunate that the Bureaus did not consult the industry before deciding to hold T-Band renewal applications or notify the industry that the decision had been made. Individual T-Band licensees discovered the issue when they became concerned that their routine renewal applications had not been processed. This resulted in multiple phone calls and inquiries to the staff in Gettysburg and to Frequency Advisory Committees (“FACs”) like EWA. Time was wasted responding to each inquiry individually, a process that could have been avoided had the industry been advised in advance of the Bureaus’ plan.

¹ See, e.g., Application File Nos. 0008516816, 0008517371, 0008531555, and 0008563345, filed in February or March 2019.

² Pub. L. No. 112-96, 126 Stat. 156 (2012).

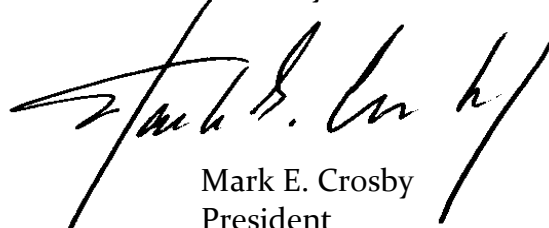
It is not clear why these renewal applications are being treated differently than those granted over the seven years since the Act was enacted. Should T-Band licensees understand that a license renewed, for example, in 2017 or 2018 – and therefore effective until 2027 or 2028 – has a different legal status than one whose renewal is now being held by the FCC, presumably for the next several years? If so, it would be helpful to understand what that legal distinction is.

Nonetheless, assuming the FCC felt a need to advise T-Band licensees that their licenses might be affected by FCC rule changes mandated by the Act, a fact of which they already are well aware, EWA would have recommended a different course of action. It would have suggested that the renewals be granted, conditioned on the outcome of this proceeding, or any successor proceeding in which the directives of the Act are implemented by the FCC. The FCC used that approach during the pendency of WT Docket No. 10-112. Many hundreds, perhaps thousands, of licenses were renewed over more than a half-decade conditioned on the outcome of that proceeding.

This would have avoided the situation where a licensee needs to demonstrate that it has operating authority from the FCC and must explain that what appears on its face and in the ULS database to be an expired license remains valid because a timely renewal application was filed. Those conversant with FCC's licensing procedures and with the T-Band situation may understand the explanation. Others are likely to question whether the licensee still has FCC operating authority, with the question becoming more troublesome the longer the renewal application remain pending. This is particularly a problem for private carriers, some of whose competitors already suggest that T-Band customers should move to the competitors' systems since T-Band licenses are no longer valid. It is not helpful that ULS appears to confirm that erroneous claim.

For these reasons, EWA requests that the Bureaus reconsider the decision not to process T-Band renewal applications and, if necessary, grant the applications conditioned on the outcome of PS Docket No. 13-42.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Crosby", with a large, sweeping flourish extending from the end of the signature.

Mark E. Crosby
President

cc via email:
David Furth
Roger Noel
Scot Stone