

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Arizona Public Service Company)	WT Docket No. 17-168
Request for Waiver of)	
800 MHz Licensing Freeze)	

To: Chief, Wireless Telecommunications Bureau

**REPLY COMMENTS
OF THE
ENTERPRISE WIRELESS ALLIANCE**

The Enterprise Wireless Alliance (“EWA” or “Alliance”), in accordance with Section 1.45 of the Federal Communications Commission (“FCC” or “Commission”) rules, respectfully submits its Reply to the Comments filed in response to the Public Notice seeking comment on the Waiver Request (“Waiver Request”) filed by the Arizona Public Service Company (“APSC” or “Company”).¹ The Waiver Request seeks an exemption from the 800 MHz licensing freeze² that applies to National Public Safety Planning Advisory Committee (“NPSPAC”) regions along the Mexican border where rebanding has not yet been completed.³ It states that APSC intends to deploy a new statewide, digital, Project 25 (“P25”) radio system. Although the current APSC system also operates at 800 MHz, the Company has explained that it needs to deploy two new channels at its existing sites and three channels at new sites so that it will be able to cut over seamlessly from its existing system once the new system is operating.

¹ Wireless Telecommunications Bureau Seeks Comment on Arizona Public Service Company Request for Waiver of 800 MHz Licensing Freeze for Proposed Statewide Trunked Radio System, *Public Notice*, WT Docket No. 17-168, DA 17-590 (rel. June 16, 2017) (“Public Notice”).

² See Public Safety and Homeland Security Bureau Extends 800 MHz Application Freeze along Border with Mexico, *Public Notice*, 32 FCC Rcd 1817 (PSHSB 2017).

³ The Waiver Request is an attachment to multiple pending APSC applications; see, e.g., File No. 0007518243.

The Waiver Request asks that the eleven-year old licensing freeze in the Mexican Border Region be waived so that the Company may license 800 MHz Business/Industrial/Land Transportation (“B/ILT”)⁴ channels in the interleaved portion of the 800 MHz band that would be available but for the freeze. It also seeks authority to license 800 MHz B/ILT channels in the 800 MHz Expansion Band (“EB”) that are not yet available for licensing because of the freeze and that are the subject of a pending rulemaking proceeding in which the FCC is considering whether to afford priority for EB channels to incumbent licensees.⁵

EWA supported the Waiver Request, as did the National Public Safety Telecommunications Council (“NPSTC”). The Alliance concluded that the 800 MHz Licensing Freeze should be waived, because the APSC applications were accompanied by a letter from the 800 MHz Transition Administrator (“TA”) stating that, “the TA concurs with the issuance of this authorization and does not foresee any impact on 800 MHz Band Reconfiguration resulting from grant of the application.” Since the purpose of the 800 MHz Licensing Freeze is to ensure that spectrum is available for rebanding purposes, the TA letter confirms that the waiver requested would not have any adverse effect on rebanding replacement channels.⁶

Both organizations concurred that the FCC should waive the 800 MHz Licensing Freeze as it relates to the requested EB channels. Both referenced their support for an incumbent priority for EB spectrum, a position that is consistent with the APSC request, as it is an incumbent with a demonstrated need for access to B/ILT EB channels.

⁴ This spectrum is referred to in the Waiver Request as Industrial/Business (“I/B”).

⁵ Public Notice at 2, citing Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Announce the Completion of 800 MHz Reconfiguration in Certain NPSPAC Regions and the Availability of Additional Sprint Vacated Channels, *Public Notice*, 31 FCC Rcd 12891, 12896-97 (PSHSB/WTB 2016).

⁶ NPSTC does not take a position on this aspect of the waiver request, noting that input from frequency coordinators would be needed to determine if grant of the waiver would cause interference or disrupt the rebanding process. In fact, the TA has verified that there would be no adverse impact on rebanding and AAA, an FCC-certified frequency advisory committee coordinator, certified that the applications comply with the co-channel requirements of Rule Section 90.621, so these issues seemingly have been addressed.

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”), the only additional commenting party other than APSC itself, did not oppose the Waiver Request, but raised concerns that suggest an unfamiliarity with the APSC filing and with the FCC rules governing EB spectrum.

First, APCO questioned APSC’s assertion that its grant would not disrupt the rebanding process. It recommended that if a waiver were granted, APSC should “be held accountable and ensure that it will immediately act, at its own cost, to resolve any issues it causes that impact the needs of public safety licensees to access channels during the rebanding process.”⁷ But the TA charged with overseeing the assignment of replacement channels to all systems subject to rebanding has stated that grant of the waiver would have no such effect. As the TA is responsible for replacement channel assignments, if it is mistaken in that conclusion, which the Alliance is confident it is not, why would APSC be responsible for correcting the error?

APCO’s second concern is not supported by the FCC rules. It urges the Commission to be cautious in allowing APSC access to B/ILT EB channels because “Certain public safety licensees are eligible for EB channels, and thus would rightfully benefit from the priority under consideration.”⁸ In fact, there are no EB channels assigned for public safety use. As reaffirmed in a 2015 FCC Public Notice, “To accommodate public safety licensees exercising their option to re-tune, the Commission (1) reclassified twelve SMR channels below the Expansion Band as public safety channels and (2) reclassified the twelve public safety channels in the Expansion Band as SMR channels, but allowed public safety licensees to remain on those channels notwithstanding their reclassification.”⁹ Public safety licensees that chose to remain on EB

⁷ APCO Comments at 3.

⁸ *Id.*

⁹ Public Safety and Homeland Security Bureau Clarifies the Process for Accepting Applications from Public Safety Licensees that Elected to Remain in the 800 MHz Expansion Band, WT Docket No. 02-55, *Public Notice*, 30 FCC

channels are permitted to modify their systems, including, expanding their contours, but there are no additional EB channels for which they are eligible. They must request a waiver to allow their use of channels designated for other services, including B/ILT EB channels.¹⁰ By contrast, APSC is eligible for the requested B/ILT EB channels. No caution need be exercised in granting its request for fear of disadvantaging future public safety waiver applicants.

For these reasons, EWA again urges the FCC to proceed promptly in granting the waiver relief requested by the Company.

Respectfully submitted,

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Rcd 3021 (PSHSB 2015); *see also* Public Safety and Homeland Security Bureau Clarifies the Rights of 800 MHz Public Safety Licensees Electing to Remain in the 800 MHz Expansion Band, *Public Notice*, 22 FCC Rcd 6803 (PSHSB 2007).

¹⁰ *Id.* at 2.

CERTIFICATE OF SERVICE

I, Linda J. Evans, with the law firm of Lukas, LaFuria, Gutierrez & Sachs, LLP, hereby certify that I have, on this 15th day of August 2017, caused to be forwarded via first-class mail, postage prepaid or electronic mail (as indicated) the foregoing Reply Comments to the following:

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