



September 21, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: In the Matter of Amendment of Part 90 of the Commission’s Rules, WP Docket No. 07-100

Dear Chairman Pai:

For more than a decade, the public safety community has asked the Commission for reasonable changes to the 4.9 GHz rules that would help public safety make more effective, reliable, and increased use of the band. Clearly believing that the 4.9 GHz band is needed for meeting mission-critical requirements, public safety convened task forces and special committees, and submitted multiple public comments with the Commission. Yet the Commission ignored public safety’s requests without explanation, issuing multiple notices of proposed rulemakings rather than making the needed regulatory changes. Now, the Commission is finally poised to act but – rather than make the reasonable changes public safety asked for – the draft Order will threaten public safety’s existing use of the band and prevent public safety use from growing. We thus respectfully request that you remove this item from the September Open Meeting agenda and chart a different course.

It would be a mistake to put state governments in a position to lease the 4.9 GHz spectrum for commercial purposes. This will effectively reallocate the 4.9 GHz band from public safety without explicitly admitting as much. Moreover, the Commission should not put state governments in a position to dictate spectrum policy and effectively override investments made by public safety agencies at county and local levels. Under the draft Order, a state entity that has never invested in 4.9 GHz could cash in by granting a statewide lease to a commercial entity, regardless of the opinion, investment, and use of 4.9 GHz at the county and local levels, and without any requirements to prioritize or avoid interfering with public safety use. It’s one thing for the Commission to permit state governments to cash a check at the expense of public safety communications, but it’s an entirely different matter to permit state governments to dictate this to county and local public safety entities.

Not only does the draft Order run counter to the expressed positions of the public safety community, its plan for commercial leasing has no basis in the record in this proceeding. The draft Order provides no explanation for how state governments will enter leasing agreements without threatening public safety use of the band. It's only in a Further Notice of Proposed Rulemaking that the Commission will explore important issues, such as the use of spectrum sharing mechanisms to prevent harmful interference to public safety. This is putting the cart before the horse. In the meantime, the FCC has frozen public safety from expanding use of the band while states will be free to flood the band with commercial use and collect lease revenue.

The timing of this change would be particularly problematic given the multiple national and regional emergencies that first responders and 9-1-1 professionals are facing – the COVID-19 pandemic, unprecedented wildfires, a stream of powerful and destructive hurricanes, and civil protests – causing untold injury and death. And this would compound threats to public safety's use of other spectrum – the T-Band and 6 GHz. Now is especially not the time to pull the needed 4.9 GHz band out of the hands of public safety officials.

The signers of this letter ask that you remove the draft 4.9 GHz item from the September Open Meeting agenda and direct the Public Safety and Homeland Security Bureau to consult with our organizations on a better path forward. Public safety's investment in 4.9 GHz and the future of this band to support public safety access to broadband technologies should not be abandoned.

Sincerely,

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CC (via email):

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Commissioner Carr
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Commissioner Starks