

**Before the
Federal Communications Commission
Washington, D.C. 20054**

In the Matter of)	
)	
Commonwealth of Pennsylvania and)	PS Docket No. 19-255
FirstEnergy Corp.)	
Joint Waiver Request)	
DA 19-1131)	

COMMENTS OF THE COMMONWEALTH OF VIRGINIA

The Commonwealth of Virginia, Department of State Police (“Commonwealth of Virginia”), by its counsel, hereby submits comments on behalf of its Statewide Agencies Radio System (“STARS”) in response to the November 1, 2019 Request for Comments (DA 19-1131) in the above proceeding, inviting comments on the Joint Waiver Request by the Commonwealth of Pennsylvania and FirstEnergy Corp. to expand the scope of a 1999 waiver allowing channel sharing on their systems.

INTRODUCTION

STARS is a twenty-one state agency public safety grade statewide integrated voice and data radio system. STARS uses digital trunked VHF narrow band land mobile radio technology for the infrastructure and relies heavily on 700 MHz digital vehicular repeater systems (DVRS) in approximately 3,200 vehicles to support portable radio public safety grade communications within the network.

In 2004 the Commonwealth of Virginia entered into a contract with Motorola to design, construct and implement a new comprehensive statewide public safety communications system, and the current STARS system was designed and built under Motorola’s guidance. STARS is a statewide shared land mobile radio system utilizing Part 90 public safety channels, Part 22 VHF paging channels, and Part 80 VHF maritime channels. The Commonwealth of Virginia applied

for various waivers from the Commission to acquire and operate the Part 22 and Part 80 channels, which the Commission has granted. STARS also utilizes state licensed and reserve narrowband channels, VHF low and high band channels, and 800 MHz channels.

SCOPE OF THE WAIVER

As a statewide public safety agency, the Commonwealth of Virginia's Department of State Police is sympathetic to the Commonwealth of Pennsylvania's efforts to create a statewide public safety network providing good coverage in rural areas of a large state, and certainly would support that goal in principle.

The Commonwealth of Virginia's concern is that any waiver granted to Pennsylvania and FirstEnergy should be narrowly drawn to permit shared channel use within Pennsylvania's state boundaries, but not outside of that state.

Since Virginia and Pennsylvania are not adjacent to each other, channel interference by their respective public safety agencies would not normally be a concern. However, FirstEnergy has customers in West Virginia, Maryland, and the District of Columbia, and facilities in Virginia. Use by FirstEnergy of shared channels in any of those jurisdictions, under a blanket waiver, could potentially cause significant interference with STARS. A shared use of channels by Pennsylvania and FirstEnergy, without such channel use being strictly limited to Pennsylvania's state boundaries, could create significant interference with public safety operations in Virginia through either the VHF channels now proposed in the Joint Waiver Request, or future channels which might be added.

The Commission has noted that since its rules make no provision for amending previously granted waivers, it is treating the current Joint Waiver Request as a replacement waiver.

While the Commission's 1999 Order granting the original waiver refers several times to the value of the joint system throughout Pennsylvania, it is not absolutely clear from the text of that 1999 Order that joint channel use is limited only to Pennsylvania. Similarly, the current Joint Waiver Request, while noting that FirstEnergy is one of the nation's largest investor-owned electric systems, serving six million customers in the Midwest and mid-Atlantic regions, never clearly states that the joint radio system will be limited to Pennsylvania, as opposed to elsewhere in FirstEnergy's large service territory.

A preliminary analysis of the channels proposed in the Joint Waiver indicates that use of several proposed Part 22 channels which FirstEnergy contemplates purchasing, namely WPVF397, WPVH206, WPVF365, and WPVF387, has the potential of interference with STARS' existing channels, unless appropriate restrictions are placed on their use. The addition of future VHF channels could similarly cause interference.

Part 22 of the Commission's Rules on public mobile services, 47 CFR Part 22, contain extensive and necessary provisions for protection of incumbents against interference, such as 47 CFR §§ 22.352 and 22.353.

The Commonwealth of Virginia has no objection to the Commission's grant of a new waiver to Pennsylvania and FirstEnergy, as long as it is clear that the waiver is limited to a joint system within the boundaries of Pennsylvania and is subject to compliance with all Part 22 measures to avoid interference.

From the standpoint of precedent, any addition of future VHF channels within Pennsylvania should be subject to both that requirement and the same clearance and conflict avoidance procedures with existing VHF licensees as any other new channel addition.

The Commonwealth of Virginia does not believe that the Commission's 1999 Order permitting Pennsylvania and GPU Energy to create and share an 800 MHz system can

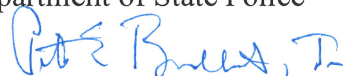
reasonably be interpreted to allow the addition of 700 MHz channels. Paragraph 13 of that 1999 Order specifically discusses and rejects the creation of a joint system using 700 MHz channels as being an impractical alternative. While use of 700 MHz channels may now be practical, the language in the 1999 Order cannot be stretched to reach that result, but a new waiver is required for use of 700 MHz channels.

CONCLUSION

For the foregoing reasons, the Commonwealth of Virginia respectfully requests that any new waiver granted by the Commission to the Commonwealth of Pennsylvania and FirstEnergy for a joint radio system be limited to operation within the state line boundaries of Pennsylvania and subject to all Part 22 requirements to avoid interference, together with any other measures necessary to prevent interference to existing licensees.

Respectfully submitted,

Commonwealth of Virginia
Department of State Police



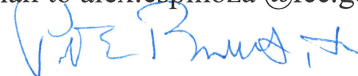
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Its Counsel

November 26, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of November, 2019, a copy of the foregoing Comments of the Commonwealth of Virginia was filed with the FCC using the Electric Comment Filing System (ECFS), and was sent by email to alex.espinoza @fcc.gov.



Peter E. Broadbent, Jr.