



## LAND MOBILE COMMUNICATIONS COUNCIL

September 2, 2015

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: *Ex Parte* Letter  
RM-11719

Dear Ms. Dortch:

On March 27, 2014, the Land Mobile Communications Council (LMCC), a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment, filed a Petition for Rulemaking (Petition). The Petition requested that the FCC limit eligibility for 800 MHz Expansion Band/Guard Band (EB/GB) channels to incumbents already licensed in markets for the first six (6) months of availability, after which all channels would be available to all categories of eligible 800 MHz applicants.<sup>1</sup> The Petition followed the FCC's 2012 Public Notice announcing the availability of EB/GB spectrum in eleven (11) relatively lightly populated NPSPAC regions.<sup>2</sup> On April 24, 2014, the Wireless Telecommunications Bureau (WTB) and the Public Safety and Homeland Security Bureau (PSHSB) sought comment on the Petition.<sup>3</sup> It is our understanding that the FCC continues to review the record in this matter.

Subsequently, on December 30, 2014, the WTB and PSHSB announced the completion of 800 MHz Band Reconfiguration in nine (9) additional NPSPAC regions.<sup>4</sup> The FCC noted the Petition in announcing the availability of EB/GB spectrum in those regions but concluded the following:

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<sup>1</sup> LMCC Petition for Rulemaking Regarding Interim Eligibility for the 800 MHz Expansion band (860-861/815-816 MHz) and Guard Band (861-862/816-817 MHz). 800 MHz EB/GB spectrum is made available in National Public Safety Planning Advisory Committee (NPSPAC) regions pursuant to FCC Public Notice after the 800 MHz Transition Administrator (TA) has certified that rebanding has been completed in a NPSPAC region.

<sup>2</sup> See Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Announce the Completion of 800 MHz Band Reconfiguration in Certain NPSPAC Regions, *Public Notice*, WT Docket No. 02-55, 27 FCC Rcd 14775 (PSHSB/WTB 2012).

<sup>3</sup> See Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Seek Comment on Petition for Rulemaking Filed by Land Mobile Communications Council Regarding Interim Eligibility for 800 MHz Expansion Band and Guard Band Frequencies, RM-11719, *Public Notice*, 29 FCC Rcd 4093 (WTB/PSHSB 2014).

<sup>4</sup> See Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Announce the Completion of 800 MHz Band Reconfiguration in Certain NPSPAC Regions and the Availability of Additional Sprint Vacated Channels, *Public Notice*, WT Docket No. 02-55, 29 FCC Rcd 16290 (PSHSB/WTB 2014).

The NPSPAC regions in which we today declare rebanding to be complete do not contain any urban areas larger than those in the regions where we already have declared rebanding complete. Therefore, we conclude that announcing the completion of rebanding in these additional regions does not prejudice either the [LMCC] rulemaking petition or commenters' requests that we defer releasing the channels pending the resolution of the rulemaking petition. Consequently, we will make channels in the Expansion Band and Guard Band available for licensing in the regions listed in Attachment A. We will consider the deferral requests with respect to future regions in light of the conditions in those regions and the subsequent status of the rulemaking petition.<sup>5</sup>

The LMCC responded on January 12, 2015,<sup>6</sup> by submitting a request that the FCC postpone both the "Pre-Coordination" and FCC Application Filing" dates given the pendency of the LMCC Petition, and the fact that the certified frequency advisory committees had not adopted a Memorandum of Agreement (MOA) that would govern EB/GB applications.<sup>7</sup> The FCC denied that request, essentially restating the explanation given in the Public Notice as to the relatively uncongested markets involved.<sup>8</sup>

The TA recently certified to the FCC that rebanding has been completed in fourteen (14) additional NPSPAC regions.<sup>9</sup> Unmistakably, these NPSPAC regions encompass major urban areas where 800 MHz capacity is unavailable to incumbent licensees who have a requirement to expand system capacity. For this reason, and consistent with the FCC's statement in its December 30, 2014, Public Notice cited above, the LMCC requests that the FCC not release EB/GB spectrum in these NPSPAC regions pending the outcome of the LMCC Petition for Rulemaking.<sup>10</sup>

As previously noted by the LMCC, the increased capacity created by allowing the expansion of systems by Public Safety, Business/Industrial/Land Transportation, and SMR incumbents who have invested heavily in advanced systems that rely on this critical spectrum

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<sup>5</sup> *Id.* at 6.

<sup>6</sup> See Letter dated January 12, 2015, from Mark E. Crosby, Secretary/Treasurer, LMCC to Marlene H. Dortch, Secretary, FCC.

<sup>7</sup> On March 4, 2015, the LMCC submitted a copy of the MOA regarding EB/GB channels to the WTB and PSHSB and advised the Commission that the MOA was in the process of being executed by the FCC-certified frequency advisory committees who were prepared to conduct frequency coordination and application certification in accordance with its terms. See Letter dated March 4, 2015, from Mark E. Crosby, Secretary/Treasurer, LMCC to David Simpson, Chief, PSHSB and Roger C. Sherman, Chief, WTB.

<sup>8</sup> See Letter dated January 13, 2015, from Scot Stone, Deputy Chief, Mobility Division, WTB, to Mark E. Crosby, Secretary/Treasurer, LMCC.

<sup>9</sup> The additional NPSPAC regions where rebanding has been completed are: Region 1 – Alabama; Region 8 – New York Metropolitan; Region 10 – Georgia; Region 13 – Illinois; Region 14 – Indiana; Region 19 – New England; Region 20 – Maryland, Washington, DC and Northern Virginia; Region 21 – Michigan; Region 28 – New Jersey, Pennsylvania and Delaware; Region 35 – Oregon; Region 36 – Pennsylvania; Region 37 – South Carolina; Region 39 – Tennessee; and Region 51 – Texas (Houston).

<sup>10</sup> PCIA, an LMCC member, opposes withholding EB/GB spectrum pending the outcome of the LMCC Petition for Rulemaking.

resource outweighs the benefits that may be achieved by initially opening all EB/GB spectrum to, or even reserving a portion of that spectrum for, new market entrants.

We appreciate this opportunity to submit our comments in this matter, and look forward to the FCC's response. Should you have any questions or comments, please feel free to contact the undersigned.

Sincerely,

/s/

Gregory Kunkle  
President

cc: David Furth  
Michael Wilhelm  
Roger Noel  
Scot Stone