

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

In the Matter of)	
)	
M2M Spectrum Networks, LLC)	RM No. 11755
)	
Petition for Rulemaking to Allow for)	
Specialized Mobile Radio Services Over)	
900 MHz Business/Industrial Land)	
Transportation Frequencies)	

**COMMENTS OF PCIA –
THE WIRELESS INFRASTRUCTURE ASSOCIATION**

PCIA – The Wireless Infrastructure Association (“PCIA”)¹ respectfully submits these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) *Public Notice* seeking comment on the Petition for Rulemaking (“Petition for Rulemaking”) filed in this proceeding by M2M Spectrum Networks, LLC (“M2M”).² PCIA supports M2M’s request to open a rulemaking proceeding to enable 896-901/935-940 MHz (“900 MHz”) Business/Industrial/ Land Transportation (“B/ILT”) license applicants to obtain authorization to provide for-profit service to B/ILT eligibles. As explained below, M2M’s proposal is consistent with the Commission’s prior commitment to flexible use of the 900 MHz B/ILT MHz band, and will allow the spectrum to be put to more innovative and efficient use.

¹ PCIA – The Wireless Infrastructure Association is the principal organization representing the companies that build, design, own and manage telecommunications facilities throughout the world. Its over 220 members include carriers, infrastructure providers, and professional services firms.

² Wireless Telecommunications Bureau Seeks Comment on M2M Spectrum Networks Petition for Rulemaking to Allow Specialized Mobile Radio Service Over 900 MHz Business/Industrial Land Transportation Frequencies, *Public Notice*, RM-11755, DA 15-944 (WTB rel. Aug. 21, 2015).

DISCUSSION

I. THE PROPOSED RULEMAKING WILL ADVANCE THE FCC'S PRIOR COMMITMENT TO FLEXIBLE USE OF THE 900 MHz B/ILT BAND AND BETTER RATIONALIZE THE RULES.

M2M's proposal will help advance the Commission's prior commitment to allow more flexible use of the 900 MHz B/ILT band.³ In 2004, the Commission amended Section 90.621(f) of its rules to allow 900 MHz B/ILT licensees to modify their licenses to initiate Commercial Mobile Radio Service ("CMRS") operations, or to assign their licenses to parties wishing to initiate such operations.⁴ The Commission did not, however, modify Section 90.617(c) of its rules, which provides that that 900 MHz B/ILT channels may not be used for Specialized Mobile Radio ("SMR") systems.

As M2M has explained, this has led to a discordant licensing regime in which applicants may not obtain 900 MHz B/ILT license rights to provide CMRS by means of an initial license application (Section 90.617(c)), but may obtain such rights by subsequently modifying or assigning such licenses (90.621(f)).⁵ The discrepancy between Sections 90.617(c) and 90.621(f) has caused confusion in the industry. Accordingly, the Commission should initiate a rulemaking to amend Section 90.617(c) to allow the use of 900 MHz channels to provide for-profit service to third-party B/ILT eligibles. By taking this step, the Commission can better rationalize its rules and further its prior commitment to allow more flexible use in the 900 MHz B/ILT band.

³ Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969, 15127 ¶¶ 335-337 (2004) ("800 MHz Report and Order").

⁴ 47 C.F.R. § 90.621(f).

⁵ See Petition for Rulemaking at 3.

II. THE PROPOSED RULEMAKING IS CONSISTENT WITH THE FCC'S FLEXIBLE USE POLICIES AND WILL FACILITATE INNOVATION AND EFFICIENT SPECTRUM USE IN THE 900 MHz B/ILT BAND.

More broadly, the proposed rulemaking is consistent with the Commission's long-standing flexible use policies, which promote wireless innovation, investment and efficient spectrum use. As the Commission's Spectrum Policy Task Force has observed, "[f]lexibility enables spectrum users to make fundamental choices about how they will use spectrum . . . , taking into account market factors such as consumer demand, availability of technology, and competition. By leaving these choices to the spectrum user, this approach tends to lead to efficient and highly-valued spectrum uses."⁶ The Task Force found that "[i]n most instances, a flexible use approach is preferable to the Commission's traditional 'command-and-control' approach to spectrum regulation, in which allowable spectrum uses are limited based on regulatory judgments."⁷ The Task Force concluded that the "Commission should seek to avoid rules that restrict spectrum use to particular services or applications, so long as the user operates within the technical parameters applicable to the particular band in question."⁸

The same holds true in this instance. By reaffirming its commitment to flexible use of the 900 MHz B/ILT band, the Commission will create opportunities for new and existing service providers to introduce new, valuable niche services. For example, a B/ILT licensee may choose to provide specialized services to business users on a CMRS basis that are not offered by providers with greater license bandwidths. Machine-to-Machine applications are another

⁶ Spectrum Policy Task Force, ET Docket No. 02-135, Report, 16 (rel. Nov. 15, 2002), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-228542A1.pdf (Sept. 16, 2015).

⁷ *Id.*

⁸ *Id.* at 16-17.

example of how the band could be used flexibly to provide new and cost-effective services to business customers using narrow, B/ILT channels.⁹ The proposed rule change will also help put fallow spectrum to use, while at the same time allowing licensees to use their spectrum more efficiently. As M2M notes, “[i]nstead of issuing a license to each individual business user, a service provider could use the same license to serve the needs of multiple businesses.”¹⁰

CONCLUSION

The Commission has already determined that permitting flexible use of modified or assigned 900 MHz B/ILT licenses services serves the public interest; toward this same end, the Commission should eliminate any uncertainty and make clear that its flexible use policy applies equally to applications for new 900 MHz B/ILT station licenses. Accordingly, PCIA supports the initiation of a rulemaking to eliminate the discrepancy between Sections 90.617(c) and 90.621(f) of the Commission’s rules by amending Section 90.617(c) to allow the use of 900 MHz channels to provide for-profit service to third-party B/ILT eligibles.

⁹ See Petition for Rulemaking at 6 (“Forcing distributed, relatively low bandwidth networks, such as the machine-to-machine communications that M2M will be deploying, to use broadband networks mismatches the user’s need and its spectrum.”).

¹⁰ *Id.* at 5-6.

Respectfully submitted,

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September 21, 2015