



LAND MOBILE COMMUNICATIONS COUNCIL

December 17, 2015

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

Re: *Ex Parte* Letter
RM-11719 and RM-11755

Dear Ms. Dortch:

The Land Mobile Communications Council (“LMCC”) is 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. LMCC acts with the consensus, and on behalf of the vast majority of public safety, business, industrial, transportation and private commercial radio users, as well as a diversity of land mobile service providers and equipment manufacturers. As stated in its by-laws, the organization’s primary objective is to “secure allocation of sufficient amount of spectrum space to the Land Mobile Radio Services to meet their frequency requirements.” It is this objective that prompts the following *ex parte* comments.¹

In an *ex parte* letter (“*Ex Parte*”) dated November 24, 2015, PCIA – The Wireless Infrastructure Association (“PCIA”) reported a November 20, 2015, meeting with staff of the Federal Communications Commission’s (“FCC” or “Commission”) Wireless Telecommunications Bureau that also was attended by individuals representing M2M Spectrum Networks, LLC (“M2M”). The *Ex Parte* stated that PCIA had urged the Commission “to eliminate special privileges” for 800 MHz incumbent licensees. It also reaffirmed PCIA’s support for M2M’s Petition for Rulemaking (“M2M Petition”) to allow the licensing of 896-901/935-940 MHz Business/Industrial/Land Transportation (“B/ILT”) channels by commercial providers proposing to provide service exclusively to B/ILT-eligible entities.² For the reasons detailed below, the LMCC does not agree with the positions espoused by PCIA and M2M.

¹ The LMCC members voted as follows with regard to the filing of this letter: Approved – AAA, API, AAR, ASRI, CSAA, ENTELEC, EWA, FIT, MRFAC, TIA, and UTC; Opposed – PCIA; Abstained – AASHTO, APCO, FCCA, ITSA, IAFC, IMSA, and NASF.

² M2M Petition for Rulemaking to Allow Specialized Mobile Radio Services Over 900 MHz B/ILT Frequencies, filed June 26, 2015; see Wireless Telecommunications Bureau Seeks Comment on M2M Spectrum Networks Petition for Rulemaking to Allow Specialized Mobile Radio Services Over 900 MHz Business/Industrial Land Transportation Frequencies, RM-11755, *Public Notice*, 30 FCC Rcd 8468 (WTB 2015).

The LMCC filed the Petition for Rulemaking (“LMCC Petition”) under consideration in RM-11719.³ The Petition, approved without dissent by the LMCC membership, requested a rule change to allow 800 MHz incumbent licensees a limited period during which they would have access to newly released Expansion Band (860-861/815-816 MHz) (“EB”) and Guard Band (861-862/816/817 MHz) (“GB”) channels to expand existing systems before that spectrum is made available to new applicants in a market area. The Petition explained the public interest considerations in support of that proposal. The LMCC Reply Comments filed in response to the FCC’s Public Notice regarding the Petition also were approved unanimously.⁴ The LMCC noted in that filing that the majority of opposing comments appeared to have been orchestrated by an organization seeking commercial access to the spectrum. The filing also identified other instances in which the Commission had found it in the public interest to promote the expansion of existing systems prior to the licensing of new systems.

Since then, the LMCC twice has urged the FCC to defer the release of any additional 800 MHz EB/GB spectrum until it has acted on the LMCC Petition.⁵ PCIA has opposed these more recent requests, but the rest of the LMCC membership remains firmly convinced that the public interest would be best served by adoption of the rules proposed in the LMCC Petition. In its most recent *ex parte* filing dated September 2, 2015, the LMCC reminded the FCC that existing systems largely had been unable to expand during the lengthy 800 MHz rebanding process. It stated that allowing those systems to add capacity before making spectrum available to new applicants would benefit the public safety, business enterprise, and commercial licensees that already have made significant investments in 800 MHz operations. It reiterates here its request that no additional EB/GB spectrum be released prior to Commission action on the LMCC Petition.

The LMCC did not file on the M2M Petition, although individual members submitted Comments or Reply Comments⁶ as did constituents represented by LMCC members such as Lower Colorado River Authority and FirstEnergy Corp. However, during its December 2, 2015 meeting, the LMCC membership voted to submit this *ex parte* filing opposing the M2M Petition.⁷ This opposition is grounded in the LMCC objective cited above.

The Commission previously denied requests filed by Spectrum Networks Group, LLC (“SNG”) and other applicants who sought waivers to operate commercial systems on more than 2,000 900 MHz B/ILT channels throughout the country.⁸ The applicants were entities related to

³ LMCC Petition for Rulemaking Regarding Interim Eligibility for the 800 MHz Expansion Band (815-816/860-861 MHz) and Guard Band (816-817/861-862 MHz), filed March 27, 2014; 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).

⁴ See LMCC Reply Comments in RM-11719.

⁵ See LMCC *ex parte* letters in RM-11719 dated Jan. 12, 2015 and Sept. 2, 2015.

⁶ See Comments of American Petroleum Institute (“API”), Enterprise Wireless Alliance (“EWA”), Utilities Telecom Council (“UTC”) and Reply Comments of Alarm Industry Communications Committee (“AICC” of which the LMCC member, Central Station Alarm Association, is a member) and UTC.

⁷ Some LMCC members, including PCIA and certain public safety frequency advisory committees, abstained from voting.

⁸ Spectrum Networks Group, LLC, *Order*, 30 FCC Rcd 3509 (WTB 2015).

M2M, and their requests were precursors to the M2M Petition. In denying those requests, the FCC concluded the following:

It appears that the primary benefit of utilizing 900 MHz B/ILT spectrum is that the channels can be obtained without competitive bidding or participation in the secondary market, which would reduce SNG's start-up and operating costs. That SNG would prefer to acquire spectrum without purchasing or leasing it wherever possible is hardly unique or unusual, and does not merit grant of a waiver.⁹

The LMCC submits that the Commission's assessment was correct and is applicable to the M2M Petition as well. The low-power, low-latency, exclusively data, and primarily, perhaps entirely, fixed machine-to-machine operations proposed by M2M are being deployed by other entities on unlicensed spectrum, bands that are well-suited for this type of proposed use.¹⁰ Since there is no technical requirement for operating the network proposed by M2M on licensed 900 MHz channels, the UTC expressed concern that this spectrum instead would be warehoused.¹¹ The Commission is well aware of the limited spectrum resources at its disposal. The rule change proposed in the M2M Petition does not represent prudent spectrum management and should be rejected.

We appreciate this opportunity to submit our comments in this matter.

Sincerely,

Greg Kunkle

Gregory Kunkle
President

⁹ *Id.* at ¶ 9.

¹⁰ See EWA Comments in RM-11755 at 5.

¹¹ See UTC Comments in RM-11755 at 5; see also UTC Reply Comments at 4.