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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

February 25, 1999

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

RE: Reply Comments of the Commonwealth of Pennsylvania in  
response to the FCC's Third Notice of Proposed Rulemaking in WT  
Docket No. 96-86

Dear Ms. Salas:

On behalf of the Commonwealth of Pennsylvania (the "Commonwealth"), and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, enclosed herewith for filing are an original and four (4) copies of the Commonwealth's Reply to comments filed in the above-captioned proceeding.

Kindly stamp and return to this office the enclosed copy of this filing designated for that purpose. You may direct any questions concerning this material to the undersigned, counsel to the Commonwealth of Pennsylvania.

Sincerely,



Lisa M. Higginbotham Fowlkes

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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OFFICE OF THE SECRETARY

In the Matter )  
)  
The Development of Operational, )  
Technical and Spectrum Requirements )  
for Meeting Federal, State and Local )  
Public Safety Agency Communication )  
Requirements Through the Year 2010 )  
)  
Establishment of Rules and Requirements )  
For Priority Access Service )

WT Docket No. 96-86

**REPLY COMMENTS OF**  
**COMMONWEALTH OF PENNSYLVANIA**

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February 25, 1999

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## **EXECUTIVE SUMMARY**

The Commonwealth of Pennsylvania (the "Commonwealth") urges the Commission to license at least a portion of the 2.6 MHz of the interoperability spectrum directly to states. As the record demonstrates, states already have the experience and expertise necessary to construct and efficiently operate an interoperable system and, therefore, to ensure faster deployment of such a system. Moreover, licensing at least a portion of the spectrum directly to states would ensure the much needed participation of state agencies in the planning, development and operation of the 700 MHz band interoperable system. Consequently, licensing at least a portion of the interoperability spectrum to states would serve the public interest.

The Commission should also license a portion of the reserved spectrum to states to facilitate construction of statewide systems. As many commenters agreed, statewide systems provide economies of scale to public safety users. As discussed below, direct licensing of this spectrum would ensure faster deployment of statewide systems by eliminating the need for states to endure a time consuming planning process to secure much needed frequencies to implement their systems.

To the extent the Commission adopts a regional planning committee ("RPC") process for the reserved spectrum, the Commonwealth suggests that the Commission: (1) reformulate the RPC jurisdictions to coincide with state boundaries; and (2) require establishment of a common allocation database that could be used by all RPCs to determine the availability of channels requested by public safety providers. This action would result in faster processing of applications by the RPCs.

The Commonwealth agrees with those commenters who argued that there is an immediate need for the 8.8 MHz of reserved spectrum and that the Commission should immediately make this spectrum available for public safety use. The Commonwealth also supports those who argued that the Commission should adopt rules fostering the development of statewide systems and, in that regard, the Commonwealth strongly urges the Commission to designate some of the reserved spectrum for vehicular repeater operations.

The Commonwealth supports the proposal to designate additional interoperability channels below 512 MHz. In particular, the Commonwealth agrees with those commenters who supported allocation of a portion of the 138-144 MHz band for public safety use.

Finally, the Commonwealth shares the concern of many commenters that the proposed interference criteria designed to protect GLONASS will hamper the public safety community's ability to use the 700 MHz band. Accordingly, the Commonwealth urges the Commission to conduct further studies of this issue and to ensure that any restrictions imposed to protect GLONASS do not impair public safety's use of the 700 MHz spectrum.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
The Development of Operational	)	WT Docket No. 96-86
Technical and Spectrum Requirements	)	
For Meeting Federal, State and Local	)	
Public Safety Agency Communication	)	
Requirements Through the Year 2010	)	
	)	
Establishment of Rules and Requirements	)	
For Priority Access Service	)	

**REPLY COMMENTS OF  
COMMONWEALTH OF PENNSYLVANIA**

The Commonwealth of Pennsylvania (the "Commonwealth"), by its undersigned counsel and pursuant to Section 1.415 of the Commission's Rules and Regulations,<sup>1</sup> hereby files its Reply to comments filed in response to the Commission's Third Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>2</sup> For the reasons discussed below, the Commonwealth urges the Commission, among other things, to:

(1) license at least a portion of the 2.6 MHz of interoperability spectrum directly to states; (2) designate at least a portion of the reserve spectrum for the development of

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<sup>1</sup> 47 C.F.R. § 1.415. On February 12, 1999, the Public Safety and Private Wireless Division extended the period for reply comments in response to the Third Notice to February 25, 1999. The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, WT Docket No. 96-86, Order, DA 99-331 (February 12, 1999).

<sup>2</sup> The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, WT Docket No. 96-86, First Report and Order and Third Notice of Proposed Rulemaking, FCC 98-191 (released September 29, 1998) ("Third Notice").

statewide systems; (3) license spectrum set-aside for statewide systems directly to states; and (4) designate a portion of the reserved spectrum for vehicular repeater operations.

**I. PLANNING FOR THE INTEROPERABILITY AND RESERVED SPECTRUM.**

**A. The Commission Should Designate At Least A Portion of the Interoperability Spectrum Directly To States.**

The record supports licensing at least a portion of the 2.6 MHz of interoperability spectrum directly to states. The Commonwealth agrees with the National League of Cities and the City and County of San Francisco ("NLC/San Francisco") that states possess the experience and expertise necessary to manage the 700 MHz interoperability spectrum.<sup>3</sup> For example, as the Commonwealth noted previously, several states have already constructed or plan to construct statewide public safety communications systems, most of which are designed to facilitate interoperable communications between various public safety agencies throughout the states and, in some cases, Federal agencies and non-government public safety providers.<sup>4</sup> Consequently, many states, including Pennsylvania, already have the technical and policy expertise necessary to construct and administer interoperability spectrum efficiently.<sup>5</sup> In addition, unlike regional planning committees ("RPCs") which generally must rely on part-time volunteers to manage spectrum, states typically are in a better

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<sup>3</sup> NLC/San Francisco Comments, at 16-17.

<sup>4</sup> Commonwealth Comments, at 3.

<sup>5</sup> *Id.*, at 4.

position to provide professional, full-time staffing to manage the interoperability spectrum and are more likely to have access to necessary funding.

Because of the expertise and resources already available to states, direct licensing of at least a portion of the interoperability spectrum would speed construction and commencement of an interoperable system.<sup>6</sup> Further, licensing of at least a portion of this spectrum directly to states would ensure the much needed participation of state agencies in the planning, development and operation of the 700 MHz band interoperable system.<sup>7</sup> As the State of Florida, the Federal Law Enforcement Wireless Users Group ("FLEWUG"), and the Public Safety Wireless Network ("PSWN") correctly acknowledged, state communications systems are the most appropriate bridge between local and Federal government agencies.<sup>8</sup> Indeed, as the Commonwealth noted previously, many states already perform this function either in the development of statewide interoperable communications systems or in the coordination of multi-jurisdictional responses to public safety emergencies in general.<sup>9</sup> Further, as the National Public Safety Telecommunications Council ("NPSTC") acknowledged, "licensing by a state has provided a means of control and supervision that is needed to

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<sup>6</sup> Commonwealth Comments, at 4.

<sup>7</sup> Id.

<sup>8</sup> State of Florida Comments, at 5. ("Florida Comments"); FLEWUG Comments, at 17-18; PSWN Comments, at 15.

<sup>9</sup> Commonwealth Comments, at 4.

ensure appropriate operation.”<sup>10</sup>

The reasons offered by those who oppose direct state licensing simply have no merit. The argument, for example, that radio signals do not respect state boundaries<sup>11</sup> is meaningless since the same radio signals also do not respect the artificial boundaries adopted for the RPC process. The fact that requirements may vary from state to state<sup>12</sup> also cannot serve as a valid reason against state licensing since requirements also vary from region to region and from municipality to municipality within a region.

Nor would direct state licensing of a portion of the interoperability spectrum hamper coordination and interoperability.<sup>13</sup> As noted above, states already have the experience and expertise to manage interoperable systems. Thus, states are in a better position to ensure faster deployment of an interoperable system using 700 MHz frequencies.

Finally, direct state licensing would not undermine the needs of local and other public safety providers since many states already address the needs of a variety of public safety providers, including those located in rural communities, through the implementation of their statewide systems.

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<sup>10</sup> NPSTC Comments, at 7.

<sup>11</sup> See e.g., International Association of Chiefs of Police Comments, at 2 ("IACP Comments"); PSWN Comments, at 10 and 15 ; APCO Comments, at 3.

<sup>12</sup> PSWN Comments, at 10 and 15.

<sup>13</sup> Id.

In light of the above, the Commonwealth strongly urges the Commission to license at least a portion of the 2.6 MHz of interoperability spectrum directly to states.

**B. The Commission Should License A Portion of the Reserved Spectrum Directly To States To Facilitate Construction of Statewide Systems.**

1. Licensing Reserved Spectrum Directly To The States Would Serve the Public Interest.

The Commonwealth urges the Commission to license a portion of the reserved spectrum directly to states for the construction and operation of statewide systems. The Commonwealth agrees with those parties who suggested that the designation of at least a portion of the reserved spectrum for statewide systems would serve the public interest.<sup>14</sup> As the Commonwealth noted previously, such systems provide economies of scale and other benefits to public safety users.<sup>15</sup>

In addition, direct state licensing of this spectrum would result in faster deployment of such systems by alleviating the need for states to endure a time consuming planning, coordination and application process in order to acquire much needed frequencies.<sup>16</sup> Moreover, as suggested by the State of Florida and the Commonwealth of Virginia, states are more likely to have the resources, expertise and experience to resolve coordination and other issues quickly and to manage the

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<sup>14</sup> See e.g., NPSTC Comments, at 6; International Association of Chiefs of Police Comments, at 3 ("IACP Comments"); APCO Comments, at 6; California Comments, at 5-6; New York State Technology Enterprise Corporation Comments, at 21-24 ("NYSTEC Comments"); Joint Commenters, at 3-4.

<sup>15</sup> Commonwealth Comments, at 5-6.

<sup>16</sup> Id., at 6.

spectrum effectively and efficiently.<sup>17</sup> Specifically, as noted above, states, unlike RPCs, are in a better position to provide full-time professional staff to manage this spectrum efficiently and to establish relationships with counterparts in other states in order to facilitate quick resolution of coordination issues. States are also in a better position to acquire the necessary funding to administer this spectrum.

In addition, a direct state licensing scheme would better ensure the consideration of all public safety agency needs throughout the state, particularly those of public safety agencies located in rural areas. Many states including Pennsylvania, in constructing and implementing their statewide systems, already address the communications needs of local public safety agencies, including those located in rural communities. Moreover, because states have a broader knowledge of the current and future communications needs of public safety agencies throughout the state, they are in a better position to address the needs of all public safety agencies, unlike RPCs which typically seek only to address the needs of current users of the particular spectrum that they are responsible for administering. Accordingly, there is no basis for concern that states would not take into account the needs of local governmental agencies in implementing their systems.

There is simply no logical reason not to license spectrum designated for statewide systems directly to states. As noted above, the argument that radio signals

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<sup>17</sup> Florida Comments, at 1-2; Commonwealth of Virginia Comments, at 1. See also FLEWUG Comments, at 4 (acknowledging that RPCs have not adequately promoted interoperable multi-jurisdictional systems).

do not respect state boundaries<sup>18</sup> lacks merit since radio signals also do not respect artificial RPC boundaries. Further, the fact that requirements vary from state to state<sup>19</sup> also lacks merit since requirements also can vary from region to region and from municipality to municipality within the same region. Indeed, it is the conflict of radio signals and requirements between regions which has hampered efforts to deploy statewide systems particularly in multi-region states such as Pennsylvania which often must have frequency assignments approved by two or even three RPCs before it can implement parts of its system.

Nor would direct state licensing of a portion of the reserved spectrum hamper coordination and interoperability<sup>20</sup> since, as noted above, states are more likely to have the expertise, experience and resources to resolve coordination issues quickly and, therefore, to ensure faster deployment of these systems.

Finally, the suggestion that states would not be objective in their use of this spectrum<sup>21</sup> clearly lacks merit since, as noted above, many states, in implementing their statewide systems, have taken steps to address the needs of local government public safety agencies, including those located in rural communities. Accordingly, there is no basis not to license spectrum designated for statewide systems directly to states.

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<sup>18</sup> IACP Comments, at 2; Public Safety Wireless Network Comments, at 10 ("PSWN Comments"); APCO Comments, at 3.

<sup>19</sup> PSWN Comments, at 10.

<sup>20</sup> Id.

<sup>21</sup> Id.

2. Alternatively, the Commission Should License the Reserved Spectrum Using a Regional Planning Process In Which The Regional Committee Jurisdictions Are Based on State Geographic Boundaries.

To the extent the Commission declines to license reserved spectrum directly to the states, the Commonwealth urges the Commission to use a RPC approach in which regional jurisdictions are based on state geographic boundaries.<sup>22</sup> This approach is necessary for states such as Pennsylvania which, under previous RPC approaches, have been divided among multiple regions and, as a result, have had to spend substantial time and resources coordinating statewide planning assignments and resolving conflicts with adjacent areas. Reformulating the RPCs for the reserved spectrum to coincide with state boundaries would greatly reduce the need for states to engage in time consuming coordination processes with numerous RPCs and, as a result, would reduce the amount of time needed for states to implement their wide-area systems.

The approach is even more appropriate should the Commission decide to adopt the proposal of some commenters to make reserved spectrum available for statewide use but for a limited time period.<sup>23</sup> As PSWN acknowledged, many multi-regional states, including Pennsylvania, have experienced significant delays in the deployment of their systems as a result of the inability of RPCs to resolve conflicts both within and

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<sup>22</sup> Commonwealth Comments, at 7.

<sup>23</sup> See e.g., NPSTC Comments, at 6.

outside of their jurisdictions.<sup>24</sup> This inability to resolve conflicts under the limited statewide spectrum allocation scheme proposed by some commenters could hamper a state's ability to construct its system in a timely manner and, therefore, result in a state losing its statewide allocation through no fault of its own.<sup>25</sup> Accordingly, to the extent the Commission does not adopt direct state licensing for the reserved spectrum, the Commonwealth strongly urges the Commission to adopt an RPC process for the 8.8 MHz of reserved spectrum with regional jurisdictions based on state boundaries.

**C. To The Extent The Commission Adopts An RPC Process, It Should Require The Establishment Of A Common Allocation Database For Use By All RPCs.**

The Commonwealth agrees with NPSTC that the planning approach adopted by the Commission must be designed to require "the full exchange of planning and licensing information between adjacent and proximate Planning Committees."<sup>26</sup> Equally important, however, is the need to develop a planning approach designed to facilitate faster processing of channel assignments by RPCs. To facilitate these objectives, the Commonwealth proposes that the Commission require the establishment of a common allocation database which would be accessible to all RPCs, but which would be administered by private technical experts. Under this proposal, these experts would be

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<sup>24</sup> PSWN Comments, at 9 ("Multistate regions . . . has led to inter-state disputes within single regions, has complicated region-to-region coordination, and may be impeding statewide system development.")

<sup>25</sup> NPSTC proposes that spectrum allocated for state use would revert to the RPC if, after a fixed period, states had not planned, funded and commenced construction of the system. NPSTC Comments, at 6.

<sup>26</sup> NPSTC Comments, at 6.

given responsibility for searching and certifying the availability of spectrum for each application submitted to an RPC.<sup>27</sup> This approach would relieve RPCs of the tedious process of specific channel allocation which would, in turn, result in: (1) speedier processing of applications submitted to RPCs, (2) more spectrally efficient channel assignments, and (3) a reduction in the need for funding by RPCs.

## **II. USE AND AVAILABILITY OF RESERVED SPECTRUM.**

### **A. The Commission Should Immediately Make Available The 8.8 MHz Of Reserved Spectrum.**

The Commonwealth agrees with those commenters who argued that the Commission should immediately make available all of the 8.8 MHz of reserved spectrum for public safety use.<sup>28</sup> As Motorola noted, making the entire 24 MHz immediately available would increase the possibility that public safety users in all markets will be able to find channels that are unencumbered by existing broadcast signals.<sup>29</sup>

### **B. The Commission Should Designate A Portion of the Reserved Spectrum For Vehicular Repeater Operations.**

The Commonwealth agrees with those commenters who suggested that the Commission adopt policies fostering the development of statewide communications

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<sup>27</sup> Such an approach would be similar to that used for coordination of microwave applications.

<sup>28</sup> See e.g., Motorola Comments, at 9-11; NLC/San Francisco Comments, at 4-10.

<sup>29</sup> Motorola Comments, at 10.

systems.<sup>30</sup> In this regard, the Commonwealth strongly urges the Commission to designate a portion of the reserved spectrum for vehicular repeater operations. As the Commonwealth noted previously, the cost of deploying an integrated regional or statewide communications system increases with the expansion of the service area to be covered. Further, in order to meet fully the communications needs of public safety entities, these systems must support use of portable radios, and system construction costs increase significantly with the requirement for additional portable radio coverage, particularly in rural areas (such as those in Pennsylvania) that are located in mountainous terrain.

Use of vehicular repeaters can reduce these costs by allowing for a reduction in the number of fixed network sites needed for public safety communications systems. This reduction in the need to build additional sites and infrastructure translates into substantial costs savings for states attempting to develop statewide systems, particularly in less densely populated areas. Vehicular repeaters also fulfill public safety communications needs by providing a reasonable alternative to on-scene coordination during the critical first few minutes or hours of an emergency. In light of these benefits, the Commonwealth strongly urges the Commission designate a portion of the reserved channels for vehicular repeater operations.

**III. THE COMMISSION SHOULD DESIGNATE SPECTRUM BELOW 512 MHz FOR INTEROPERABILITY.**

The record clearly supports designation of additional interoperability spectrum

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<sup>30</sup> See e.g., NPSTC Comments, at 6.

below 512 MHz. As the Commonwealth noted previously, establishing additional interoperability spectrum will provide much needed capability to public safety agencies and other providers who currently do not have access to 800 MHz channels with which to construct an interoperable system, who do not have sufficient funding to migrate to the 700 MHz or 800 MHz bands, or who simply will not have access to 700 MHz band interoperability channels until the end of the transition period in the year 2006.<sup>31</sup>

In particular, the Commonwealth supports those commenters who argued that the Commission should take steps to allocate a portion of the 138-144 MHz band for public safety use.<sup>32</sup> As those commenters suggested, allocation of a portion of this band for public safety use would provide immediate and meaningful relief to the acute shortage of frequencies available to the public safety community particularly since relatively inexpensive equipment is already available for use on this band.<sup>33</sup>

Accordingly, the Commonwealth urges the Commission to take steps, including obtaining any necessary statutory authority, to allocate a portion of the 138-144 MHz band for public safety use.

**IV. GLONASS/GPS MUST NOT HAMPER PUBLIC SAFETY USE OF THE 700 MHz BAND SPECTRUM.**

The Commonwealth agrees with the many commenters who argued that the

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<sup>31</sup> Commonwealth Comments, at 10.

<sup>32</sup> See e.g., Florida Comments, at 6-7; IACP Comments, at 4; NLC/San Francisco Comments, at 17; APCO Comments, at 8; Los Angeles Comments, at 2; Arizona Comments, at 7; NPSTC Comments, at 8-9; Wisconsin Comments, at 1-3.

<sup>33</sup> Wisconsin Comments, at 3.

interference criteria proposed to protect Global Orbiting Navigation Satellite System ("GLONASS") would have a detrimental effect on public safety use of the 700 MHz spectrum.<sup>34</sup> Accordingly, the Commonwealth strongly urges the Commission to engage in further study of this issue in order to ensure that any interference criteria adopted to protect GLONASS does not impair the use of the 700 MHz band by the public safety community.<sup>35</sup>

## **V. CONCLUSION**

The Commonwealth strongly urges the Commission to adopt rules for implementing the reserved and interoperability spectrum as described herein. Specifically, the Commonwealth urges the Commission to license at least a portion of the interoperability spectrum directly to the states. As noted above, states already have the experience and expertise to develop wide-area interoperable systems and simply are in a better position to ensure fast deployment of a 700 MHz interoperable system.

In addition, the Commission should adopt policies which will facilitate the development of statewide systems. For example, the Commonwealth supports designation of a portion of the reserved spectrum for construction and operation of statewide systems. Moreover, in order to ensure faster deployment of these systems,

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<sup>34</sup> See e.g., Motorola Comments, at 2-4; Arizona Comments, at 5; NYSTEC Comments, at 16; NPSTC Comments, at 12; APCO Comments, at 9-10; NLC/San Francisco Comments, at 17-18.

<sup>35</sup> See also IACP Comments, at 6-7; PSWN Comments, at 17-18; NLC/San Francisco Comments, at 18.

the Commonwealth strongly urges the Commission to license this spectrum directly to the states. However, to the extent the Commission adopts an RPC process, it should: (1) reformulate RPC jurisdictions based on state geographic boundaries; and (2) require the establishment of a common allocation database for use by all RPCs. Establishment of such a database will ensure the full exchange of planning and licensing information between RPCs and facilitate faster processing of channel assignments by RPCs. Finally, the Commission should license a sufficient amount of the reserved spectrum for vehicular repeater operations.

The Commonwealth supports the proposal to designate additional interoperability spectrum below 512 MHz and, particularly, the allocation of a portion of the 138-144 MHz band for this purpose. Accordingly, the Commonwealth strongly urges the Commission to take all necessary steps, including seeking additional statutory authority, to allocate a portion of this band for public safety use.

Finally, the Commission must take steps to ensure that any interference criteria designed to protect GLONASS and GPS must not hamper the ability of public safety

providers to use the 700 MHz frequency band.

Respectfully submitted:

**COMMONWEALTH OF PENNSYLVANIA**

  
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February 25, 1999

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The undersigned hereby certifies that on this 25th day of February 1999, I caused copies of the foregoing document to be served by first class U.S. mail to the following:

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