



Public Safety Wireless Network

Achieving Interoperability Through Cooperation and Coordination

August 4, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
TW-A325
445 Twelfth Street, SW
Washington, DC 20554

RECEIVED
AUG 4 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Reply Comments in Response to Comments Filed by Other Parties in Response to, In the matter of, *Reorganization and Revision of Parts 1, 2, 21 and 94 of the Rules to Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Services; Amendment to Part 21 of the Commission's Rules for the Domestic Public Fixed Radio Services; McCaw Cellular Communications, Inc. Petition for Rule Making; Amendment of Part 101 of the Commission's Rules to Streamline Processing of Microwave Applications in the Wireless Telecommunications Services; Telecommunications Industry Association Petition for Rulemaking, Memorandum Opinion and Order and Notice of Proposed Rule Making, in WT Docket No. 00-19*

Dear Ms. Salas:

On behalf of the Public Safety Wireless Network (PSWN) Program and pursuant to Section 1.415 of the Commission's rules, 47 C.F.R. § 1.415 (1999), enclosed herewith for filing are an original and four (4) copies of the PSWN Program's Reply Comments in the above-referenced proceeding.

Kindly date-stamp the additional, marked copy of this cover letter and return it in the envelope provided.

Should you require any additional information, please contact the undersigned.

Respectfully submitted,

Brigadier General Paul H. Wieck II
Iowa Army National Guard
Chair, PSWN Executive Committee
Spectrum Working Group

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Before the
Federal Communications Commission
Washington, DC 20554

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In the matter of)	
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Reorganization and Revision of)	WT Docket No. 94-148
Parts 1, 2, 21 and 94 of the)	
Rules to Establish a New)	
Part 101 Governing Terrestrial)	
Microwave Fixed Radio Services)	
)	
Amendment to Part 21 of the)	CC Docket No. 93-2
Commission's Rules for the Domestic)	
Public Fixed Radio Services)	
)	
McCaw Cellular Communications, Inc.)	RM-7861
Petition for Rule Making)	
)	
Amendment of Part 101 of the Commission's)	WT Docket 00-19
Rules to Streamline Processing of Microwave)	
Applications in the Wireless Telecommunications)	
Services)	
)	
Telecommunications Industry Association)	RM-9418
Petition for Rulemaking)	

PUBLIC SAFETY WIRELESS NETWORK PROGRAM'S
REPLY COMMENTS IN RESPONSE TO COMMENTS FILED TO NOTICE OF
PROPOSED RULEMAKING

1. The Public Safety Wireless Network (PSWN) Program¹ respectfully submits the following Reply Comments in response to Comments filed by others regarding the

¹ The PSWN Program is a federally-funded initiative operating on behalf of all local, state, and federal public safety agencies. The Department of Justice and the Department of the Treasury are jointly leading the PSWN Program's efforts to plan and foster interoperability among public safety wireless networks. The PSWN Program is a 10-year National Partnership for Reinventing Government (NPRG) initiative. The NPRG, previously known as the National Performance Review, is an effort to reengineer how government provides services to citizens through more effective use of information technology and through more concerted partnership efforts among government at all levels.

Commission's Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding.²

I. BACKGROUND

2. As an entity dedicated to fostering public safety wireless communications interoperability throughout the Nation at all levels of government, the PSWN Program is greatly concerned that spectrum at appropriate frequencies and in sufficient amounts is made available for public safety use. The PSWN Program recognizes the importance of, and generally supports, the ongoing commercial auction processes. The PSWN Program will continue to take an active role in urging the Commission to consider the implications of these processes on public safety's future ability to protect life and property. Pursuant to this objective, the PSWN Program wishes to express its agreement or dissent with Commenters to the NPRM who have addressed issues of importance to the public safety community.

3. Specifically, the PSWN Program concurs with those Commenters which have cited the recommendations of the Public Safety Wireless Advisory Committee (PSWAC) in highlighting the critical shortage of public safety spectrum, and which have noted the impossibility of public safety entities participating in the commercial auction process as recognized by Congress. Secondly, the PSWN Program expresses agreement with those Commenters who believe that the current definition of "public safety services" articulated under Part 101 of the Commission's Rules should not be expanded to include additional types of entities.

² *In the matter of Reorganization and Revision of Parts 1, 2, 21 and 94 of the Rules to Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Services; Amendment to Part 21 of the Commission's Rules for the Domestic Public Fixed Radio Services; McCaw Cellular Communications, Inc. Petition for Rule Making; Amendment of Part 101 of the Commission's Rules to Streamline Processing of Microwave Applications in the Wireless Telecommunications Services; Telecommunications Industry Association Petition for Rulemaking, Memorandum Opinion and Order and Notice of Proposed Rule Making, FCC 00-33, WT Docket No. 00-19, RM-9418, rel. February 14, 2000.*

II. SIGNIFICANT SHORTFALLS IDENTIFIED BY THE PSWAC REPORT WILL REMAIN UNFULFILLED IF THE COMMISSION AUCTIONS ALL REMAINING MICROWAVE SPECTRUM

4. The PSWN Program supports the position of the County of Riverside and the County of Los Angeles that, in the absence of direct allocations from the Commission, the only way for the public safety community to obtain future use of microwave spectrum would either be through participation in the auction process directly, or by obtaining frequency use rights from the auction winners.³ The PSWN Program concurs with these Commenters that neither would be a viable option for the public safety community, and that Congress had intentionally excluded public safety entities from having to pay for the spectrum they require for the protection of life and property.⁴

5. The PSWN Program agrees with the California Public–Safety Radio Association (CPRA) that, pursuant to the 1996 Public Safety Wireless Advisory Committee (PSWAC) Report, there remain significant shortfalls of spectrum for public safety use.⁵ The PSWN Program also supports the Comments of the Association of Public–Safety Communications Officials–International, Inc. (APCO), of which CPRA is a member, which further advised the Commission that it would be impossible to meet the requirements for public safety microwave spectrum established by the PSWAC unless those frequencies were set aside from the auction process.⁶ The PSWN Program fully agrees with APCO’s conclusion that to do otherwise would leave public safety no effective alternatives to the auction process, contrary to the intent of Congress.⁷

III. THE DEFINITION OF A “PUBLIC SAFETY” ENTITY AS DEFINED IN PART 101 OF THE RULES SHOULD NOT BE EXPANDED

6. The PSWN Program further endorses the position of APCO that the definition of “public

³ County of Riverside Comments at pp. 3–4; County of Los Angeles Comments at pp. 3–4.

⁴ *Id.*

⁵ CPRA Comments at p. 3

⁶ APCO Comments at p. 9.

⁷ *Id.* at p. 6.

safety radio services” articulated in the Balanced Budget Act of 1997 (BBA 97) should not be expanded. APCO correctly observes that, particularly under the already congested conditions prevalent in many areas today, the expansion of the current Public Safety Pool eligibles will result in even greater shortfalls as scarce public safety spectrum is consumed by entities such as railroad, utility and pipeline companies,⁸ which are not engaged in, “emergency situations that pose imminent threats to the safety of life, health and property.”⁹

7. Conversely, the PSWN Program disagrees with those Commenters who would argue a more inclusive interpretation of Part 101. Although the United Telecom Council (UTC) correctly points out that utilities, railroads, and pipelines may be used, “to protect the safety of life, health, or property,” as articulated in BBA 97,¹⁰ the PSWN Program does not believe that Congress intended that such entities, which exist to provide routine commodities and services to public or commercial customers, are properly defined as “public safety entities,” which are exclusively dedicated to protecting life, health, and property. The PSWN Program similarly opposes the reasoning of Radscan, Inc., that an otherwise private entity that, “does not make the spectrum commercially available to the public,” and, “can demonstrate that some of the uses are safety related,” may be broadly classified as a “public safety entity.”¹¹ In reinforcing its opposition to these Commenters’ recommendations for a broader interpretation of Part 101, the PSWN Program notes that the issue of spectrum availability and operating rights involving non-public safety entities, to include utilities, is already addressed by the Commission’s existing waiver process.¹²

IV. CONCLUSION

8. The PSWN Program requests that the Commission carefully consider the positions of

⁸ *Id.* at p.11.

⁹ *Id.* at p.13.

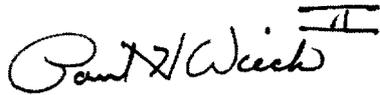
¹⁰ UTC Comments at pp. 5–6.

¹¹ Radscan Comments at p 5.

¹² See, e.g., *In the Matter of Central and South West Services, Inc., Request for Waiver to Permit Sharing of Industrial and Land Transportation System with Public Safety and Federal Government Users*, Public Notice DA–98–786, rel. May 15, 1998.

those Commenters that point out that there is still a significant amount of spectrum yet to be allocated under the PSWAC recommendations, and urge the Commission to consider the needs of the public safety community prior to making the scarce remaining microwave spectrum available solely to commercial entities through the auction process. The PSWN Program also supports those Commenters who believe that Part 101 of the Commission's Rules should not be expanded include a broader definition of "public safety" entities.

Respectfully submitted,

A handwritten signature in black ink that reads "Paul H. Wieck II". The signature is written in a cursive style with a horizontal line above the name.

Brigadier General Paul H. Wieck II
Iowa Army National Guard
Chair, PSWN Executive Committee
Spectrum Working Group

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Petition for Rulemaking)	

CERTIFICATE OF SERVICE

I, Richard N. Allen, Senior Associate, Booz-Allen & Hamilton, Inc., 8283 Greensboro Drive, McLean, Virginia, 22102-3838, hereby certify that on this date I caused to be served, by first-class mail, postage prepaid (or by hand where noted) copies of the Public Safety Wireless Network's Reply Comments in response to Comments filed by others regarding the Commission's Notice of Proposed Rulemaking in the above-styled proceeding, the original of which is filed herewith, and upon the Commenters identified on the attached service list.

DATED at Fair Oaks, Virginia this 4th day of August 2000.


Richard N. Allen

SERVICE LIST

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