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November 30, 2004

Via ECFS Electronic Filing

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: Comments of PVT NetWorks, Inc.
ET Docket No. 04-186 and ET Docket No. 02-380
Unlicensed Operation in the TV Broadcast Bands; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band

Dear Ms. Dortch:

PVT NetWorks, Inc. ("PVT") is a wholly-owned subsidiary of the Peñasco Valley Telephone Cooperative, Inc. (dba Peñasco Valley Telecommunications) in Artesia, New Mexico, and a license holder in the lower 700 MHz band radio service. We wish to file comments in the above captioned dockets in support of the Commission's proposal to preclude unlicensed devices from operating on the 698-806 MHz bands (the 700 MHz bands), which correspond to TV channels 52-69. These bands have been reallocated for new wireless services and portions of these bands (corresponding the lower 700 MHz C- and D-Blocks) have already been licensed to many small businesses and rural telephone companies.

In April of 2003, PVT was among a group of eleven lower 700 MHz band license holders that filed initial comments and reply comments to the *Notice of Inquiry* in ET Docket No. 02-380.[1] Our comments urged the FCC to remove the 700 MHz band from further consideration for use by unlicensed wireless devices because we (and others) had invested significant time, effort and money in securing what we believed would be "exclusive use" spectrum rights. Allowing other individuals or businesses to use 700 MHz band channels on an unlicensed basis would create the potential for

[1] *See* Comments of the Rural 700 MHz Band Licensees in ET Docket No. 02-380 (*filed* April 17, 2003); Reply Comments of the Rural 700 MHz Band Licensees in ET Docket No. 02-380 (*filed* May 16, 2003).

harmful interference from a new (and potentially very large) group of users and this would eliminate much of the incentive that PVT and others currently have to develop our 700 MHz spectrum. Changing the rules at this stage would also erode our confidence in the FCC's regulations and auction processes. When the FCC released its *Notice of Proposed Rule Making* ("*NPRM*") in this proceeding last Spring, we were pleased to see that the Commission agreed with us and that it had proposed not to allow unlicensed devices to operate on channels 52-69.[2]

PVT is excited about the potential for licensed 700 MHz band networks to expand the reach and flexibility of the company's existing broadband services. In this regard, we are using our 700 MHz band C-Block spectrum to deploy one of the first DOCSIS® 2.0-based broadband fixed access wireless systems in North America.[3] Our ability to use the newly-licensed 700 MHz spectrum for this project minimizes line of sight issues and allows cell coverage ranges in excess of twenty (20) miles. Moreover, our ability to use high volume DOCSIS® based equipment allows us to keep customer premise costs in the sub $300 range versus some comparable systems with proprietary solutions which cost several hundreds of dollars more.

And PVT is by no means the only carrier that is operating a lower 700 MHz band wireless network. We have joined more than 70 companies, including small businesses and rural telephone companies from more than 35 states and the District of Columbia, in forming an advocacy group known as the 700 MHz Advancement Coalition. The Coalition's goal is to work collectively to promote public policies that will facilitate the rapid and effective delivery of new advanced wireless services to the public in the 700 MHz band. Along with our own network in Artesia, New Mexico, we learned at a Coalition meeting this fall that 700 MHz networks have been deployed by rural carriers such as Polar Communications in Larimore, North Dakota; Agri-Valley Communications in Pigeon, Michigan; Sterling Cable in San Angelo, Texas; Green Hills Telephone in Breckenridge, Missouri; Chibardun Telephone in Dallas, WI and Mobius Communications in Western Nebraska. In addition, larger 700 MHz licensees such as Aloha Partners and Cavalier Group announced that they have placed equipment orders and that they have plans to deploy 700 MHz test networks in the near term.

More recently, on November 1, 2004, Lower 700 MHz licensee and 700 MHz Advancement Coalition member QUALCOMM Incorporated announced plans for a subsidiary to deploy and operate a nationwide "mediacast" network that will use the Company's licensed D-Block spectrum (716-722 MHz) to deliver high-quality video and audio programming to third generation phones. A company press release indicates that the project will require an investment of about $800 million over the next four to five years. This level of commitment should go far in promoting wider development of the 700 MHz band and making innovative services available to consumers in the public interest. Allowing unlicensed use of the 700 MHz band would have the undesirable effect of stifling such investment.

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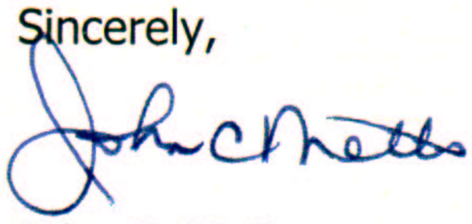
2 *NPRM* at ¶ 34.

3 Our 700 MHz system uses equipment that was jointly developed by ARRIS of Sewanee, GA and VCom, Inc. of Canada.

In short, we believe the Commission is making the correct decision when it proposed to exclude unlicensed devices from the 700 MHz band to avoid potential sharing difficulties between new uses and unlicensed operations. The considerations that led the Commission to draw this initial conclusion have not changed in the months since the *NPRM* was issued, and the record in this proceeding should be updated to reflect that networks using licensed 700 MHz band spectrum have been successfully deployed in numerous rural markets and much larger projects have been announced by others. The FCC should therefore stay the course and not allow any type of unlicensed devices to utilize spectrum that has been reallocated for commercial services or for public safety users in the 700 MHz band.

Sincerely,



John C. Metts
Chief Executive Officer
Peñasco Valley Telecommunications
PVT NetWorks, Inc.

cc: Mr. Hugh L. Van Tuyl, OET
Mr. Alan Stillwell, OET

JCM:rmh