

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

In the Matter of)	
)	
Former Nextel Communications, Inc.)	WT Docket No. 06-169
Upper 700 MHz Guard Band Licenses)	
and Revisions to Part 27 of the)	
Commission's Rules)	
)	
Development of Operational, Technical)	WT Docket No. 96-86
and Spectrum Requirements for Meeting)	
Federal, State and Local Public Safety)	
Communications Requirements Through)	
The Year 2010)	
To: The Commission		

**COMMENTS
OF THE
ENTERPRISE WIRELESS ALLIANCE**

The Enterprise Wireless Alliance (“EWA” or the “Alliance”), in accordance with Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) rules and regulations, respectfully submits its comments in the above-entitled proceeding.¹ In this proceeding, the Commission is seeking comment on possible changes to the Part 27 service rules applicable to existing and prospective Upper 700 MHz Guard Band licensees. The Notice also requests comment on proposals for relicensing Guard Band spectrum that was returned to the FCC by Nextel Communications, Inc., now Sprint Nextel Corporation (“Nextel”), in conjunction with the reconfiguration of the 800 MHz band,² including a recommendation by Motorola, Inc. (“Motorola”)

¹ *Notice of Proposed Rulemaking*, WT Docket No. 06-169, FCC 06-133 (rel. Sept. 8, 2006) (“NPR” or “Notice”).

² *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, 19 FCC Rcd 14969 (2004).

and the United Telecom Council (“UTC”) that the spectrum returned by Nextel be reallocated for critical infrastructure industries (“CII”) in support of interoperability with public safety licensees.³

EWA represents a broad alliance of business enterprise users, service providers, radio dealers and technology manufacturers. A number of the Alliance’s members are classified as CII, as that term is used in the Motorola/UTC Proposal.⁴ However, many other EWA members, including those engaged in the airline, transportation, heavy construction, and manufacturing industries, among others, also provide critical services in support of emergency service responders and other public safety entities, and have interoperability requirements that are at least equal to those classified as CII. While its objectives are laudable, to the extent that the Motorola/UTC Proposal would limit interoperability eligibility to only a subsection of entities with whom first responders and other public safety officials might need to communicate during emergency situations, it elevates definitional rigidity over operational requirements and thereby fails to achieve its intended purpose.

EWA, of course, supports Commission efforts to enhance public safety interoperability, both among public safety entities and with those organizations with which communications during emergency situations are essential. Events of recent years including, but not limited to, the highly visible tragedies of 9/11 and Hurricane Katrina demonstrated graphically that emergency response providers have a primary need to communicate effectively with one another, but also require reliable communications paths with the second, third and fourth responders whose efforts directly support public welfare and bring a city or an area “back to life” once the immediate emergency has passed.

The Motorola/UTC Proposal addresses a portion of that critical need. Those parties recommended that the 2+2 MHz of B Block Guard Band spectrum returned to the FCC by Nextel

³ Motorola, Inc. and United Telecom Council, *Spectrum Toward Next Generation Critical Infrastructure* (filed April 27, 2006) (“Motorola/UTC Proposal”); *Ex Parte Notification*, WT Docket Nos. 96-86, 06-150 and 06-169, filed by Motorola, Inc. Oct. 4, 2006 (“Updated Motorola Proposal”).

⁴ *See Id.*

be reallocated to entities eligible under the FCC's definition of the critical infrastructure industry for the specific purpose of deploying narrowband voice and data systems to support interoperability with public safety and Department of Homeland Security agencies during emergencies.⁵ Under the current 700 MHz band plan, the B Block Guard Band allocation sits between the bottom of the 12+12 MHz allocated for public safety operations and the 10+10 MHz D Block that is part of the commercial allocation at 700 MHz. It was initially intended to create a buffer between narrowband public safety systems and the broadband commercial networks that were expected to be deployed in the Commercial Mobile Radio Service ("CMRS") 700 MHz allocation. The Motorola/UTC Proposal suggested that utilities, and perhaps other CII-eligible entities, be assigned that spectrum so that they would be adjacent to 700 MHz public safety systems and would be able more easily and efficiently to establish interoperability arrangements with them.

Subsequently, Motorola submitted a further refinement of that Proposal, one that reflects an increasing interest in a proposal that would reband the public safety and Guard Band 700 MHz band segments to facilitate the availability of broadband capabilities for the public safety community.⁶ Motorola suggested that the FCC assign half of the returned B Block spectrum (1x1 MHz) directly to public safety for the creation of a guard band internal to the 700 MHz public safety allocation and under the direct control of those users. It further recommended that the remaining 1x1 MHz be allocated to CII just above the uppermost portion of the public safety allocation where it would

⁵ Nextel held many, but not all, B Block authorizations. Thus, the spectrum at issue is not a nationwide allocation, although it covers the vast majority of both the population and land area of the United States.

⁶ See n. 2, Updated Motorola Proposal. As described in its *ex parte* filing, the updated Motorola proposal is a modified version of the "Broadband Optimization Plan" proposed by Access Spectrum, LLC, Columbia Capital III, LLC, Intel Corporation, and Pegasus Communications Corporation in *The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010*, WT Docket No. 96-86 (Comments filed June 6, 2006). Under the updated Motorola proposal (as well as the Broadband Optimization Plan), all of the B Block spectrum would be affected, including the licenses returned by Nextel, as well as the 10 licenses currently held by other companies.

remain a buffer between narrowband public safety systems and the 5+5 MHz CMRS C Block authorization.

EWA supports the revised Motorola proposal to the extent that it provides public safety with additional 700 MHz spectrum that may be used to support interference-resistant public safety systems and/or as a guard band, depending on the specific technology needs of the public safety community in a given geographic area. However, the Alliance is not persuaded that allocating recovered B Block spectrum to CII entities exclusively will best satisfy public safety interoperability needs. By definition, it will exclude certain types of entities with well-documented histories of being integral to public safety operations during disasters.

The FCC Rules define CII as follows:

Critical Infrastructure Industry (CII). State, local government and non-government entities, including utilities, railroads, metropolitan transit systems, pipelines, private ambulances, volunteer fire departments, and not-for-profit organizations that offer emergency road services, providing private internal radio services provided these private internal radio services are used to protect safety of life, health, or property; and are not made commercially available to the public.⁷

The definition is equally compelling for what it omits as for what it includes. For example, railroads are classified as CII while airlines are not. Not-for-profit emergency road service providers qualify, yet those with expertise and credentials to repair or provide interim critical communication systems are not. The entire trucking industry is excluded, although land transportation providers are essential to delivering virtually every resource needed by emergency response teams. Water, food, tools, generators, gasoline, replacement communications infrastructure and shelters do not arrive magically in devastated communities. Rather, they typically are trucked in from nearby staging areas that were less damaged or entirely untouched by the disaster.

⁷ 47 C.F.R. § 90.7.

If the nation learned anything from Hurricane Katrina, it was that catastrophic events demand cooperation among a very broad range of entities, all of which contribute to the restoration process. Stories about emergency provisions not reaching their destinations because the responsible public safety officials had no means of communicating with those who wished to deliver them are truly disheartening. Those experiences need not and should not occur in a country with the most advanced communications capabilities in the world. Greater interoperability between public safety and non-public safety users indeed is essential, but limiting that capability to the very narrow category of CII-eligible entities would disenfranchise many of those with whom emergency responders most urgently need to communicate in just these situations.

Indeed, it is the public safety community itself that is best able to determine with which entities or organizations it requires interoperability. Moreover, entities with whom public safety agencies may require an interoperability communications capability may vary depending on the immediate crisis as well as other factors such as geography, topography, population and other factors. For this reason, EWA supports the concept that a portion of the recovered B Block be added to the 700 MHz public safety allocation, but still earmarked for interoperability with non-public safety organizations. In this way, public safety itself on a regional or local basis will be able to select which non-public safety entities will be permitted (or perhaps even required) to deploy radios on this public safety sub-allocation for the express purpose of supporting public safety/private interoperability arrangements.

The utilities represented by UTC undoubtedly will be selected to operate on this spectrum in virtually every area, since they clearly are part of a coordinated response to emergency situations. However, this approach will permit public safety users the necessary flexibility to select their interoperability partners from among the widest variety of entities, not only those that qualify as CII under a definition that was developed for a different purpose and that is not optimally suited for this

particular situation. It will leave that decision squarely where it belongs; in the hands of the emergency responders who undoubtedly know with whom they need to communicate when a disaster strikes.

For these reasons, B Block spectrum that is re-allocated for internal public safety Guard Bands should be designated for interoperability purposes under rules that permit its use by any non-public safety entities when sponsored by public safety organizations.

Respectfully submitted,

ENTERPRISE WIRELESS ALLIANCE

/s/

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