

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

In the Matter of	)	
	)	
47 C.F.R. §90.523(a) and 47 U.S.C. §337(f)(1):	)	
Clarification of Public Safety Services for	)	PS Docket No. 06-229
Purposes of Eligibility to Operate on 700 MHz	)	
Public Safety Broadband Spectrum	)	
	)	
Request for Declaratory Ruling of Charlotte, NC	)	

**COMMENTS OF MOTOROLA SOLUTIONS, INC.**

Motorola Solutions, Inc. (“MSI”) hereby respectfully submits these comments on the City of Charlotte, North Carolina’s (“City”) Request for a Declaratory Ruling<sup>1</sup> in response to the Public Notice released by the Public Safety and Homeland Security Bureau (“Bureau”).<sup>2</sup> As further discussed below, MSI generally supports the City’s Request for a Declaratory Ruling insofar as it seeks to confirm that all government entities may use its proposed 700 MHz public safety broadband network, regardless of whether they are directly engaged in police, fire, or medical emergency related activities.

In its Request, the City asks the Bureau to clarify which government activities can be conducted within the 700 MHz spectrum while satisfying the statutory references to life, health and property.<sup>3</sup> Specifically, the City asks whether that statutory reference is intended to define which entities are qualified to secure authorizations to utilize the 700 MHz spectrum or if it is

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<sup>1</sup> City Of Charlotte, *Request for Declaratory Ruling*, PS Docket No. 06-229 (filed March 7, 2011). (“Request”).

<sup>2</sup> City of Charlotte Request for Declaratory Ruling, *Public Notice*, PS Docket No. 06-229 (rel. March 22, 2011).

<sup>3</sup> See Request at 5 and 47 U.S.C. §337(f)(1).

intended to limit the activities that may be conducted on that spectrum to only those involving police, fire, and medical personnel that have public safety matters as their principal purpose. The City argues that the language of the statute, its legislative history, and the Commission's prior rulings support the idea that the statute should be interpreted as referring to the eligibility of the entities providing services within the 700 MHz band, which includes all local government entities, rather than the specific services provided by those entities.<sup>4</sup> The City also correctly notes that, if the Bureau chooses not to adopt the City's interpretation, it could harm the Commission's longstanding goals of promoting increased flexibility, interoperability, and efficiency in the public safety sphere.<sup>5</sup>

MSI supports the City's proposed interpretation Section 337 of the Communications Act since it would provide public safety organizations with greater flexibility to decide what entities should have access to the 700 MHz public safety spectrum. Section 337's requirement that use of the network must be "to protect the safety of life, health, or property" appropriately embraces secondary responders associated with city or governmental related organizations that serve the needs of the public. Indeed, properly managed, the City's proposed public safety broadband network should be able to support both first responders and secondary responders who serve as governmental entities or related government service organizations (including public works and public utilities). Moreover, allowing primary public safety providers to communicate with complementary government agencies could greatly improve the efficiency and effectiveness of local public safety networks and ultimately help save lives and property.

There should be no question that state and local public safety officials would ensure that the primary use of 700 MHz public safety systems would be to support the efforts of emergency

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<sup>4</sup> Request at 5.

<sup>5</sup> Request at 10-12.

responders to protect lives and property. As the City noted, the express purpose of its planned network is to provide advanced communications services to its fire, police, and emergency responders and that purpose would not change if other users were allowed to access the system.<sup>6</sup> As a practical matter, if the City's proposed interpretation is adopted, complementary users would likely be permitted only at lower priority level and only to the extent that there is adequate capacity reserved for police, fire and other emergency care providers. However, this determination should be left to local public safety authorities to encourage the most practical and efficient use of available spectrum.

The Commission has previously addressed issues related to the proper interpretation of the public service qualification language in Section 337 and has never deemed it necessary to explicitly exclude complementary governmental users from accessing 700 MHz public safety spectrum.<sup>7</sup> As the City notes, the Commission has made it clear that state and local governmental agencies are eligible to secure 700 MHz licenses without a further showing of eligibility but it has, at times, been unclear about the scope of permissible activities within that spectrum band.<sup>8</sup> It is indeed unfortunate that the actual language of Section 337 of the Communications Act has led to regulatory uncertainty in an area where an operational problem is unlikely to exist. As the City accurately points out, its proposed interpretation of the statute

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<sup>6</sup> See Request at 11-12.

<sup>7</sup> See Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, *First Report and Order and Third Notice of Proposed Rulemaking*, WT Docket No. 96-86 (rel. September 29, 1998); and Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, *Second Memorandum Opinion and Order*, WT Docket No. 96-86 (rel. August 1, 2000).

<sup>8</sup> Request at 4-5.

would not lead to unchecked entry into the public safety network space.<sup>9</sup> Given the scarcity and value of the 700 MHz spectrum, local authorities have every incentive to limit access to those entities that will use the network in an efficient manner and to prioritize that access appropriately. As such, in MSI's view, adopting the City's proposed interpretation of the statute would have no negative consequences and would, in fact promote more effective use of the 700 MHz public safety spectrum.

It is MSI's position that the ideal solution to the confusion over Section 337 would be for Congress to modify the statute to give the Commission authority to extend decision-making responsibilities regarding eligibility for access to public service networks to the local level, while retaining appropriate levels of Federal oversight. However, absent Congressional action, it is appropriate for the Commission to clarify the meaning of Section 337 in a way that increases the interoperability, effectiveness, and efficiency of 700 MHz public safety networks. Therefore, MSI supports the City's proposed clarification and urges the Bureau to issue a Declaratory Ruling consistent with the request.

Respectfully submitted,

/s/ Chuck Powers

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<sup>9</sup> Request at 11-12 ("Providing advanced communications capability for the City's own police, fire, and emergency medical personnel, as well as emergency responders in other communities within the RCC, is and will remain the primary focus of this network.")