

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

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

COMMENTS OF THE INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION

The International Municipal Signal Association (“IMSA”), by its attorneys and pursuant to the invitation extended by the Federal Communications Commission (“FCC” or “Commission”) in the above-referenced proceeding,^{1/} hereby submits its comments in support of the request for declaratory ruling filed by the City of Charlotte, North Carolina (the “City”).^{2/} IMSA agrees that the Commission should clarify that state and local government entities are eligible users of the 700 MHz public safety broadband spectrum.

I. INTRODUCTION

IMSA is a nonprofit organization dedicated to the development and use of electric signaling and communication systems in furtherance of public safety. IMSA’s approximately 12,000 members include representatives of federal, state, county, city, township, and borough governmental bodies, as well as representatives of governmental bodies of foreign nations. IMSA works to improve the efficiency, installation, construction, and maintenance of public safety equipment and systems by increasing the knowledge of its members in several diverse technical fields including public safety communications. IMSA offers educational and

^{1/} *Public Safety and Homeland Security Bureau Seeks Comment on Petition for Declaratory Ruling Asking to Clarify the Scope of Section 337 Regarding Use by State or Local Government Entities of the 700 MHz Public Safety Broadband Spectrum*, Public Notice, PS Docket No. 06-229, DA 11-537 (2011).

^{2/} Request for Declaratory Ruling, City of Charlotte, North Carolina, PS Docket No. 06-229 (filed March 7, 2011) (“Request”).

certification programs in a variety of public safety disciplines including Traffic Signals, Signs and Markings, Work Zone Traffic Control, Municipal and Interior Fire Alarm Systems, Public Safety Telecommunications, Fiber Optics, and Flagging. IMSA is responsible for coordinating frequencies designated in Section 90.20 of the FCC's rules and is also authorized to coordinate the Public Safety Pool channels. IMSA directs and manages frequency coordination and related spectrum management functions.

IMSA is also a founding member of the National Public Safety Telecommunications Council ("NPSTC"), an umbrella organization that was formed principally to ensure that the broad interests of the public safety community are represented in major telecommunications policy matters. As the Commission is aware, NPSTC has taken a leading role in developing policies for the use of public safety spectrum. IMSA is also on the Board of Directors and was one of the three founding associations of the Public Safety Spectrum Trust ("PSST"), the FCC's Public Safety Broadband Licensee ("PSBL").

Because the City's request asks the Commission to confirm the eligibility of many of IMSA's members as users of the public safety broadband network, IMSA is pleased to have the opportunity to submit the following comments in support of the City's request.

II. COMMENTS

As noted in the City's request as well as the Commission's *Fourth Further Notice of Proposed Rulemaking* in this proceeding, Section 337 of the Communications Act governs the use of the 700 MHz public safety broadband spectrum and defines "public safety services" as services "the sole or principal purpose of which is to protect the safety of life, health or property."^{3/} Further, such services must be provided by either a governmental entity or a non-

^{3/} 47 U.S.C. § 337(f); *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band;*

governmental entity that is authorized by a governmental entity “whose primary mission is the provision of such services.”^{4/} Section 90.523 of the Commission’s rules “implements the definition of public safety services contained in [Section 337]” and specifies that any “territory, possession, state, city, county, town, or similar State or local governmental entity is eligible” to hold authorizations for systems operating in the 700 MHz public safety spectrum.^{5/}

Consequently, it is clear that such entities may hold 700 MHz authorizations. What is less clear is whether the statutory mandate that public safety services must be those where the sole or principal mission is to protect the safety of life, health, or property effectively limits the activities that may be conducted on the 700 MHz public safety spectrum to include only activities associated with police, fire, and emergency medical services (“EMS”).

As expressed herein and in the comments concurrently filed by IMSA in response to the *Fourth Further Notice* in this proceeding, IMSA joins the City in “ask[ing] the FCC to confirm explicitly what the rulings in PS Docket 06-229 and the processing of 700 MHz narrowband applications indicate implicitly: Territories, possessions, states, counties, towns or similar State or local governmental entities that qualify as 700 MHz lessees/users presumptively have as their sole or principal purpose the protection of the safety of life, health, and property and are permitted to use 700 MHz broadband spectrum for activities conducted by their personnel including, but not limited to, activities of police, fire and medical emergency first responders.”^{6/}

Amendment of Part 90 of the Commission’s Rules, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 26 FCC Rcd 733, ¶ 134 (2011) (“*Fourth Further Notice*”); Request at 3-4.

^{4/} *Id.*

^{5/} 47 C.F.R. § 90.523; *see also* Request at 3-5.

^{6/} Request at 3; Comments of the International Municipal Signal Association, WT Docket No. 06-150, PS Docket No. 06-229, and WP Docket No. 07-100, at 5-7 (filed Apr. 11, 2011) (“IMSA Comments”).

Like the City, many other municipalities have plans to build 700 MHz public safety broadband networks that would be used not only by emergency responders but also other government personnel.^{7/} Adoption of a strict literal interpretation of the statute could hinder such plans by preventing government entities other than first responders from using such networks. Conversely, networks that can be shared by a wide range of government entities will facilitate critical coordination efforts during emergencies between first responders and other governmental organizations that play important public safety roles in times of emergency. For example, public transportation and traffic control facilities, such as those designed, built, and operated by many of IMSA's members, often are used during emergencies to assist in evacuations, crowd control, and transportation of people and supplies. Similarly, schools and government buildings may be used as shelters and command posts, and municipalities themselves often play a critical role in coordinating important emergency and relief efforts. Adopting a rigid interpretation of Section 337 could have the effect of prohibiting such entities from using the public safety broadband network to perform these vital functions.^{8/} The 700 MHz public safety spectrum instead should be used "to develop multiple user public safety communications systems and local and regional interoperability systems that effectively incorporate all public safety services providers."^{9/}

In addition, preventing government users other than police, fire, and EMS personnel from using the public safety broadband network would thwart interoperability by forcing

^{7/} See Request at 2, 7.

^{8/} See also IMSA Comments at 5; Request at 9 ("There is nothing in the legislative history [of Section 337] suggesting an intention to segregate the communications of emergency responders from those of other government personnel whose support often is critical in enabling first responders to fulfill their responsibilities.").

^{9/} *Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010*, First Report and Order and Third Notice of Proposed Rulemaking, 14 FCC Rcd 152, ¶ 5 (1998).

municipalities to use separate networks for separate needs. IMSA agrees with the City that it “would be extraordinary if Congress had intended to reverse a growing trend toward increased sharing of public safety systems, including between state and local and federal users, by isolating police, fire and medical personnel on a system that could not be accessed by their co-workers.”^{10/} Moreover, communications vital to public safety can be given priority over non-emergency traffic generated by government personnel. In particular, the Commission’s recent adoption of Long Term Evolution (“LTE”) as the common technology platform for the 700 MHz public safety broadband network will enable communications relating directly to the protection of the safety of life, health, and property to have priority on the network, because LTE can accommodate multiple priority layers.^{11/}

Commission clarification of Section 337 to include a wide range of government entities also will make the deployment of the public safety broadband network economically justifiable. Expecting localities to build a broadband network exclusively for the use of first responders as well as duplicative communications systems for other government users would require wasteful government spending and would be nearly impossible for most jurisdictions from both a financial and operational perspective.^{12/}

III. CONCLUSION

The Commission should clarify that Section 337 allows government entities and users beyond those directly engaged in police, fire, and medical emergency activities to use the 700 MHz public safety broadband spectrum. Such shared use of the network is consistent with the interpretation of Section 337 by Congress and the Commission and will facilitate critical

^{10/} Request at 10.

^{11/} *Fourth Further Notice* ¶ 5; *see also* IMSA Comments at 6.

^{12/} *See also* Request at 10.

coordination efforts during times of emergency, enhance interoperability, and make deployment of the public safety broadband network economically feasible. Accordingly, the International Municipal Signal Association hereby requests that the Commission issue the declaratory ruling requested by the City of Charlotte, North Carolina, and take other actions in accordance with the views expressed herein.

Respectfully submitted,

/s/ Russell H. Fox

Russell H. Fox
Jennifer A. Cukier
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
701 Pennsylvania Avenue N.W.
Suite 900
Washington, D.C. 20004
Tel: (202) 434-7300
Fax: (202) 434-7400
rfox@mintz.com
jacukier@mintz.com

*Counsel for International Municipal Signal
Association*

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