

**Before the  
Federal Communications Commission  
Public Safety and Homeland Security Bureau  
Washington, D.C. 20554**

In the Matter of )  
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47 C.F.R. § 90.523(a) and 47 U.S.C. § 337(f)(1): ) P.S. Docket No. 06-229  
Declaratory Ruling Asking to Clarify the Scope of )  
Section 337 Regarding Use by State and Local )  
Government Entities of the 700 MHz Public Safety )  
Broadband Spectrum. )

**COMMENTS OF THE CITY OF SEATTLE, WASHINGTON**

**INTRODUCTION**

On March 7, 2011, the City of Charlotte, North Carolina (“Charlotte”) asked the Public Safety and Homeland Security Bureau to clarify the permissible range of public safety operations on 700 MHz broadband spectrum.

The City of Seattle (“Seattle”), like Charlotte, has been granted a conditional waiver by the FCC to deploy a 700 MHz broadband network and has entered into a spectrum lease with the Public Safety Spectrum Trust for the use of the necessary 700 MHz spectrum. That lease has been approved by the FCC.

**“PUBLIC SAFETY SERVICES” APPLIES TO ENTITIES, NOT ACTIVITIES**

Seattle agrees with Charlotte’s argument that Section 337 of the Communications Act, the accompanying legislative history, and the FCC’s decisions regarding 700 MHz matters support a conclusion that the statutory qualifier of “public safety services” contained in that Section

applies to the eligibility of entities, i.e. State and local governments, and not to the scope of activities they may undertake on 700 MHz spectrum.

In every real sense, the mission of State and local governments is defined by the Section 337(f)(1) language: "... the sole or principal purpose of which is to protect the safety of life, health or property ...". State and local governments have many different departments or functions, but the majority of such functions in some way protect the safety of life, health, or property. For examples:

- Planning, development and building departments have a primary purpose of insuring building construction complies with codes which protect the safety of the building's users and inhabitants. Zoning codes exist to separate uses of property, thereby protecting the health of residents and workers. Recent events such as earthquakes in Japan, New Zealand and Haiti clearly indicate the direct relationship between the "safety of life", "safety of property" and the work of such departments.
- Transportation departments have a primary purpose of allowing traffic to flow freely through cities and states. Over 30,000 lives are lost on the highways of the nation each year. A significant number of those deaths directly relate to the design, construction and maintenance of traffic arteries. Transportation departments design and maintain roadways, install and maintain traffic signals and signs, and do similar vital work. Again, the work of these departments has a direct relationship with the "safety of life" and the "safety of property" (e.g. automobiles, property adjacent to roadways).
- Utility departments have a primary purpose of providing electricity, water and gas, and removing wastewater and solid waste from the properties in a city or county. Each of these utilities is vital to the safety of both lives and property. Fouled water, failure to

remove wastewater, lack of electricity can each result in immediate damage to lives and property.

At the same time, many traditional “public safety” functions have a less direct relationship to life and safety than the examples cited above. Police, Fire and Emergency Medical agencies include such functions as parking enforcement, removal of abandoned vehicles, inspection of property for compliance with fire codes, educating the public regarding crime prevention (e.g. creating “blockwatches”) and giving first aid classes.

It is illogical to narrowly construe the definitions of Section 337 to *activities*. Under such a narrow construction, parking enforcement or education functions of public safety departments might be ineligible to use the 700 MHz spectrum allocated to public safety. Arguably, activities such as building code enforcement or delivery of clean, untainted, drinking water have as much value in “protecting the safety of life, health or property” as parking enforcement or first aid education.

Seattle believes that, in addition to the material in Charlotte’s request, cogent legal arguments for a broader interpretation of Section 337 have been made to the Commission in previously filed comments filed by the State of New Mexico on October 15, 2010<sup>1</sup>.

## **SUMMARY**

Seattle believes that there is a strong public interest argument in favor of allowing entities such as state and local governments to operate on this spectrum and to allow its use by utility, transportation and other critical infrastructure activities, as well as traditional “public safety” agencies and departments. Such use clearly must be subject to appropriate provisions to ensure

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<sup>1</sup> Comments by the State of New Mexico on Petitions for Waiver to Deploy 700 MHz Public Safety Broadband Networks, October 15, 2010

the continued primacy of public safety communications. Seattle believes this broader interpretation is in conformance with the intent of Congress.

**Seattle** is confident that an affirmative response to the Charlotte request will not conflict with Congressional intent in allocating this spectrum for public safety use.

Respectfully Submitted,

**THE CITY OF SEATTLE, WASHINGTON**

A handwritten signature in black ink that reads "Bill Schrier". The signature is written in a cursive, slightly slanted style.

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