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November 5, 2011

VIA ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

**Re: Request for Confidential
Written Ex Parte Presentation
PS Docket No. 06-229**

Dear Ms. Dortch:

This past date, November 4, 2011, I attached the wrong cover letter to my ECFS filing of Texas Interoperability Showing Version 8 (ECFS Filing Receipt 2011114394026). This is the proper letter that was intended to accompany the Interoperability Showing.

On September 20, 2011, the State of Texas submitted a revised Texas Interoperability Showing for the State's 700 MHz broadband Public Safety LTE network. Subsequent discussions with the FCC staff indicated that additional clarification was needed to that filing. A further revised version of the Interoperability Showing, dated November 4, 2011, providing such clarification is hereby attached. Included is both a "red-lined" tracked changes version of the Interoperability Showing that indicates edits to the previously submitted document, as well as an "accepted changes" clean version.

Certain portions of this document should be considered confidential and withheld from public viewing. Namely, the State of Texas requests that the information contained in Appendix E ("MTBF Information"), Appendix F, Section F.1.1 ("Expended Device Behavior"), Section F.1.2 ("User Experience"), Appendix H, Section H.2.3 ("eNodeB Site Locations"), and Appendix H, section H.2.6 ("Sector Utilization Information") of the Interoperability Showing be considered confidential. The "red-lined" tracked changes version (indicating changes to the State's previous Interoperability Showing filed on September 20, 2011) and an "accepted changes" clean version of the Interoperability Showing suitable for public inspection are hereby submitted into the docket file with these appendices and sections redacted.

Section H.2.3 in Appendix H contains sensitive site location information about the BIG-Net LTE network. This information is highly privileged and would not normally be made publicly available. Disclosure of this information could impair the security of the network which could have grave implication given its use for public safety communications. The information in Section H.2.3 is considered SENSITIVE SECURITY INFORMATION (SSI). SSI is a specific category of sensitive but unclassified information (SBU) that must be protected as required by 49 Code of Federal Regulations

(CFR) Part 1520 and Department of Homeland Security Management Directive 11056.1. This category of protection was developed to prevent unauthorized disclosure of information that would be detrimental to the security of transportation. BIG-Net LTE network site construction was funded by DHS-FEMA Port Security Grant monies. We maintain the coordinate specific locations of these sites fall under the SSI definition as outlined in FEMA Grant Program Directorate Information Bulletin No. 359.

Appendix E, Appendix F, and Appendix H of the Interoperability Showing contain sensitive information provided by Motorola Solutions, Inc. that fall within Exemption 4 of the Freedom of Information Act (“FOIA”).¹ Exemption 4 permits parties to withhold from public inspection “a trade secret or privileged or confidential commercial or financial information.”²

Section 0.457(d)(2) allows persons submitting materials desired to be withheld from public inspections in accordance with Section 552(b)(4) to file a request for non-disclosure, pursuant to Section 0.459. In accordance with the requirements contained in Section 0.459(b) for such requests, the State of Texas submits the following:

(1) *Identification of Specific Information for Which Confidential Treatment Is Sought [Section 0.459(b)(1)]*: The State of Texas seeks confidential treatment for portions of Appendix E, Appendix F, and Appendix H of its Interoperability Showing dated November 4, 2011. These appendices contain sensitive information provided by Motorola Solutions, Inc. which falls within Exemption 4 of FOIA.

(2) *Description of Circumstances Giving Rise to Submission [Section 0.459(b)(2)]*: The State of Texas submits the Interoperability Showing to comply with FCC requirements for waiver recipients.

(3) *Explanation of the Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged [Section 0.459(b)(3)]*: Appendix F of the Interoperability Showing contains sensitive information about the technical capabilities of User Equipment (UE), commercial network interoperability capabilities, reliability and sector utilization assumptions that extend beyond that needed to support the State of Texas’ public safety LTE network. This information is highly privileged and competitively sensitive and would not normally be made publicly available. Disclosure of the information would reveal product-specific details which could be used by competitors of Motorola Solutions, Inc. to beneficially position their products in the market place, giving them a technical and time-to-market advantage over Motorola Solutions, Inc.

(4) *Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition [Section 0.459(b)(4)]*: Substantial competition exists in the telecommunications industry, and many competitors are engaged in the provision of fourth generation technologies that can be deployed on the State of Texas’ public safety LTE network, including capabilities described in the portions of Appendix E, Appendix F, and Appendix H of the Interoperability Showing.

(5) *Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm [Section 0.459(b)(5)]*: Disclosure of the information in Appendix E, Appendix F, and Appendix H as they contain sensitive technical information being provided in support of the State of Texas’ public safety LTE network, could put Motorola Solutions, Inc. at a competitive disadvantage vis-a-vis other LTE providers, who would gain advanced knowledge of planned technical capabilities. Competitors could use this information to develop technical and time-to-market strategies to negatively affect Motorola Solutions, Inc. future device plans.

¹ See 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

² *Ibid.*

(6) *Identification of Any Measures Taken to Prevent Unauthorized Disclosure [Section 0.459(b)(6)]:* The confidential portions of information in Appendix E, Appendix F, and Appendix H have not been publicly released by the State of Texas, and are subject to ongoing restrictions on dissemination.

(7) *Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties [Section 0.459(b)(7)]:* The State of Texas has not made the subject information in Appendix E, Appendix F, and Appendix H available to the public or any third parties.

(8) *Justification of Period During Which the Submitting Party Asserts that the Material Should Not be Available for Public Disclosure [Section 0.459(b)(8)]:* The State of Texas respectfully requests that the Commission withhold the confidential sections of Appendix E, Appendix F, and Appendix H from public inspection indefinitely. On balance, the need to protect Motorola Solutions, Inc. from unnecessary technical harm outweighs any benefits of public disclosure.

Accordingly, for the foregoing reasons, the State of Texas respectfully requests that Appendix E, Appendix F, Sections F.1.1, F.1.2, and F.1.3, and Appendix H, Sections H.2.3, and H.2.6 of its November 4, 2011 Interoperability Showing be kept confidential and withheld from public inspection at all times.

Please contact the undersigned with any questions.

Respectfully submitted for the State of Texas,

/s/ Michael Simpson

Michael Simpson
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Attachments: Two Versions (one with changes “red-lined,” the other with changes “accepted”), State of Texas Interoperability Showing for Establishment of a 700 MHz Interoperable Public Safety Wireless Broadband Network, dated November 4, 2011.

cc: (via email)

Jennifer Manner
Gene Fullano
Jason Kim

Behzad Ghaffari
Yoon Chang
Erika Olsen

Brian Hurley
Pat Amodio
Kim Anderson