

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

In the Matter of	)	
	)	
Amendment of Part 90 of the	)	
Commission's Rules to Permit	)	WT Docket No. 11-69
Terrestrial Trunked Radio (TETRA)	)	
Technology	)	
	)	
Request by the TETRA Association for	)	
Waiver of Sections	)	ET Docket No. 09-234
90.209, 90.210 and 2.1043 of	)	
the Commission's Rules	)	
	)	

**RESPONSE OF THE TETRA ASSOCIATION  
TO REQUEST FOR FURTHER CLARIFICATION  
FILED BY ENTERPRISE WIRELESS ALLIANCE**

On April 26, 2011, the Federal Communications Commission (“FCC”) granted a request for waiver filed by the TETRA Association (“the Association”)<sup>1</sup> in the above-captioned proceeding (“NPRM/Order”).<sup>2</sup> Subsequently, in response to several Requests for Clarification, an Order on Clarification was issued pursuant to delegated authority.<sup>3</sup> The Enterprise Wireless Alliance (“EWA”) now has filed yet another Request for Clarification (“Second Request”) seeking clarification on the same issues it raised before.<sup>4</sup>

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<sup>1</sup> *Request by the TETRA Association for Waiver of Sections 90.209, 90.210 and 2.1043 of the Commission's Rules*, Request for Waiver, ET Docket No. 09-234 (filed Nov. 20, 2009) (“Waiver Request”).

<sup>2</sup> *Amendment of Part 90 of the Commission's Rules to Permit Terrestrial Trunked Radio (TETRA) Technology; Request by the TETRA Association for Waiver of Sections 90.209, 90.210 and 2.1043 of the Commission's Rules*, Notice of Proposed Rulemaking and Order, WT Docket No. 11-69 and ET Docket No. 09-234, 26 FCC Rcd 6503 (2011) (“NPRM/Order”).

<sup>3</sup> *Amendment of Part 90 of the Commission's Rules to Permit Terrestrial Trunked Radio (TETRA) Technology; Request by the TETRA Association for Waiver of Sections 90.209, 90.210 and 2.1043 of the Commission's Rules*, Order on Clarification, WT Docket No. 11-69 and ET Docket No. 09-234, 2011 FCC LEXIS 3932 (rel. Sept. 28, 2011).

<sup>4</sup> Request for Further Clarification Filed by Enterprise Wireless Alliance, WT Docket No. 11-69 and ET Docket No. 09-234 (filed Oct. 26, 2011) (“Second Request”).

EWA's Second Request should be dismissed for the following reasons:

- The Clarification Order does not warrant reconsideration, as EWA's Second Request fails to identify any material error; relies on facts and arguments that could have been previously presented in the proceeding but were not; and relies on arguments that were fully considered and rejected in the proceeding.<sup>5</sup>
- Although EWA did not avail itself of the opportunity to comment on the Waiver Request, it did file a Request for Clarification, and a Reply to the Association's response to same, setting forth its position on these issues.<sup>6</sup> In these filings, EWA asked the Commission: 1) to clarify its statement in the NPRM/Order "that coordination should not be required 'for modification applications filed pursuant to this waiver where the only change is to reflect the TETRA emissions,'" and more specifically whether the waiver was intended to apply only to exclusive channels;<sup>7</sup> 2) to "confirm that prior frequency coordination still is required before converting an existing system authorized for shared channels to TETRA technology;"<sup>8</sup> and 3) to agree that "a modification in emission evidencing a change in technical parameters from analog to digital technology would not qualify for an exemption from the coordination requirement."<sup>9</sup>
- Now, EWA argues that the Commission must clarify the Clarification Order, seeking confirmation that "applications involving TETRA technology are subject to all applicable Part 90 frequency coordination requirements, including the narrowbanding exemption; that is, that they are to be treated identically with all other applications." It is unclear to the Association how this request differs from the previous clarification requests made by EWA. To the extent EWA is

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<sup>5</sup> See 47 C.F.R. § 1.106(p).

<sup>6</sup> Request for Clarification, or in the Alternative, for Limited Reconsideration, Filed by Enterprise Wireless Alliance, at 5 (filed May 26, 2011) (seeking clarification on coordination requirements when the only change is to TETRA emissions) ("Request for Clarification"); Reply to Consolidated Response of the TETRA Association (filed June 21, 2011) ("Reply").

<sup>7</sup> Request for Clarification at 5.

<sup>8</sup> Request for Clarification at 8.

<sup>9</sup> Reply at 3.

challenging the example in the Clarification Order concerning an emission designator, the Commission has considered EWA's past filings in issuing the Clarification Order and EWA offers no reason now for the Commission to reconsider its settled decision.

- EWA also asks the FCC to "state explicitly that TETRA may be deployed only in systems that are exempt from the normal Part 90 monitoring requirements." Again, given that this issue was raised in EWA's initial Request for Clarification,<sup>10</sup> and the Commission addressed it, there is no reason for the Commission to reconsider its decision at this juncture. Moreover, it appears EWA is attempting to impose a shared channel constraint on a part of the spectrum in which such a constraint is not required and not justified.

### **CONCLUSION**

There is no need for FCC clarification of any of the issues raised in the Second Request because the issues were raised and addressed or rejected by the Commission.

Respectfully submitted,

The TETRA Association

/s/ \_\_\_\_\_

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<sup>10</sup> EWA sought FCC confirmation that "prior frequency coordination still is required before converting an existing system authorized for shared channels to TETRA technology," based on its position that, in the 450-470 MHz I/B bands, absent a situation in which the only change is a reduction in bandwidth, frequency coordination is required for operations on shared channels. Request for Clarification at 6-7 and 8.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Response of the TETRA Association to Request for Further Clarification Filed by the Enterprise Wireless Alliance was sent by United States mail, first class postage prepaid, on this 8th day of November, 2011, to the following:

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