

**Before the
Federal Communications Commission
Washington, D.C. 20054**

In the Matter of)
)
Transition Process for 700 MHz Public) PS Docket No. 12-94
Safety Broadband Waiver Recipients)
)

COMMENTS OF THE COMMONWEALTH OF VIRGINIA

The Commonwealth of Virginia, Department of State Police (“Commonwealth”), by its counsel, hereby submits comments on behalf of its Statewide Agencies Radio System (“STARS”) in response to the April 6, 2012, Notice in the above matter (DA 12-555) inviting comments on the transition process for 700 MHz public safety broadband waiver recipients.

INTRODUCTION

STARS is a statewide twenty-two state agency integrated voice and data system which facilitates interoperability between the participating state agencies and 134 communications systems at the city or county level. STARS is a digital trunked VHF narrowband industry standard (Project 25) public safety grade radio system that employs Part 22, Part 80, and Part 90 frequencies to provide statewide coverage. After commencing construction in 2004, STARS is now fully operational statewide, with over 6,500 users, and is complete with ongoing construction for some additional sites to improve scattered minor deficiencies in radio coverage. STARS relies heavily on crossband 700 MHz digital vehicular repeater units (DVRS) in over 3,000 public safety vehicles for portable radio public safety communications. These DVRS operate on 700 MHz frequencies in the new Public Safety Broadband spectrum outside of the new narrowband consolidated public safety channels created by the Commission’s Second Report and Order.

At the time of the Commission's Second Report and Order issued July 31, 2007, revising the rules governing the 700 MHz band, STARS was in the process of statewide deployment, and freezing that STARS deployment with only partial coverage would have caused significant public harm. The Commission therefore granted Virginia relief, to continue to deploy new narrowband operations outside the new consolidated public safety narrowband channels with the Commonwealth of Virginia Request for Waiver, Order, 22 FCC Rcd 20290 at §7 (2007).

Most of the agencies that operate on STARS have statewide jurisdiction and roam continuously throughout the Commonwealth. STARS continues to need interference protection along the entire border of the state and everywhere within. STARS recently had harmful interference caused by a radio manufacturer testing its LTE solution, which resulted in a public safety issue. Therefore, the entire fleet would need hardware and software modifications to free the Public Safety Broadband spectrum in our area.

COMMENTS

The Commonwealth of Virginia has an interest in the transition process not only because Virginia has an incumbent narrowband system designed prior to the Commission's 2007 Report and Order, but because Virginia adjoins one neighboring jurisdiction (the District of Columbia) which received a May 12, 2010 waiver for early deployment of a 700 MHz system, and Virginia encompasses another May 12, 2010 waiver recipient for early deployment (the City of Chesapeake, Virginia).

The Commonwealth congratulates both the City of Chesapeake, Virginia and the District of Columbia on their desire to improve public safety communications and their initiative in seeking early deployment of a 700 MHz public safety broadband system.

The Commonwealth understands, however, that due to financial constraints, neither of these jurisdictions has actually commenced detailed installation design work or any construction work on deploying their proposed 700 MHz systems.

From the standpoint of nationwide interoperability, it would be preferable to be working with a “clean slate” in determining interoperability issues. Integrating and coordinating already built systems will be difficult enough; giving weight or priority to unbuilt systems as part of the process would seem to be an unnecessary complication.

The Commonwealth does not expect that integration of its STARS voice and data network into the nationwide interoperability broadband network, to be managed by the First Responder Network Authority (“FRNA”), will be an easy or simple process. It may involve difficult and expensive engineering decisions (while maintaining the grade of service for the radio users). The Commonwealth also expects that there may be frequency coordination issues with all of its bordering jurisdictions (North Carolina, Tennessee, Kentucky, West Virginia, Maryland and District of Columbia) and possibly Delaware and Pennsylvania. The Commonwealth believes that a standard set of FRNA frequency coordination policies uniformly applied to these areas will be easier to deal with than a potential three-way negotiation with FRNA, the District of Columbia and Virginia, in which a not-yet-constructed District of Columbia 700 MHz system might request application of different frequency coordination rules.

Similarly, the Commission has expressed a strong preference for a statewide network solution (see Texas Waiver Order, DA 11-863, released May 12, 2011 and §50-52 of the May 12, 2010 Waiver Order, 25 FCC Rec 5145), which is also contemplated by Section 6302 of the new Spectrum Act, under which the Governor of each state has the authority to determine how its statewide system will participate or be deployed. Given that, it does not seem reasonable to

require FRNA or the Commonwealth to have to consider claims of existing rights or otherwise give special rights or priority to an unbuilt City of Chesapeake 700 MHz system. (Though the Commonwealth will obviously seek to act in the best interests of all of the citizens of its 134 counties and cities, including the City of Chesapeake.)

As the NPRM notes, the Commission made it clear that the waiver recipients would ultimately be required to integrate their network operations into whatever national system the Commission ultimately established. “[A]ny deployment or other expenditures made by the requesting jurisdictions pursuant to this Order is undertaken at their own risk and with the understanding that any deployment will be subject to the outcome of the larger proceeding, including possible integration into a nationwide network and compliance with future technical requirements...” §62 of the May 12, 2010 Waiver Order.

Rather than coordinating rights of not-yet-built systems (such as the District of Columbia and City of Chesapeake) and also possibly the Public Safety Spectrum Trust (PSST) with FRNA and the Commonwealth, the Commonwealth respectfully suggests that the Commission should find that early deployment waiver recipients whose systems have not yet been constructed should have their waivers rescinded (or have their licenses non-renewed in September 2012 if that approach is preferable) in light of the new national plan created by the Spectrum Act. The Commonwealth, on behalf of STARS, wishes to express its concerns that any transition rules for early deployment waiver recipients with unbuilt systems should not unduly complicate the process of designing and deploying a nationwide interoperable broadband network.

CONCLUSION

In simplifying a transition to the new FNRA regime, there is no need to maintain the waiver authorizations for early deployment systems which are not yet constructed. Either

rescinding such waiver authorizations in light of the changed circumstances created by the Spectrum Act, or declining to renew the early waiver recipient leases in September 2012, would be the simplest and most efficient way to transition unbuilt early waiver recipients to the new Spectrum Act model.

Respectfully submitted,

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF STATE POLICE

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Dated: April 19, 2012

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of April, 2012, a copy of the foregoing Comments of the Commonwealth of Virginia was sent by email to Jennifer.Manner@fcc.gov.



Peter E. Broadbent, Jr.

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