Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of:	)	
	)	
Public Safety and Homeland Security Bureau Seeks	)	
Comment on Transition Process for 700 MHz Public	)	PS Docket No. 12-94
Safety Broadband Waiver Recipients	)	DA-12-555

Comments of IPWireless, Inc.

IPWireless, Inc. ("IPWireless") hereby submits comments in response to the questions raised in this Public Notice

I. Background

IPWireless is a developer and manufacturer of 3GPP Release 8/9 Long Term Evolution ("LTE"), supplying both network infrastructure and User Equipment. The company is the supplier of such equipment to waiver recipient Adams County, Colorado, Communications Center, through a subcontract with Raytheon, and is therefore an interested party in this proceeding.

II. Comments on Public Notice

In the Waiver Order 10-79, the Commission found that it should act "in light of the pressing need for public safety to begin development and deployment of wireless broadband network infrastructure". This need has not changed, public safety can and will benefit from the earliest possible availability of LTE mobile broadband services, and furthermore the systems being built under waivers continue to provide the waiver recipients with valuable experience that can be used by the Commission, PSCR and the FirstNet Authority in formulating new policies and rules. Systems operating under waivers continue to be in the public interest.

The importance of early deployment of public safety LTE was also recognized by the Federal Government in the issuance of BTOP stimulus grants for the waiver jurisdictions, as well as the job creation that was the key objective of these grants. These have not changed.

Transition Issues

What actions should the Commission take to effectuate the transition? Should the Commission issue a stay to halt deployment by the Waiver Recipients in order to avoid additional costs being incurred by the Waiver Recipients.

> In the Waiver Order, the Commission stated that "any 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 deployments will be subject to the outcome of the larger proceeding, including possible integration into a nationwide network and compliance with future technical requirements adopted by ERIC or the Commission." This risk, which the waiver recipients have accepted as a condition, continues. Any change in the risk resulting from the Spectrum Act do not alter this fact, and is not reason in itself for the Commission to rescind or issue a stay on deployments under the Waivers at this time.

What impact would such action have on Waiver Recipients' funding, including obligations such as those under the Broadband Technology Opportunities Program (BTOP)?

> It is well known that BTOP grants to Waiver Recipients are conditional on systems being deployed and entering into service on certain milestone dates. Linked to this are contractual commitments that the Waiver Recipients will have with their suppliers. These were entered into on the understanding that they would ultimately be required to fit in with future national network plans, a risk that was regarded as manageable given the interoperability architecture inherent in the LTE standards. However the loss of the BTOP grants through premature or unnecessary rescinding of waivers could put the Waiver Recipients in a very difficult financial position, which may jeopardize other aspects of their public safety mission. We note that the major capital items have already been delivered and deployed in some of the Waiver networks.

Should Charlotte and Texas be treated differently because they plan to enter into service shortly, or because they have already expended substantial funds? Alternatively, should the Commission decline to act on the interoperability showings for Charlotte, Texas or Adams County, because of the impending transition?

> All of the Waiver Recipients have a similar public safety mission, which will benefit from early LTE service availability to first responders. All will have expended funds, and regardless of funds already spent all will have contractual commitments that put them in a similar position. While Charlotte and Texas are to be commended on early deployments of the network infrastructure in time for political conventions and significant public events, the reality is that they are unlikely to have sufficient numbers of meaningful user devices and broadband applications for the LTE networks to play a pivotal role in the policing around these events. Taking all of these

considerations into account, there is therefore no case for Charlotte and Texas to be treated differently.

What would be the impact to FirstNet if the Commission did authorize these waiver recipients to enter into service?

Allowing the Waiver Recipients to continue deployment and enter into service does not alter the impact to FirstNet, as the requirement to fit in with the national network was accepted as a condition of the waivers and does not change - they continue to have this obligation.

Should it be viewed that there is risk of equipment proving not to be fully interoperable between vendors, the fact is that for virtually all LTE infrastructure providers these aspects are software-defined, such that any issues can be addressed through software support upgrade, virtually guaranteeing interoperability can be achieved without obsolescence of physical equipment.

Are there network architectures that the Waiver Recipients who wish to initiate service could utilize that would impact the costs of the transition to FirstNet? What are the costs or other impacts, including lost near term public safety benefits, if the Commission fails to authorize these waiver recipients to enter into service?

Until FirstNet is formed and develops its plans, it would be speculative and premature to consider how alternative architectures may impact it. The near term public safety benefits of the Waiver systems do not change, therefore the Waivers should be allowed to continue until the FirstNet Authority's policy is formulated and implemented.

Commenters should address how their proposals are consistent with the Spectrum Act.

The Act requires that the Commission grant a license for the public safety broadband and D block spectrum to the FirstNet Authority, and that it facilitates the transition of the spectrum, but these cannot occur until FirstNet is formed. It follows that the current Waivers should continue until this time, and then be reviewed.

The Act also allows states to opt out and build their own radio access networks, and the waiver networks being deployed could be the basis for some of these. The Commission should take this into account as it is likely that some states will take this option with the result that FirstNet's own network implementation will have a lower impact on the infrastructure of these State opted-out networks.

Would one possible approach would be to rescind all the waiver authorizations. What would the impact including cost be to the Waiver Recipients of such an approach? Could the cost impact be minimized in any way? For instance, could we rescind the waiver authorizations of only those jurisdictions who have not yet expended significant funds? Is there another method to achieve the same objectives, while minimizing any adverse impacts? Is this approach consistent with the Spectrum Act?

As per our comments above, we believe that it is premature to rescind the waiver authorizations until the FirstNet Authority is in operation, and any such move could have a negative financial and operational impact on the Waiver Recipients.

Rather than a cost impact, to the extent the waiver deployments are supplemented by non-BTOP funds, there is the benefit of additional investment towards the ultimate national network.

We also recognize that the initial term of the May 2010 Waiver Recipients' leases will end in September 2012, shortly after the August 20, 2012 deadline for establishing the FirstNet board. Is there an appropriate way to transition their authorizations coincident with the end of the lease term, or coincident with the issuance of a license to FirstNet? Is such an approach consistent with the Spectrum Act? Should the Commission simply allow these leases to expire or decline to renew them? Should the Commission allow renewal at the option of FirstNet? Should the Commission allow all or some of the leases to be renewed with the PSST, and then transferred to FirstNet at an appropriate time? Should such lease renewal terms be for a more limited duration than the initial two-year lease? What term? What would be the cost impact of each of these approaches? Could these approaches be structured in a manner that would be consistent with the Spectrum Act?

In our view, these issues should be deferred and considered at the time of expiry of the leases in September 2012. Anything else would be premature, until FirstNet's plans are known.

Should the Commission authorize operations on a special temporary authority (STA) basis during an interim period following the expiration of these leases, until such time as FirstNet can determine whether to enter into a new lease, or until such time as the relevant state determines whether or not it will opt out of the nationwide license? How long could such an arrangement persist? Is this type of arrangement viable for all the Waiver Recipients, or should it be limited to those with imminent deployment plans, or another extenuating circumstance? What factors would the Commission use to make such a determination?

Because FirstNet is only to be formed on August 20, 2012, it is unlikely that their plans or policies will be formulated prior to the expiry of the leases, therefore either the leases should be renewed or STAs granted until such time as the FirstNet plans are released, and reviewed at that time. We do not believe that there is any basis for some Waiver Recipients to be treated differently; all have a public safety mission and contractual obligations.

III. Conclusion

Waiver Recipients accepted the risk of fitting in with the future national network, and we believe that it should be their decision whether or not to continue with their deployment plans. Until the FirstNet Authority is formed and its policy and network architecture determined, we believe it is premature for the Commission to take any action on the waivers, and this should be reconsidered in September 2012 when the initial spectrum leases to waiver recipients end.

Respectfully submitted,

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