

July 24, 2012

VIA ELECTRONIC FILING

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

Re: Notice of *Ex Parte* Communication, PS Docket No. 12-94

Dear Ms. Dortch:

On July 23, 2012, Kevin Krufky, Vice President of Public Affairs for Alcatel-Lucent, spoke by telephone with Angela Giancarlo, Chief of Staff to Commissioner McDowell.

In the telephone call, Mr. Krufky discussed the order on circulation at the Commission, which press reports indicate proposes a mechanism for jurisdictions to move forward with deployment pursuant to special temporary authority (STA). Mr. Krufky asserted the importance that any STA include an expectation that the jurisdiction could continue to operate until the nationwide public safety broadband network (NPSBN) becomes operational in the geography served under the STA, or the jurisdiction otherwise fails to uphold conditions in the STA, such as those related to interoperability. In this way, the jurisdiction can move forward knowing that its first responders will have uninterrupted access to critical broadband services until its network can be integrated into the NPSBN. Mr. Krufky also reviewed Alcatel-Lucent's legal analysis demonstrating Commission authority to grant STAs of longer than 6 months. The attached document served as the basis of that legal discussion.

Please contact the undersigned with any questions in connection with this submission.

Respectfully submitted,

/s/

Kevin Krufky
Vice President, Public Affairs

cc: Angela Giancarlo

..... Alcatel-Lucent 

**The FCC Has Authority to Grant STAs of One Year or More to
700 MHz Public Safety Broadband Waiver Recipients**

- The Commission should issue Special Temporary Authority (STA) to 700 MHz Public Safety Broadband waiver recipients for 1 year or more to allow early public safety broadband deployments to continue while FirstNet is established and begins its work.
- The Commission has ample legal authority to issue STAs of 1 year or more for public safety services. Nothing in the Communications Act or the Commission’s rules prohibit the issuance of 1-year or longer STA to such entities.
 - Section 309(f) places a 180-day time limit on some STAs. However, the Commission has recognized that “Section 309(f) of the Act does not apply to private radio applicants.” *Implementation of Sections 3(n) and 332 of the Communications Act*, GN Docket No. 93-252, PR Docket No. 93-144, PR Docket No. 89-553, Third Report and Order, 9 FCC Rcd 7988, 8153, ¶ 378 (1994).
 - Therefore, while there is a statutory restriction on the duration of STA granted to common carrier wireless services and specific, enumerated other services, there is no statutory limitation on the duration of STA that could be issued to public safety broadband waiver recipients.
- The Commission’s rules expressly contemplate that STAs of greater than 180 days can be granted to private wireless systems, provided a sufficient showing is made and frequency coordination conducted. *See* 47 C.F.R. § 1.931(b)(1).
- STAs of one year or more would be justified here to support communications in emergency situations and in light of the circumstances “which are of such extraordinary nature that delay in the institution of temporary operation would seriously prejudice the public interest.” *See* 47 C.F.R. § 1.931(b)(2).
 - Even in the case of STAs issued for common carrier services, the Commission has routinely granted 180-day STAs followed by multiple 180-day extensions.
- In light of the great importance of certainty to the public safety waiver recipients, many of which have invested millions and are in the advanced stages of network deployment, issuing a 1 year or longer STA would be a reasonable way to bridge the gap between expiration of existing leases and the time at which FirstNet can determine whether and how to integrate the waiver deployments into the nationwide interoperable network.