

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

In the Matter of)
)
Spectrum Network Group, LLC Request)
for Waiver of Section 90.617(c) of the Rules) WT Docket No. 14-100
to Provide Commercial Machine-to-Machine)
Services on 900 MHz Business/Industrial/)
Land Transportation Channels)

REPLY COMMENTS OF THE UTILITIES TELECOM COUNCIL

Pursuant to Section 1.405 of the Commission’s Rules, the Utilities Telecom Council (“UTC”) hereby files its reply comments in response to the Commission’s Public Notice in the above-referenced proceeding.¹ UTC reiterates its opposition to the request for waiver by Spectrum Networks Group, LLC to use Business/Industrial/Land Transportation (B/ILT) frequencies to operate a nationwide Specialized Mobile Radio (SMR) system. Moreover, the comments on the record reinforce and underscore the need for the Commission to deny the waiver request.

Neither Spectrum Networks Group nor any of its supporters has showed that a waiver is justified, neither based on unique circumstances or lack of alternatives nor based on equity, undue burden or public interest. Instead, their comments are plainly self-serving and fail to explain why the 900 MHz B/ILT frequencies are necessary. Moreover, they clearly do not lack alternatives, nor is there anything unique that would justify a waiver. Instead, they make unsubstantiated claims about spectrum efficiency that do not stand up to scrutiny.

¹ Wireless Telecommunications Bureau Seeks Comment on Spectrum Networks Group, LLC Applications and Waiver Request to Allow It to Provide Private, Internal Machine-to-Machine Communications to Businesses on 900 MHz Business/Industrial/Land Transportation Channels, *Public Notice*, WT Docket No. 14-100 (rel. Jul. 9, 2014)(hereinafter “*Public Notice*”).

While they claim that they would make efficient use of spectrum, they fail to even begin to prove that they would meet the loading requirements for the frequencies that they seek to license. Most likely, the spectrum would simply be warehoused and sold on the secondary market. In the meantime, utilities and other critical infrastructure industries (CII) with a real need for available frequencies would be unable to increase capacity or expand coverage to support the safe, reliable and effective delivery of essential electric, gas and water services to the public at large. This would not serve the public interest. Therefore, the Commission should deny SNG's waiver request.

At the outset, it is worth observing that SNG filed a total of 111 applications and that it didn't even request a waiver of Section 90.617(c) when it filed the first 12 applications in 2013.² Those first 12 applications were filed in the names of third party individuals, but the remaining 99 applications were filed in SNG's name.³ SNG didn't even seek a waiver until after an informal objection was filed by the Enterprise Wireless Alliance (EWA) in January, 2014.⁴ While SNG claimed that it was only submitting a Request for Waiver of the Commission's rules "to the extent such a waiver is viewed as necessary," it should have been clear to SNG that a request for waiver was always necessary.⁵ SNG clearly intended to operate a SMR system using numerous B/ILT frequencies, which required a waiver of Section 90.617(c).⁶

² Public Notice at 1, n. 1-2, *citing* file numbers of the 111 applications submitted by SNG in 2013 and 2014.

³ *Id.*

⁴ Informal Opposition to Pending Applications filed by Enterprise Wireless Association, FCC File Nos. 5974431 *et seq.* (filed Jan. 6, 2014).

⁵ Request for Waiver by SNG, FCC File Nos. 0006201203 *et seq.*

⁶ *See* 47 CFR §90.167(c) (stating "Specialized Mobile Radio (SMR) systems will not be authorized on these frequencies.")

As Motorola noted in its comments, SNG's applications propose to operate (mostly) multi-channel trunked systems at approximately 130 transmitter sites across the country and, as proposed, would occupy a total of 1,234 channels in the aggregate. Moreover, these applications propose to provide for-profit services, contrary to the purpose of Section 90.617(c), which was to preserve B/ILT frequencies for private internal purposes.⁷ UTC agrees with Motorola that “[a]llowing carriers with speculative business plans the ability to usurp what little spectrum availability remains in the band disadvantages that class of licensees that are required to certify that a minimum of 70 mobile units for each requested channel will be placed into operation within 5 years.”⁸

UTC also agrees that SNG has failed to provide information that would justify a waiver of Section 90.617(c). SNG's claims that it will only use the frequencies for machine-to-machine (M2M) communications are dubious, considering that SNG did not at the outset identify M2M communications as the justification for requesting 900 MHz B/ILT channels. As EWA noted, the initial set of 900 MHz B/ILT applications filed by SNG itself, and those prepared by SNG for other parties, made no such reference.⁹ Moreover, SNG's unsupported claims that it would make more efficient use of spectrum are nonsensical and do not withstand scrutiny.¹⁰ As UTC

⁷ Comments of Motorola Solutions in WT Docket No. 14-100 at 3 (filed Jul 30, 2014).

⁸ *Id.* at 3, *citing* Section 90.631 (b) of the Commission's Rules (setting the loading requirements for 900 MHz B/ILT channels).

⁹ Comments of Enterprise Wireless Alliance in WT Docket 14-100 at 3 (filed Jul. 30, 2014).

¹⁰ Request for Waiver by Spectrum Networks Group filed with 99 applications for B/ILT frequencies submitted between March 14 and March 18, 2014. (stating “[g]ood cause exists for the requested waiver as it will permit SNG to assist in bringing about the machine-to-machine revolution by providing [communications services to businesses] in frequency channels no wider than needed, and by using the fallow I/B channels solely for I/B uses without diverting them from the I/B pool.”)

See *Public Notice* for the list of application file numbers.

explained in its initial comments, there is no validity to SNG's unsupported claim that many of the M2M services are provided "using much wider spectrum bands than are necessary."¹¹

Finally, UTC reiterates that the Commission should deny SNGs waiver request because the use of this spectrum by SNG will fundamentally *remove* available channels that could be used for PMRS and instead use them on a commercial basis for third parties. The public interest would not be served by granting SNG a waiver, because doing so would actually inhibit the growth of smart grid and similar M2M applications by utilities and other CII that would not be able to license these 900 MHz B/ILT frequencies for legitimate PMRS. Instead, SNG would monopolize all of the available frequencies in a given area and force utilities and CII to pay to use these frequencies.

¹¹Comments of UTC in WT Docket No. 14-100 at 3 (filed Jul. 30, 2014).

Utilities lack suitable spectrum to meet their increasing needs for smart grid and other applications. The availability of the 900 MHz B/ILT frequencies is critical to the speedy restoration of essential electric, gas and water services, particularly in the aftermath of hurricanes and other natural disasters. Given the clear public interest in maintaining utility service reliability as well as the overriding need for additional spectrum by utilities and their dependence on 900 MHz systems, UTC submits that the Commission should not grant SNG's waiver request, because it will only worsen the current shortage of available spectrum at a time when utilities and CII need access to more not less spectrum.

Respectfully submitted,

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