

**Before the
Federal Communications Commission
Washington, DC 20554**

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| In the Matter of: |) | |
| |) | |
| Wireless Telecommunications Bureau Seeks |) | WT Docket No. 17-168 |
| Comment on Arizona Public Service |) | |
| Company Request for Waiver of 800 MHz |) | |
| Licensing Freeze for Proposed Statewide |) | |
| Trunked Radio System |) | |
| |) | |
| Amendment of Part 90 of the Commission's |) | WP Docket No. 16-261 |
| Rules to Improve Access to Private Land |) | |
| Mobile Radio Spectrum |) | |

**COMMENTS AND EX PARTE FILING OF
THE NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL**

The National Public Safety Telecommunications Council (NPSTC) submits these comments in response to the Public Notice in the above captioned proceeding.¹ Given that some of the policy issues on which NPSTC comments herein were raised in a previous rulemaking proceeding in WP Docket No. 16-261, NPSTC also submits these comments as an Ex Parte filing in that docket.²

The Public Notice seeks input on a request for waiver submitted by the Arizona Public Service Company (APSC) associated with its implementation of a new Project 25 statewide radio system. APSC applications involve operations that fall within areas along the U.S./Mexico border zone, in which applications for 800 MHz channels are currently subject to a freeze unless the applications relate to rebanding. APSC requests a waiver of the freeze.

¹ Public Notice, Wireless Telecommunications Bureau Seeks Comment on Arizona Public Service Company Request for

² Notice of Proposed Rulemaking, Amendment of Part 90 of the Commission's Rules to Improve Access to Private Land Mobile Radio Spectrum, WP Docket No. 16-261, released August 18, 2016.

In these comments, NPSTC highlights that the request encompasses both policy issues and frequency coordination issues. NPSTC comments on the policy issues, deferring to designated frequency coordinators to address coordination specifics of the APSC applications and waiver request.

The National Public Safety Telecommunications Council

The National Public Safety Telecommunications Council is a federation of public safety organizations whose mission is to improve public safety communications and interoperability through collaborative leadership. NPSTC pursues the role of resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC has promoted implementation of the Public Safety Wireless Advisory Committee (PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC) recommendations. NPSTC explores technologies and public policy involving public safety telecommunications, analyzes the ramifications of particular issues and submits comments to governmental bodies with the objective of furthering public safety telecommunications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications.

The following 16 organizations serve on NPSTC’s Governing Board:³

- American Association of State Highway and Transportation Officials
- American Radio Relay League
- Association of Fish and Wildlife Agencies
- Association of Public-Safety Communications Officials-International
- Forestry Conservation Communications Association
- International Association of Chiefs of Police
- International Association of Emergency Managers
- International Association of Fire Chiefs
- International Municipal Signal Association

³ These comments represent the views of the NPSTC Governing Board member organizations.

National Association of State Chief Information Officers
National Association of State Emergency Medical Services Officials
National Association of State Foresters
National Association of State Technology Directors
National Council of Statewide Interoperability Coordinators
National Emergency Number Association
National Sheriffs' Association

Several federal agencies are liaison members of NPSTC. These include the Department of Homeland Security (the Federal Emergency Management Agency, the Office of Emergency Communications, the Office for Interoperability and Compatibility, and the SAFECOM Program); Department of Commerce (National Telecommunications and Information Administration); Department of the Interior; and the Department of Justice (National Institute of Justice, Communications Technology Program). Also, Public Safety Europe is a liaison member. NPSTC has relationships with associate members: The Canadian Interoperability Technology Interest Group (CITIG) and the Utilities Technology Council (UTC), and affiliate members: The Alliance for Telecommunications Industry Solutions (ATIS), Open Mobile Alliance (OMA), Telecommunications Industry Association (TIA), TETRA Critical Communications Association (TCCA), and Project 25 Technology Interest Group (PTIG).

Background

The Arizona Public Service Company (APSC) filed 54 applications for 800 MHz channels at 53 locations to deploy a new Project 25 statewide trunked radio system. This system will replace a legacy 800 MHz system that uses older equipment no longer supported by the manufacturer. APSC has proposed to implement the new system in parallel with the existing system to ensure uninterrupted service. The new system is also designed to improve coverage in the utility's service area and along key transmission lines. The Public Notice indicates that APSC states it needs additional spectrum to accommodate the simultaneous operation and addition of tower sites and that the applications seek two new channels at sites where APSC has an existing license and three channels at new sites.

Given that APSC sites are located in National Public Safety Planning Advisory Committee (NPSPAC) regions along the border with Mexico, its request of 800 MHz channels for non-rebanding purposes currently are subject to a freeze. However, the Public Notice indicates the APSC request states that it selected frequencies that will neither cause interference to incumbent licensees nor disrupt the rebanding process. APSC requests a waiver of the licensing freeze.

NPSTC Comments

The Public Notice indicates that many of the APSC applications request frequencies in the 800 MHz Expansion Band. Further, the Public Notice advises that:

...the Bureaus recently concluded that Expansion Band frequencies should not be made available for licensing even in NPSPAC regions where rebanding is complete, because doing so would prejudice the pending rulemaking proceeding regarding a proposal to afford filing priority to 800 MHz incumbent licensees.⁴

The pending rulemaking proceeding referenced in the Public Notice is a follow-on to a recommendation by the Land Mobile Communications Council (LMCC) to provide incumbent licensees a 6 month advance filing window ahead of new applicants with respect to the 800 MHz Guard Band and Expansion Band frequencies. In previous comments in that proceeding, NPSTC stated:

NPSTC supports providing public safety and B/ILT incumbent licensees a 6 month advance filing window ahead of new applicants and SMR incumbents with respect to 800 MHz Guard Band or Expansion Band channels that become available.

Both Expansion Band and Guard Band channels are important to the public safety and private land mobile communities and become available upon a Commission announcement that sufficient clearing has been achieved in a given NPSPAC region.

...Although supporting mostly business/industrial/ land transportation (B/ILT) licensees, the Expansion Band still includes public safety licensees that chose not to relocate during the 800 MHz rebanding process and some of these licensees may very well need to expand operations.

From an eligibility standpoint, the Guard Band channels are configured as a general access pool, available for public safety, B/ILT and SMR operations. Therefore, Guard Band channels are also an important potential spectrum resource for public safety whenever the Commission announces their availability in a given NPSPAC Region.

Although the upper portion of the Guard Band spectrum closest to ESMR operations above 817/862 MHz may not be appropriate for all public safety operations, channels

⁴ Public Notice at page 2.

closer to the lower end of the Guard Band with greater interference protection may be usable by some incumbent public safety agencies in the 800 MHz band for system expansion. Therefore, NPSTC supports including incumbent public safety and B/ILT licensees as entities eligible for any advance filing period ultimately adopted.⁵

Each application must be judged on its merits and on input from applicable frequency coordinators. However, from a policy perspective, NPSTC believes that APSC serves as an example of the very type of applicant that NPSTC had in mind in supporting an advance filing window for incumbent licensees. The Public Notice indicates that APSC is Arizona's largest electric service company, serving more than 1.2 million customers. The Public Notice also states that "Two-way radio is essential to its safe and efficient operations, particularly during outages and other emergencies."⁶

It is clear that applicants like APSC have an operational need for land mobile channels as opposed to a speculative need simply to win licenses and profit directly from offering spectrum without any underlying operational requirements that address safety or operational efficiency. It is that distinction that underscores NPSTC's support of a 6 month advance filing window for public safety and B/ILT licensees.

Whether or not a grant of the APSC waiver would cause interference to incumbent licensees, disrupt the rebanding process or impact other legitimate applicants for 800 MHz channels are issues that requires input from frequency coordinators. From a policy perspective, NPSTC recommends the FCC pursue all deliberate speed in bringing the rulemaking referenced above to a decision that provides legitimate incumbent public safety and B/ILT licensees like APSC a 6 month advance filing window ahead of new applicants.

⁵ NPSTC Comments in WP Docket 16-261, submitted November 22, 2016.

⁶ Public Notice at page 1.

If the Commission could come to a decision in that rulemaking and issue a Report and Order by the end of 2017 that provides for the advance filing window as NPSTC recommended, it could certainly benefit multiple licensees of the type that APSC represents. In fact, if that timeline and decision could be achieved, it may even obviate the need for waivers of the rules that become increasingly necessary as rulemaking decisions incur added delay.

Conclusion

The APSC request encompasses both policy issues and frequency coordination issues. NPSTC defers to designated frequency coordinators to address coordination specifics of the APSC applications and waiver request. From a policy perspective, NPSTC believes APSC serves as an example of the very type of applicant that NPSTC had in mind in supporting a 6 month advance filing window for public safety and B/ILT incumbent licenses in response to the Notice of Proposed Rulemaking in WP Docket No. 16-261.

NPSTC urges the Commission to move forward with a decision in that rulemaking by the end of 2017 to provide incumbent public safety and B/ILT licensees an advance opportunity to obtain 800 MHz Guard Band and Expansion Band channels in advance of new applicants, especially speculators that have no operational requirements. If that timeline and decision could be achieved, it may even obviate the need for waivers of the rules that become increasingly necessary from a safety and operational efficiency perspective as rulemaking decisions incur added delay.

Ralph A. Haller, Chairman

A handwritten signature in cursive script, appearing to read "Ralph A. Haller", written in black ink.

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