



LAND MOBILE COMMUNICATIONS COUNCIL

April 27, 2018

VIA E-MAIL:

Ms. Lisa Fowlkes, Chief
Public Safety and Homeland Security Bureau
Federal Communications Commission
Lisa.Fowlkes@fcc.gov

Mr. Donald Stockdale, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
Donald.Stockdale@fcc.gov

RE: Land Mobile Communications Council
Request to Modify Suspension of Acceptance and Processing of Certain Part 22
and Part 90 Applications for 470-512 MHz (T-Band) Spectrum

Dear Ms. Fowlkes and Mr. Stockdale:

The Land Mobile Communications Council (“LMCC”) respectfully requests the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau (collectively, “Bureaus”) to modify certain provisions of the Suspension of Acceptance and Processing of Certain Part 22 and Part 90 Applications for 470-512 MHz (“T-Band”) Spectrum (“T-Band Freeze” or “Freeze”) as set out in Public Notices released by the Bureaus in 2012.¹ Specifically, the LMCC requests that existing licensees be permitted to relocate or add sites on

¹ See “Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum,” *Public Notice*, 27 FCC Rcd 4218 (WTB/PSHSB 2012) (“Freeze PN”); see also “Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Clarify Suspension of the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum,” *Public Notice*, 27 FCC Rcd 6087 (WTB/PSHSB 2012) (“Freeze Clarification PN”) (collectively “T-Band Freeze PNs”).

already licensed frequencies, even if the new or additional locations expand the existing contour of the frequency(s) in question, provided that both the existing and proposed site(s) are within the 80 km/50-mile radius of the defined T-Band market.² It also asks that licensees be permitted to exchange frequencies on a 1:1 basis and add frequencies through assignment or the coordination process, without being limited to any existing contour(s). Finally, the LMCC urges the Commission to grant T-Band license modification applications that were pending when the Freeze was established.

As addressed below, the LMCC does not believe that the modifications proposed will destabilize the spectrum environment pending Federal Communications Commission (“FCC” or “Commission”) action implementing Section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012.³ They will have the public interest benefit of allowing incumbent Public Safety and Industrial/Business (“I/B”) licensees to effect certain currently prohibited modifications of their radio systems to better serve their public safety and business requirements, while also reducing the number of waiver requests that the Bureaus must consider.

I INTRODUCTION

The LMCC is a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment. The LMCC acts with the consensus and on behalf of the vast majority of public safety, business, industrial, transportation and private commercial radio users, as well as a diverse group of land mobile service providers and equipment manufacturers. Membership includes the following organizations:

- American Association of State Highway and Transportation Officials (“AASHTO”)
- American Automobile Association (“AAA”)

² 47 C.F.R. § 90.305(a).

³ Pub. L. No. 112-96, 126 Stat. 156 (2012) (“Act”).

- American Petroleum Institute (“API”)
- Association of American Railroads (“AAR”)
- Association of Public-Safety Communications Officials-International, Inc. (“APCO”)
- Aviation Spectrum Resources, Inc. (“ASRI”)
- Energy Telecommunications and Electrical Association (“ENTELEC”)
- Enterprise Wireless Alliance (“EWA”)
- Forest Industries Telecommunications (“FIT”)
- Forestry-Conservation Communications Association (“FCCA”)
- International Association of Fire Chiefs (“IAFC”)
- International Municipal Signal Association (“IMSA”)
- MRFAC, Inc. (“MRFAC”)
- Telecommunications Industry Association (“TIA”)
- The Monitoring Association (“TMA”)
- Utilities Telecom Council (“UTC”)
- Wireless Infrastructure Association (“WIA”)

II BACKGROUND

The Commission in 1971 reallocated certain television channels in 11 major markets in the country to address a growing need for private land mobile radio (“PLMR”) spectrum in highly congested areas: Boston, Chicago, Dallas/Fort Worth, Houston, Los Angeles, Miami, New York/Northeastern NJ, Philadelphia, Pittsburgh, San Francisco/Oakland, and Washington, DC/MD/VA.⁴ Two 6 MHz channels were allocated in most markets, although Dallas/Fort Worth, Houston, and Miami received only a single 6 MHz allocation. Subsequently, the FCC assigned additional television channels in both New York and Los Angeles exclusively for public safety use. T-Band spectrum has been utilized intensively and productively in the almost 50 years since allocated for PLMR use.

In 2012, Congress enacted the Act, which, among other provisions, requires that the Commission, within nine years, must: (1) “reallocate the spectrum in the 470-512 MHz band...currently used by public safety eligibles,” and (2) “begin a system of competitive bidding under Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new initial

⁴ The FCC also allocated spectrum in Cleveland and Detroit, but it was never made available for use by PLMR licensees because of issues with Canada’s use of the spectrum. *See* 47 C.F.R. § 90.303.

licenses for use of the spectrum.”⁵ Further, the Act states that Public Safety entities must be relocated from the T-Band not later than two years after the auction has been completed and that auction proceeds may be distributed by the Commerce Department through grants to cover the costs of relocating Public Safety systems from T-Band spectrum.⁶ The Act is silent as to the disposition of T-Band spectrum currently used by the I/B licensees. Public Safety entities are the predominant users of T-Band spectrum in Boston, Chicago, Los Angeles, New York, Philadelphia, and Pittsburgh, while I/B users comprise the majority of T-Band licensees in Dallas, Houston, Miami, San Francisco, and Washington, DC. There are T-Band licensees from both categories in all 11 markets in which this spectrum has been allocated for land mobile use.

In response to the Act, the Bureaus released the T-Band Freeze Public Notices. They stated that they would not accept or process applications that “could alter the spectrum landscape and thereby make implementing the Act more difficult or costly.”⁷ The T-Band Freeze prohibits: (i) the licensing of new channels, even if they replace existing channels; (ii) the relocation of channels outside their existing contour; (iii) the addition of sites that expand the contour from already authorized locations; and (iv) the processing of applications on file when the Freeze was adopted that do not conform to the terms of the Freeze.

III CURRENT USE OF T-BAND SPECTRUM

It has become common practice for the Commission to “freeze” the acceptance of applications for new or modified systems when it is contemplating major changes in an allocation. Its typical reasoning is explained in a recent Public Notice freezing applications for new or modified fixed satellite service earth station and fixed microwave stations in the 3.7-4.2 GHz band where it stated, “...the freeze will help preserve the options available to the Commission for

⁵ Act § 6103(a).

⁶ *Id.* § 6103(b), (c).

⁷ Freeze PN at 1.

consideration of additional uses of the band while limiting the potential for speculative applications....”⁸ The T-Band Freeze was based on the FCC’s desire to preserve the spectrum landscape in its 2012 configuration, and thereby minimize the cost and difficulty of implementing the Act.⁹

The LMCC believes the Commission can achieve its objective, while still allowing the PLMR entities operating in this band to respond to operational demands during this unusually lengthy freeze. In practical terms and irrespective of the Freeze, the very substantial licensing of T-Band systems over the past 50 years limits the ability of incumbents to modify their system parameters. The T-Band reports submitted in this proceeding by the National Public Safety Telecommunications Council on May 13, 2013 and updated on June 3, 2016, and by the Enterprise Wireless Alliance on June 11, 2013, document the intensive use of T-Band spectrum by Public Safety and I/B licensees. Applications for new systems, whether legitimate or speculative, are a rarity, because virtually all frequencies already are assigned.

IV PROPOSED T-BAND FREEZE MODIFICATION

The current T-Band Freeze is highly restrictive, imposing unnecessary burdens on both incumbent licensees and on the FCC. In some cases, licensees are prevented from moving stations or frequencies to sites needed to address coverage requirements, because doing so would expand an existing contour. In other instances, licensees request waivers of the freeze that the Bureaus need to process. The LMCC appreciates that both Bureaus have been responsive to waiver requests that are consistent with Rule Section 1.925 and that could not reasonably be viewed as altering the

⁸ Temporary Freeze on Applications for New or Modified Fixed Satellite Service Earth Stations and Fixed Microwave Stations in the 3.7-4.2 GHz Band, GN Docket Nos. 17-183, 18-122, *Public Notice*, DA 18-398 (rel. Apr. 19, 2018). Notably, unlike the T-Band Freeze, in this case the Commission did not include already-filed applications in the freeze and, “in the interest of equity,” provided a 90-day application filing window for applications to license or register existing earth stations.

⁹ T-Band Freeze PNs.

spectrum landscape,¹⁰ but the waiver process is an inefficient, sometimes slow, and always costly way to address these issues. For example, FCC and licensee resources should not be expended on a waiver needed to correct a ground elevation by 6 meters, which correction results in a very minor expansion of the licensed contour, although not of the actual operating contour, since the licensed information was always erroneous.¹¹ And waivers do not address the fundamental fact that T-Band systems, like other PLMR systems, occasionally require changes in their parameters that do not conform to the very restrictive T-Band Freeze limitations.

Therefore, the LMCC requests that incumbent licensees be permitted to modify their systems to change or add sites and to exchange or add frequencies without reference to existing system contours. Most T-Band systems are long-established. Many already have extensive investments in their equipment. All are confined to fixed stations located within the 80 km/50-mile radius of their respective markets.¹² The system modifications the LMCC proposes be allowed, at most, would have only an incremental impact on the overall cost to an auction winner of clearing this spectrum; thus, the impact on their auction bids and payments to the U.S. Treasury would be *de minimis*.

Moving an existing station to a location that extends the current contour to address real world coverage requirements will not make implementing the Act more difficult or costly. Adding a site that expands a contour will have no greater impact on cost or complexity than adding a site within that contour, which already is permitted. Similarly, exchanging frequencies on a 1:1 basis is entirely neutral with regard to future cost and difficulty and even adding a frequency, in the

¹⁰ See, e.g., FCC File Nos. 0005638438, 0004598355 (lead application), and 0005174965.

¹¹ FCC File No. 0008091627.

¹² The LMCC recognizes that waivers have been granted that allow some systems to operate outside that radius. It is not recommending that the Freeze modifications proposed herein be applicable to those systems.

unlikely event that one is available, would have only a modest impact on the future relocation obligations of a winning auction bidder.

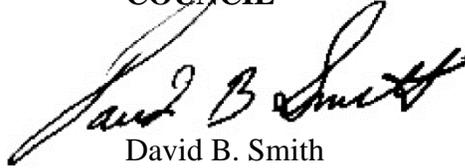
Importantly, any prospective, and at this point entirely hypothetical, difficulty or cost implications for an auction winner, in the LMCC's opinion must be weighed against the non-hypothetical, real-world requirements of operating Public Safety and I/B systems in an actual market area. Licensees need to relocate or add sites for any number of reasons, particularly in the urban areas in which T-Band is used, where new buildings and other changes in the landscape affect how coverage can be maintained, and where population shifts impact where coverage is needed. The same is true for capacity requirements. While two channels might have been sufficient at a particular site in 2000, more capacity might be needed in 2018. The telecommunications environment does not remain static, and certainly not throughout a Freeze that already has been in effect for six years and could well last a decade or longer.

The LMCC appreciates that the Commission is bound by the Congressional directives regarding T-Band as set out in the Act. It does not view those obligations to be in conflict with allowing T-Band licensees to conduct their operations, including the normal license modifications that sometimes are required, until a reasonable time prior to the auction mandated by the Act, at which time the spectrum landscape appropriately must be frozen.

For these reasons, the LMCC requests that the Bureaus modify the T-Band Freeze consistent with the recommendations herein.

Respectfully submitted,

**LAND MOBILE COMMUNICATIONS
COUNCIL**

A handwritten signature in black ink, appearing to read "David B. Smith". The signature is written in a cursive style with a large, sweeping initial "D".

David B. Smith
President

cc via e-mail:

David Furth
Roger Noel
Scot Stone