Enterprise Wireless Alliance

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VIA ELECTRONIC MAIL
Scot Stone, Deputy Chief
Mobility Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Spectrum Networks Group, LLC Order
DA 16-915

Dear Mr. Stone:

The Enterprise Wireless Alliance ("EWA" or "Alliance") appreciates the FCC's work in addressing the issues raised in the Spectrum Network Group, LLC Petition.[1] In particular, it welcomes the FCC's concurrence with EWA "that frequency coordinators are charged with ensuring that the application is technically correct but not with investigating and verifying the applicant's eligibility statement."[2]

However, the Order does raise a question about the applicable standard for applicants seeking 800/900 MHz Business/Industrial/Land Transportation ("B/ILT") spectrum for the provision of not-for-profit, cost-shared service, or those who state they will use the spectrum to support rental radios. The Alliance seeks guidance from the FCC as to how the following rules should be interpreted with respect to non-Specialized Mobile Radio ("SMR") systems where the radios will not be used to satisfy the licensee's internal communications requirements:

> Section 90.621
> (a)(1) For trunked systems…
> (iii) There are no limitations on the number of frequencies that may be trunked. Authorizations for non-SMR stations may be granted for up to 20 trunked frequency pairs at a time….
> (a)(2) For conventional systems, the assignment of frequencies will be made in accordance with applicable loading criteria. Accordingly, depending upon the number of mobile units to be served, an application may either be required to share a channel, or, if an applicant shows a sufficient number of mobile units to warrant the assignment of one or more channels for its exclusive use, it may be licensed to use such channel or channels on an unshared basis….

[1] In the Matter of Spectrum Networks Group, LLC, *Order*, DA 16-915 (rel. Aug. 12, 2016) ("Order").
[2] Order at ¶ 15.

> Section 90.631(b). Each applicant for a non-SMR trunked system must certify that a minimum of seventy (70) mobiles for each channel authorized will be placed into operation within five (5) years of the initial license grant.
>
> 90.633(a). Non-SMR conventional systems of communications will be authorized on the basis of a minimum loading criteria of seventy (70) mobile stations for each channel authorized.
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> 90.127(b). Each application shall limit its request for authorized mobile transmitters…to:
>
> (1) Mobile transmitters…that will be installed and operated immediately after authorization issuance.
>
> (2) Mobile transmitters…for which purchase orders have already been signed and which will be in use within eight months of the authorization date.

These rules are intended to provide business enterprise (and public safety ("PS")) entities with sufficient spectrum capacity to address their current and reasonably anticipated communications requirements, but to prevent spectrum warehousing.[3] While Section 90.631(b) supersedes Section 90.127(b) with respect to trunked systems, both trunked and conventional licensees are charged with making a reasonable assessment of their spectrum needs.

In contrast, SMR licensees are allowed to license up to twenty (20) channels at a time "on the come," that is, without any quantification of existing or expected subscriber usage. Because the FCC set aside discrete pools of channels for SMR versus B/ILT and, at 800 MHz, PS entities, the fact that SMR applicants make no representations as to anticipated usage does not affect the availability of channels for B/ILT or PS entities. This delineation was noted recently in a matter involving 900 MHz spectrum when the FCC stated its intention "to protect the viability of current and future 'traditional B/ILT' operations, i.e., eligible licensees controlling and operating their own systems to address their own private, internal communications needs."[4] The rules cited above establish different criteria for SMR versus B/ILT and PS spectrum requests in support of that delineation.

Over decades, B/ILT applicants such as UPS, General Motors, American Airlines, and even the local auto body shop generally have honored the FCC's expectation that applicants not overstate the amount of spectrum they will need. Undoubtedly there have been exceptions, but they have been relatively limited, perhaps because these applicants have little motivation to exaggerate their spectrum needs and because it is understood that the FCC has the right to require support for a claimed mobile count.

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[3] The FCC deleted rules that had permitted it to recover 800/900 MHz channels at a future date if a licensee failed to deploy the number of subscriber radios that had justified the number of channels for which it was authorized. Today, once granted, licensees retain the number of channels requested as long as their base station facilities are constructed and service is not permanently discontinued, irrespective of the number of units operating on those channels.

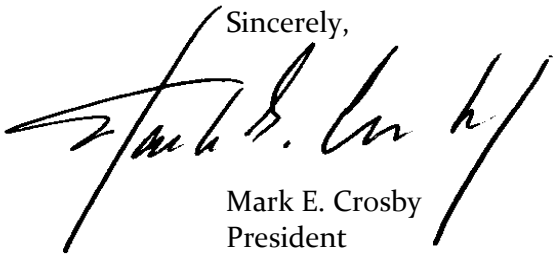
[4] Spectrum Networks Group, LLC, Order, 30 FCC Rcd 3509 at ¶ 8 (2015).

What is not clear is how those rules apply to B/ILT applicants that are proposing to provide service to eligible users on a not-for-profit or rental basis. Do they have an obligation to make a reasonable, defensible assessment of the number of subscriber units that will be placed in operation within five (5) years for a trunked system or pursuant to the Section 90.127(b) standard for conventional systems? EWA has some doubt as to how they could quantify prospective usage without knowing who the users will be, but assumes the FCC does not intend to allow the "on the come" channel claims permitted on SMR spectrum.

EWA requests this clarification because even if it is not charged with verifying the accuracy of an applicant's mobile count, its advice as to FCC requirements is sought frequently. It simply does not know what the correct answer would be should an applicant ask for how many 800/900 MHz channels it is eligible if it is proposing a not-for-profit service to an as yet unknown number of entities. Similarly, is an applicant that rents its radios entitled to base its channel request on the number of radios it keeps in inventory, even if its experience is that only some percentage of those radios are rented, and even if rented actually in use, at any time? FCC guidance on these points, including on the applicability of the rules cited above, would be appreciated.

While EWA and other Frequency Advisory Committees ("FACs") are not currently authorized to validate the eligibility of applicants, the Alliance is confident that the FCC will exercise prudent judgment and common sense when considering applications for B/ILT spectrum. B/ILT-eligible entities have limited spectrum available for exclusive use that can support digital and other advanced technologies. EWA would gladly work with the FCC and with other FACS to ensure that all such spectrum is assigned to qualified entities and placed into productive use.

Sincerely,



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