



COALITION FOR EMERGENCY RESPONSE AND CRITICAL INFRASTRUCTURE

November 16, 2023

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

**Re: *Ex Parte Letter* – Amendment of Part 90 of the Commission’s Rules,
WP Docket No. 07-100**

Dear Ms. Dortch:

The undersigned entities – the Major Cities Chiefs Association, the National Sheriffs’ Association, the Edison Electric Institute, T-Mobile, UScellular, Verizon, and the Competitive Carriers Association – have joined together as the founding members of the Coalition for Emergency Response and Critical Infrastructure (“CERCI”),¹ with a focus on the 4.9 GHz band proceeding currently before the Federal Communications Commission (“Commission”).²

CERCI’s recommendations are based on two important, but common sense, principles for the 4.9 GHz band:

- The band is essential spectrum for current and future, state and local, public-safety systems, and, as the Commission recently confirmed, the 4.9 GHz band must “retain[] its locally controlled, public safety nature.”³
- Eligibility for non-public-safety use of the band should be limited to critical infrastructure industry (“CII”) systems operating on a non-interfering basis. CII users

¹ More information on CERCI can be found at: <https://responsecoalition.com/> and in the Appendix.

² See *Amendment of Part 90 of the Commission’s Rules*, Seventh Report and Order and Ninth Further Notice of Proposed Rulemaking, FCC 23-3 (rel. Jan. 18, 2023) (“Order” or “FNPRM”).

³ See Order ¶ 1.

have a compatible mission with public-safety and a record of coexistence with public-safety licensees in other spectrum bands.

The Commission’s 4.9 GHz Order adopted earlier this year created a framework for non-public-safety, non-interfering, leased access to the 4.9 GHz band while retaining local control by public safety licensees.⁴ It adopted a nationwide Band Manager approach to coordinate all 4.9 GHz band operations and facilitate leasing arrangements. The accompanying FNPRM seeks comment on the Band Manager’s specific role: Under “Model 1,” the Band Manager would lease spectrum access rights from public-safety licensees and then sub-lease access to that spectrum to its choice of non-public-safety entities;⁵ under “Model 2,” public-safety licensees would engage in lease arrangements directly with non-public-safety entities and the Band Manager would coordinate and approve the leases.⁶

CERCI firmly supports Model 2, which is the only approach that maintains true local control of this vital public-safety band while enabling CII opportunities in the band. Applying Model 2, all public-safety licensees will approve spectrum leases that could affect their licenses or operations. The Band Manager will be responsible for implementing the Commission’s coordination and leasing rules to preserve local control of public-safety operations in the band.

In contrast, Model 1 would remove public-safety licensees’ authority to make their own decisions about communications systems in the 4.9 GHz band within their jurisdictions.⁷ Public-safety agencies have vastly different needs from jurisdiction to jurisdiction,⁸ and they should decide what compatible non-public-safety use means within their jurisdictions.

Further, the Commission should reject one commenter’s proposal to issue a nationwide license to FirstNet and direct FirstNet to pick a nationwide Band Manager.⁹ As an initial matter, the Commission should reject any call to issue a nationwide license in the 4.9 GHz band as the FNPRM proposes no such thing.¹⁰ Moreover, this approach in effect would end local public-

⁴ *Id.* ¶ 1.

⁵ *See* FNPRM ¶¶ 95-96.

⁶ *See id.* ¶¶ 97-99.

⁷ Although the FNPRM asserts that under Model 1, 4.9 GHz public-safety licensees would retain control over use of the band, *see* Order ¶ 105, in effect public-safety licensees would cede decision-making authority to the nationwide Band Manager with respect to the nature of leased operations and identity of sub-lessees gaining access to their spectrum.

⁸ *See e.g.*, *Ex Parte* Letter from National Sheriffs’ Association to FCC, WP Docket No. 07-100, at 1 (filed Dec. 3, 2021) (“National Sheriffs’ Association *Ex Parte*”).

⁹ *See* Comments of the Public Safety Spectrum Alliance (“PSSA”), WP Docket No. 07-100, at 4 (filed Apr. 12, 2023); Reply Comments of Public Safety Spectrum Alliance, WP Docket No. 07-100, at 4-5 (May 15, 2023).

¹⁰ In response to the *Eighth FNPRM*, PSSA argued for a nationwide licensee in the 4.9 GHz band, which the Commission acknowledged in the Order yet did not act on. *See, e.g.*, Order ¶¶ 19 n.51, 20 n.52, 26 n.68, 29 n.77, and 90 n.225. Nor did the Commission re-open whether to grant a nationwide license in

safety choice and control in the band, as AT&T's FirstNet network would expand into the 4.9 GHz band to the detriment of public-safety. It would force existing local public-safety operations off the band and would give AT&T's commercial and FirstNet customers exclusive access to the band, akin to how Band 14 is currently utilized. This approach would eliminate the opportunity for compatible mission-specific CII systems in the 4.9 GHz band. Competition and choice best serve the interests of state and local public-safety communications and the promise of CII in the 4.9 GHz band.

* * *

the FNPRM. Any such request, therefore, is an untimely petition for reconsideration. Contrary to FirstNet's call for the Commission to grant it access to the 4.9 GHz band, *see* Comments of the First Responder Network Authority, WP Docket No. 07-100, at 4 (filed Apr. 13, 2023), Congress did not grant FirstNet authority to operate in the 4.9 GHz band in its enabling statute, the Middle Class Tax Relief and Job Recovery Act of 2012. *See* Reply Comments of Verizon, WP Docket No. 07-100, at 11-15 (filed May 15, 2023).

CERCI encourages all stakeholders to support local public-safety control of the 4.9 GHz band with secondary use by compatible CII systems and looks forward to engaging with the Commission on the future of the critical 4.9 GHz band.

Sincerely,

The Coalition for Emergency Response and
Critical Infrastructure (“CERCI”)

/s/ Kenneth Corey

Kenneth Corey
NYPD Chief of Dept. (Ret.)
CERCI Chairman

/s/ Roger C. Sherman

Roger C. Sherman
CERCI Policy Advisor

/s/ Laura Cooper

Laura Cooper
Executive Director
Major Cities Chiefs Association (“MCCA”)
1400 Crystal Drive
Suite 600
Arlington, VA 22202

/s/ Jonathan F. Thompson

Jonathan F. Thompson
Executive Director and CEO
National Sheriffs’ Association (“NSA”)
1450 Duke St.
Alexandria, VA 22314

/s/ Aryeh Fishman

Aryeh Fishman
Associate General Counsel
Edison Electric Institute (“EEI”)
701 Pennsylvania Avenue NW
Washington, D.C. 20004

/s/ Kathleen M. Grillo

Kathleen M. Grillo
Senior Vice President, Public Policy &
Government Affairs
Verizon
1300 I Street, N.W., Suite 500 E
Washington, DC 20005

/s/ Tim Donovan

Tim Donovan
President & CEO
Competitive Carriers Association
601 New Jersey Avenue, N.W.
Suite 820
Washington, DC 20001

/s/ Steve B. Sharkey

Steve B. Sharkey
Vice President, Government Affairs
T-Mobile USA, Inc.
601 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20004

/s/ Rebecca Murphy Thompson

Rebecca Thompson
Vice President, Government Affairs
UScellular
8410 W. Bryn Mawr Avenue
Chicago, IL 60631

APPENDIX: CERIC Members

CERIC's founding members are comprised of the following organizations and companies committed to the successful outcome of the 4.9 GHz proceeding:

- **Major Cities Chiefs Association (“MCCA”)** is a professional organization of law enforcement executives representing the largest cities in the United States and Canada. Law enforcement, including MCCA members, currently use the 4.9 GHz band to deploy critical public-safety systems. For example, the band largely supports fixed broadband data and video applications, mainly in urban areas protected by MCCA members.¹¹
- **National Sheriffs’ Association (“NSA”)** is a professional association dedicated to serving the Office of Sheriff and its affiliates through law enforcement education and training, and through the provision of general law enforcement informational resources. NSA represents thousands of sheriffs, deputies and other law enforcement, public-safety professionals, and concerned citizens nationwide. Each community is distinct in its requirements to serve the citizens who elected member Sheriffs to office and Sheriffs need communications tailored to their respective needs. Sheriffs currently deploy the 4.9 GHz spectrum resource for fixed point-to-point and point-to-multipoint links and secure intranet connections on both permanent and temporary bases, as licensed by the Commission, to serve their respective jurisdictions.¹²
- **Edison Electric Institute (“EEI”)** is the trade association that represents U.S. investor-owned electric generation and distribution companies, including all the major regional electric utilities. Collectively, EEI’s members provide electricity for 235 million Americans, operate in all 50 states and the District of Columbia, and directly and indirectly employ more than seven million people in communities across the U.S. CII entities, like electric companies, have had close and coordinated engagement with public-safety entities prior to, during, and after emergencies. Use of the 4.9 GHz band is crucial to the operations of CII entities and has a direct impact on health, life, and property of the public.¹³
- **T-Mobile, UScellular, and Verizon** are providers of mobile wireless and fixed wireless broadband services and provide network services for public-safety. In addition, **Competitive Carriers Association (“CCA”)** members include wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to

¹¹ See Comments of the National Public Safety Telecommunications Council, WP Docket No. 07-100, at 11 (filed July 6, 2018) (explaining that the NYPD utilizes 4.9 GHz to support the City’s video monitoring operations); see also Ex Parte Letter of the Metropolitan Transportation Authority to FCC, WP Docket No. 07-100, at 1 (filed May 3, 2023) (explaining that there is no clear alternative to the 4.9 GHz band for 5G-focused public-safety operations in New York City).

¹² See National Sheriffs’ Association *Ex Parte* at 1.

¹³ See Comments of the Edison Electric Institute, WP Docket No. 07-100 (filed April 13, 2023); Reply Comments of the Edison Electric Institute, WP Docket No. 07-100 (filed May 15, 2023).

regional and national providers serving millions of customers, as well as vendors and suppliers and, notably, CII entities. The wireless industry generally supports flexible-use spectrum allocations and enhancing spectrum utilization. As such, where the Commission seeks to maintain a public-safety band (as in this proceeding) it should enable access by other compatible systems, like those operated by CII.