

**STATEMENT OF
COMMISSIONER AJIT V. PAI**

Re: Amendment of Part 90 of the Commission's Rules, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, Fourth Report and Order and Fifth Further Notice of Proposed Rulemaking, WP Docket No. 07-100, PS Docket No. 06-229, WT Docket No. 06-150

This is my second opportunity in as many Commission meetings to vote on a proposal to improve the communications capabilities of our Nation's public safety professionals. As I said when we launched the examination of the potential use of Deployable Aerial Communications Architecture during emergencies, actions such as these fulfill our core purpose of "promoting safety of life and property through the use of wire and radio communications." 47 U.S.C. § 151. I once again commend the Public Safety & Homeland Security Bureau for its continued efforts to be responsive to the needs of public safety organizations and the citizens they protect. And I look forward to working with the new Bureau Chief, David Turetsky, on this and many other matters in the days to come.

This item focuses on promoting more effective and efficient use of 4.9 GHz spectrum allocated to public safety. It is one of the many necessary and incremental steps in the broader struggle to free up additional spectrum to meet our Nation's ever-growing demand for it.

The 4.9 GHz spectrum band was transferred from Federal Government to non-Federal Government use pursuant to statutory requirements of the Omnibus Budget Reconciliation Act of 1993.¹ It ultimately was designated by the Commission for public safety use in 2002.² At the time, the Commission believed that the allocation and designation would provide public safety with additional spectrum to support new broadband applications.³

However, a decade later, and notwithstanding Commission action in 2009 to further facilitate its use for public safety broadband,⁴ it is obvious that this spectrum remains underutilized. As a result, we are compelled to reevaluate our existing regulatory scheme and seek comment on new approaches to spur robust and efficient use of the band. The Order we adopt today clarifies and corrects certain technical rules and entries in the Public Safety Pool Frequency Table, and I hope it encourages increased use. But these measures should not overshadow the fact that today's 4.9 GHz inquiry is occasioned by the gap between expectations and results.

There are immediate lessons that we should take from this history. First and foremost, we should be reminded that even with the best intentions, time is not our ally in combating a spectrum shortage. It can take many years to bring spectrum into the marketplace. Thus, we should not – and, given increasing demand, cannot – focus solely on long-term solutions to the exclusion of short-term opportunities. To be sure, I will continue to press for the prompt implementation of the incentive auction authority Congress recently granted us. And I will continue to urge the federal government to accelerate its efforts to free up as much additional spectrum as is feasible. But I also believe we must not neglect viable, immediate options on spectrum policy. In particular, the Commission must quickly review secondary-market transactions that will put spectrum in the hands of those who will put it to higher-value use. Right now,

¹ Pub. L. 103-66, 107 Stat. 312 (1993). *See also* The 4.9 GHz Band Transferred from Federal Government Use, WT Docket No. 00-32, *Second Report and Order and Further Notice of Proposed Rulemaking*, 17 FCC Rcd 3955, 3956 (2002) (*Second Report and Order*).

² *See Second Report and Order*, 17 FCC Rcd at 3956.

³ *Id.*

⁴ *See* Amendment of Part 90 of the Commission's Rules, WP Docket No. 07-100, *Report and Order and Further Notice of Proposed Rulemaking*, 24 FCC Rcd 4298 (2009).

many of these transactions take too long for the Commission to review. We also must be vigilant in our efforts to ensure that our rules remain current in the face of rapid technological innovation.

Today's Notice of Proposed Rulemaking illustrates how we can update our rules to realize the benefits of current technology and remove barriers to the efficient use of spectrum. Among other things, we seek comment on adjustments to the existing 4.9 GHz technical rules that may result in increased spectrum efficiency and throughput while maintaining safeguards to avoid interference. We solicit views on our tentative conclusion that expanding eligibility for commercial use on a secondary basis would incent investment and promote greater use of the band. We inquire whether critical infrastructure industry entities should be eligible to hold 4.9 GHz licenses on a primary basis, thus removing the requirement for a sharing agreement under the current rules. We explore alternative licensing schemes as yet another way to expand use of the band. Finally, we examine whether we should lift the general prohibition on aeronautical mobile operations in the band and permit such operation on a secondary, non-interference basis to 4.9 GHz terrestrial services subject to certain conditions and requirements.

I look forward to reviewing a robust record on these and other issues raised in the NPRM. After too long a journey, it is my hope that this proceeding will put us on a path that will enable more efficient use of this spectrum for the benefit of all Americans.