

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL,
DISSENTING**

Re: *Amendment of Part 90 of the Commission's Rules*, WP Docket No. 07-100

This decision is unfortunate. It is not the right way forward for the 4.9 GHz band. It is a slapdash effort to try to foster use of this spectrum by giving states the right to divert public safety communications in exchange for revenue. This approach has virtually no support in the record. However, it does have opposition from a wide range of stakeholders from wireless carriers to public safety officials.

What makes such a diverse crew unite in opposition? Well, it takes a little background to understand. At its core, this proceeding involving the 4.9 GHz band features an all-too-frequent dilemma in modern spectrum policy. We have airwaves that are the subject of older allocation and arguments about underutilization. At the same time, we have newcomers looking for new ways to put them into operation.

So it is here, where for nearly two decades, 90,000 public safety entities have been eligible to obtain licenses in the 4.9 GHz band. However, relatively few have done so. That's because there is a limited vendor ecosystem supporting this band, so it is hard to acquire equipment and costly to deploy it. As a result, for the past few years the Federal Communications Commission has sought comment on how to help public safety make use of these airwaves and what more can be done to encourage a robust market for equipment.

So far, so good. But now fast forward to the present. In this decision we abandon this course and decide that these airwaves no longer need to support public safety. We clear the way to kick first responders off this spectrum and then cede this agency's authority over the band to state licensees who will be empowered to lease these airwaves to third parties to generate revenue. This adds up to a reduction in public safety communications with a more fragmented market for equipment and a 5G future with a whole bunch of the same problems we had with leases in the 2.5 GHz band that—remember—we went to great efforts to dismantle in the not-too-distant past.

What a mess. It doesn't have to be this way. There's a reason so many entities have come together to oppose this reorganization of the 4.9 GHz band. If you're keeping score, that includes: the Public Safety Spectrum Alliance, the Public Safety Broadband Technology Association, APCO International, the International Association of Chiefs of Police, the Major Cities Chiefs Association, the Major County Sheriffs of America, the Metropolitan Fire Chiefs Association, the National Association of Emergency Medical Technicians, the National Association of State EMS Officials, the National Public Safety Telecommunications Council, the National Sheriff's Association, and the Western Fire Chiefs Association, among others.

They are on to something. Today's effort to remake the 4.9 GHz band misses the mark. In fact, there are three things fundamentally wrong with the leasing framework the agency adopts today.

First, today's decision threatens to do long-term damage to public safety communications. That's a shame because it's never been more apparent how much communications matters for first responders. Right now, they are on call for assistance for a devastating pandemic, raging wildfires, seasonal hurricanes, and more. By breaking up this band into a patchwork of state leases, we will further fragment the equipment market, raise costs, and decrease the likelihood of interoperable communications. That's

not good. For two decades—since 9/11—it has been government policy to increase opportunities for interoperability for first responders. That’s because on that fateful day when emergency personnel from all over came together to help they couldn’t communicate with one another because each jurisdiction had its own communications protocols. We have had twenty years of work to remedy this problem. It is unfortunate that today’s decision not only reverses this trend—it could set us back.

Second, today’s decision borrows stale leasing policies from the past that make it harder for reform in the future. The nearby 2.5 GHz band offers a cautionary tale. Nearly six decades ago, the FCC allocated the 2.5 GHz band for educational use. But many licensees had difficulty making full use of their spectrum. So over time the FCC permitted educational licensees to lease excess capacity for commercial use. Sound familiar? Over time, more than 90 percent of the available spectrum was leased for commercial use. Many licensees began using this spectrum as proxy for revenue instead of a resource for education. The original public purpose behind the allocation was lost. There’s no reason to think states won’t do the same here and override public safety investments made at county and local levels in the process. And there’s no reason to think that the same policies that failed to fix the 2.5 GHz band will magically fix the 4.9 GHz band.

Third, today’s decision will not encourage new investment in the band. This approach will only fragment these airwaves on a state-by-state basis. There will be no consistent and reliable information about what spectrum is available where or how it is being used—making it difficult for wireless service providers to plan or invest in deployments.

Taken together, these problems demonstrate that this framework is not an especially thoughtful solution for optimizing the 4.9 GHz band. This is regrettable. I dissent.