

**STATEMENT OF  
COMMISSIONER ROBERT M. McDOWELL**

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*, WP Docket No. 07-100, PS Docket No. 06-229, WT Docket No. 06-150, Fourth Report and Order and Fifth Further Notice of Proposed Rulemaking (June 13, 2012)

Fortunately or unfortunately, today's order and notice is an excellent example of what happens when policymakers, sometimes with the best of intentions, over-engineer spectrum allotments. I applaud Chairman Genachowski for attempting to right the ship to take us on a new course, and I am therefore pleased to support today's action.

To appreciate our action today, it is important to understand some of the historical context surrounding how we arrived here. Back in 2000, the Commission proposed to allocate the 4.9 GHz Band under Part 27 of the rules for fixed and mobile services with licenses assigned by competitive bidding.<sup>1</sup> At that time, the Commission specifically rejected the suggestion that the spectrum be set aside for public safety because Congress had recently allotted 24 megahertz in the 700 MHz Band for exclusive public safety use.<sup>2</sup>

In 2002, however, the Commission allocated the band for exclusive mobile use by public safety entities<sup>3</sup> after hearing from "numerous state, county and local government and national public safety organizations representing a diverse group of critical public safety activities – law enforcement, fire fighting, SWAT/tactical team and bomb squad, hazardous materials handling, railroad passenger rescue and emergency medical operations."<sup>4</sup> These entities "argued persuasively" that a public safety designation in the band would "enable responders to carry out critical and urgent missions in a way that ensures more effective and efficient service to their communities and provide a safer environment for emergency responders."<sup>5</sup> They also explained that the band "could be used for short-range broadband wide area local networks ... for different operations at different locations in the same city, thus multiplying its utilization."<sup>6</sup> Finally, they "consistently state[d] ... that the spectrum [would] be used primarily in emergency situations, and they need[ed] dedicated spectrum that [would] be reliably available *without delay*."<sup>7</sup>

So here we are ten years later. The Commission's staff informs us that only about 2,400 of the approximately 87,500 local governmental jurisdictions in the U.S. hold licenses in the 4.9 GHz Band. And, over the course of my tenure, many public safety representatives have suggested to me that this band is not suitable for advanced broadband communications they most need. In the meantime, I can't help but

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<sup>1</sup> *The 4.9 GHz Band Transferred from Federal Government Use*, WT Docket No. 00-32, Notice of Proposed Rulemaking, 15 FCC Rcd 4778, 4786 ¶ 16 (2000).

<sup>2</sup> *Id.* at 4789-90 ¶¶ 25-26.

<sup>3</sup> *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, 3955, 3960-62 ¶¶ 8-11 (2002).

<sup>4</sup> *Id.* at 3966-67 ¶ 23.

<sup>5</sup> *Id.* ¶ 23.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 3969 ¶ 28 (emphasis added).

imagine what may have been had this spectrum been auctioned in 2002. There's no telling what kinds of innovative services may have developed in this band. We'll never know what could have been, but now we have an opportunity to make new dreams a reality.

Whatever the reason for the band's woeful underutilization, the good news is that today we are starting anew and seeking comment on fresh ideas for maximizing the utility of the 4.9 GHz Band. I look forward to engaging with my colleagues and interested parties and I hope that we will proceed mindful of the years we've lost. I am eager to put this spectrum into the hands of America's wireless consumers as quickly as possible.

Thank you to David Furth and the entire team in the Public Safety and Homeland Security Bureau for your thoughtful work on this matter.