

**STATEMENT OF
CHAIRMAN AJIT PAI**

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

In 2015, a report from a Task Force of the Association of Public-Safety Communications Officials noted, “[t]he 4.9 GHz band represents a valuable, though currently underutilized, resource.” This situation came to pass because of significant problems with the regulatory framework for the band. The Commission’s rules siloed this spectrum, which led to a limited amount of niche, expensive equipment available for use in the band. The story of the 4.9 GHz band became one of spectrum haves—primarily in large cities such as New York City, Los Angeles, and Seattle—and have nots—namely, the 96.5% of potential licensees that have not obtained licenses for 4.9 GHz spectrum, particularly the smaller and rural jurisdictions that cannot afford to deploy in the band.

Half a decade later, this unacceptable state of affairs persists. The 4.9 GHz band remains valuable spectrum—and it remains underused and in regulatory limbo. To maximize the value of this public resource for the American people, today we revise our rules by empowering eligible states to put the 4.9 GHz band to its highest and best uses. We will harness the power of our *Secondary Markets* framework to create leasing opportunities for statewide entities in states that do not divert 911 fees for non-911 purposes. Under our new approach, we will allow a single state government entity to lease covered spectrum in this band while maintaining and protecting incumbent public safety licensees’ operations. We recognize the simple truth that what works for New York City may not make sense in rural West Virginia; therefore, we give lessors the right to choose what is best for citizens of their state: They can enter into leases with public safety and non-public safety entities alike. If an eligible state wants to lease its spectrum to FirstNet for use in its Nationwide Public Safety Broadband Network, it can do so. If it wants to lease the spectrum to a commercial entity to use for deploying a dedicated public safety broadband network, it can do that. If the state wants to lease spectrum in less densely populated areas to a wireless Internet service provider, an electric utility, or another critical infrastructure industry (or a mix of all three) and retain the spectrum in more densely populated areas, it can do that too.

This last point bears emphasizing. Utilities and critical infrastructure industry entities have argued that opening this band to them would not only help them fulfill their public service obligations but also help to develop a broader equipment ecosystem that will help current public safety licensees and address one of the primary problems facing the band. Moreover, some of the equipment WISPs use today to provide fixed wireless service in the U-NII bands may be easily tunable to 4.9 GHz band frequencies, allowing these providers to quickly deploy inexpensive, commercial-off-the-shelf equipment to rural and unserved areas to help bridge the digital divide. In fact, some public safety entities have indicated that they already use unlicensed equipment operating in the neighboring 5 GHz band because that equipment is so much less expensive than current 4.9 GHz band equipment.

The approach we adopt today may not be perfect. But it’s better than any of the alternatives that have been proposed. And one thing we know for sure is that regulatory inertia is not the best option. The 4.9 GHz band is well-suited to meet the nation’s growing demand for mid-band spectrum, and this Commission will not stand idly by and let this spectrum continue to largely lie fallow. Leasing arrangements will create significant opportunities for commercial access while protecting incumbent public safety operations and generating substantial potential revenues that states can use to strengthen public safety services. Our flexible, forward-thinking framework represents the most viable path for making this public resource an actual resource for the public. And I’m pleased that this approach is supported by forward-thinking groups that believe this spectrum should be put to its highest and best use—groups that span the political spectrum like New America’s Open Technology Institute, the Taxpayer Protection Alliance, the Washington Policy Center, and the Pelican Center for Technology and Innovation.

My thanks to the staff who worked on this item. From the Wireless Telecommunications Bureau: Lloyd Coward, Nellie Foosaner, Jessica Greffenius, Jonathan Markman, Charles Mathias, Roger Noel, Dana Shaffer, Donald Stockdale, and Becky Tangren; from the Public Safety and Homeland Security Bureau: Thomas Eng, Lisa Fowlkes, David Furth, Renee Roland, Tracy Simmons, and Michael Wilhelm; from the Enforcement Bureau: Shannon Lipp, Jeremy Marcus, Adam Suppes, Raphael Sznajder, and Ashley Tyson; from the Office of Economics and Analytics: Jonathan Campbell, Patrick DeGraba, Alex Espinoza, Paul Lafontaine, Catherine Matraves, Giulia McHenry, Michelle Schaefer, and Emily Talaga; from the Office of General Counsel: Deborah Broderon, David Horowitz, Doug Klein, and Bill Richardson; and from the Office of Communications Business Opportunities: Chana Wilkerson.