

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Amendment of Part 90 of the Commission’s Rules	)	WP Docket No. 07-100
	)	
Modernization of Part 90 of the Commission’s	)	RM-12002
Rules For Next Generation Operations	)	

**REPLY COMMENTS OF THE ASSOCIATION OF PUBLIC-SAFETY  
COMMUNICATIONS OFFICIALS INTERNATIONAL, INC.**

I. Introduction

The Association of Public-Safety Communications Officials, International (“APCO”) provides these reply comments on APCO’s petition<sup>1</sup> to revise Section 90.1215 of the Commission’s rules to permit 5G macrocell deployments in the 4940-4990 MHz band (the “4.9 GHz Band”).

APCO appreciates the overwhelming support in the record for the Petition.<sup>2</sup> Fujitsu Networks Communications, Inc., for example, notes that the Petition’s proposed changes are “a necessary and important step towards modernizing public safety communications,”<sup>3</sup> while Ericsson states that the changes would “enable efficient, scalable, and interference-managed 5G

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<sup>1</sup> Petition of The Association of Public-Safety Communications Officials International, Inc. for Rulemaking, WP Docket No. 07-100, RM-12002 (filed Feb. 4, 2025) (“Petition”).

<sup>2</sup> See, e.g., Comments of Fujitsu Network Communications, Inc., WP Docket No. 07-100 (Apr. 24, 2025) (“Fujitsu Comments”); Comments of Ericsson, WP Docket No. 07-100 (Apr. 25, 2025) (“Ericsson Comments”); Comments of AT&T Services, Inc., WP Docket No. 07-100 (Apr. 25, 2025) (“AT&T Comments”); Comments of the Metropolitan Transportation Authority, WP Docket No. 07-100 (Apr. 25, 2025) (“MTA Comments”).

<sup>3</sup> Fujitsu Comments at 2.

operations in the band, while continuing to protect public safety use and fostering greater utilization of this valuable spectrum resource.”<sup>4</sup> The Metropolitan Transportation Authority echoes these sentiments, as it “supports APCO’s efforts to align the 4.9 GHz band rules with parameters necessary for 5G deployments.”<sup>5</sup> And AT&T Services, Inc. calls on the Commission to act on the Petition: “The Commission should act quickly to realize the promise of 5G in 4.9 GHz by advancing APCO’s Petition as soon as possible...to ensure that 5G services can thrive without impacting incumbent users.”<sup>6</sup>

APCO also wishes to respond to issues raised by the Coalition for Emergency Response and Critical Infrastructure (“CERCI”).<sup>7</sup> CERCI’s concerns ignore the 4.9 GHz Band Manager’s crucial role in frequency coordination and protecting incumbent licensees from harmful interference, as further described below. Given the integral role the Band Manager will play in implementing the Commission’s intention to increase utilization of the 4.9 GHz Band, lower equipment costs, and enhance the technologies available to first responders, especially 5G,<sup>8</sup> the Commission should expeditiously begin the process of selecting the Band Manager, in addition to approving the Petition.

## II. The Commission’s Rules Require the Protection of Incumbent Licensees

The Petition builds on the Commission’s efforts in its Eighth R&O, which aims to address the substantial under-utilization of the 4.9 GHz Band and foster innovation by enabling

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<sup>4</sup> Ericsson Comments at 1.

<sup>5</sup> MTA Comments at 2.

<sup>6</sup> AT&T Comments at 2.

<sup>7</sup> Comments of the Coalition for Emergency Response and Critical Infrastructure, WP Docket No. 07-100 (Apr. 25, 2025) (“CERCI Comments”).

<sup>8</sup> Amendment of Part 90 of the Commission’s Rules, WP Docket No. 07-100, Eighth Report and Order, para. 19, FCC 24-114 (rel. Oct. 22, 2024) (“Eighth R&O”).

the integration of the latest technologies, including 5G, as well as lowering equipment costs.<sup>9</sup> To do so, the Eighth R&O provides for a Band Manager, and assigns to that Band Manager a “nationwide overlay license” as the “best mechanism for putting unassigned spectrum to use as quickly and efficiently as possible.”<sup>10</sup> The Petition asks the Commission to work to implement these goals by changing the technical rules governing the 4.9 GHz Band to allow for the deployment of 5G, both with respect to the overlay license as well as for existing licensees. But, to be clear, the Band Manager’s primary responsibility is to protect incumbent licensees from harmful interference.

As described in the Commission’s rules implementing the Eighth R&O, the Band Manager has several responsibilities, the most important of which are “frequency coordination and interference protection for 4.9 GHz band incumbent public safety operations;” “incentivizing the use of the latest commercial available technologies, including 5G;” and “managing a sharing agreement with the First Responder Network Authority.”<sup>11</sup> Importantly, pursuant to any such spectrum sharing agreement with the First Responder Network Authority (“FirstNet”), the Band Manager is “responsible for ensuring that FirstNet’s operations are coordinated with, and do not cause harmful interference to, existing public safety operations in the band.”<sup>12</sup>

CERCI recognizes the role that the Band Manager will serve in protecting incumbent public safety licensees. In its comments on the Petition, CERCI acknowledges this responsibility of the Band Manager: “the Commission determined the best way to do so is through a Band Manager, which as the Commission established will...carry with it [the] important

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<sup>9</sup> Eighth R&O at para. 1.

<sup>10</sup> Eighth R&O at para. 21.

<sup>11</sup> 47 C.F.R. § 90.1217.

<sup>12</sup> Eighth R&O at para. 21.

responsibilities...paramount among them being the obligation to oversee use of the spectrum pursuant to the sharing agreement to ensure that [FNA]’s operations on these frequencies do not interfere with incumbent operations.”<sup>13</sup> Despite this acknowledgement, CERC I argues that the Petition’s proposed 5G technical requirements should not be adopted, on the theory that they will lead to interference for incumbent licensees.

This argument, however, wholly disregards the Band Manager’s vital duty to protect against such interference – a responsibility which is codified in the Commission’s rules:

The 4.9 GHz Band Manager... may allow the First Responder Network Authority, pursuant to a sharing agreement, to construct and operate stations at any geographic site within the Band Manager's licensed area and on any channel for which the Band Manager is licensed...provided such stations do not cause harmful interference to incumbent licensees and otherwise comply with Commission rules and coordination requirements.<sup>14</sup>

Thus, in practice, the Band Manager’s national overlay license cannot facilitate FirstNet’s use of the 4.9 GHz Band if such use causes harmful interference to incumbent licensees. The Petition’s proposal to provide the technical mechanisms for 5G operations in these “white spaces” as well by incumbent licensees would have no bearing on incumbent operations, which the Band Manager must protect from harmful interference.

### III. The Prompt Submission of Granular Technical Information Will Help Protect Incumbent Licensees

In its Seventh Report and Order,<sup>15</sup> the Commission adopted a requirement to collect granular technical information on existing public safety operations in the 4.9 GHz Band, in order to “improve interference protection and give public safety licensees more confidence in the

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<sup>13</sup> CERC I Comments at 7-8 (internal quotations and citations omitted).

<sup>14</sup> 47 C.F.R. § 90.1207(h)(2).

<sup>15</sup> Amendment of Part 90 of the Commission’s Rules, WP Docket No. 07-100, Seventh Report and Order and Ninth Further Notice of Proposed Rulemaking, 38 FCC Rcd 704 (2023) (“Seventh R&O”).

band.”<sup>16</sup> The Commission has also determined that this granular information will “help the Band Manager perform its duties.”<sup>17</sup> Such information must be provided by June 9, 2025.

As described above, the Band Manager is responsible for ensuring that incumbent licensees are protected from harmful interference. In order to effectively carry out this responsibility, however, the Band Manager must have the requisite information – in the form of granular technical data – to determine the precise extent of incumbent operations. Indeed, the Commission recognizes this need in the Eighth R&O: “we emphasize the importance of the collection of granular technical data that the Commission initiated in the Seventh Report and Order as the results will aid the Band Manager in identifying specific frequency usage across all deployments in the band, performing its role as frequency coordinator.”<sup>18</sup> With this information in hand, the Band Manager will be able to ensure that any sharing agreement “does not cause harmful interference to incumbent licensees,” as required under the Commission’s rules. Thus, the prompt collection of this information is crucial to the Band Manager’s efforts – and, in turn, the protection of incumbent licensees.

The Commission should ensure that all such information is provided by June 9, 2025, and should reject requests to delay this deadline.<sup>19</sup> By the same token, the Commission should select

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<sup>16</sup> Eighth R&O at para. 56.

<sup>17</sup> Seventh R&O at para. 33.

<sup>18</sup> Eighth R&O at para. 41.

<sup>19</sup> CERC I makes the specious argument that the Commission should not “add to the burden it has already placed on public safety incumbents with the data collection” because CERC I and others have challenged the Eighth R&O. CERC I Comments at 13. However, given that the U.S. Court of Appeals for the D.C. Circuit rejected two motions seeking a stay of the order and that CERC I did not file a stay motion, the Commission should proceed expeditiously to implement the Eighth R&O, including the data collection requirement. *Public Safety Spectrum Alliance et al v Fed’l Comm’n Comm’n*, Order Denying Motions for Stay (D.C. Cir. 2025).

a Band Manager as quickly as possible. Doing so will ensure that incumbent licensees' technical information is properly analyzed so that their operations can be sufficiently protected.

With accurate technical information and a promptly appointed Band Manager, the Commission's requirements of "frequency coordination and interference protection for 4.9 GHz band incumbent public safety operations"<sup>20</sup> can be achieved rapidly and effectively. The provision of technical information and selection of a Band Manager, however, should not stand in the way of the Commission's approval of the Petition. Rather, these processes should be conducted in parallel, so that the Band Manager can quickly and effectively understand the extent of the use of the 4.9 GHz Band and have rules that permit 5G deployments.

IV. With Accurate Information in Hand, the Band Manager Can Determine the Effective Use of 5G Technologies

As described in the Petition, the proposed amendments to the Part 90 rules provide for "changes to the *maximum* on-channel radiated power, the *maximum* conducted power OOB, and the *maximum* power flux density ("PFD") limits at the service area boundary."<sup>21</sup> CERC characterizes these changes as a "dramatic increase in the power levels in this band."<sup>22</sup> The proposed changes would allow for increased upper-level limits in order to facilitate 5G technologies. But, ultimately, the Band Manager would have responsibility for determining the application of these limits, based on the information it has about incumbent operations. In other words, the Petition's changes provide for technical maximum limits, but any determination of whether and where these maximums could actually be utilized rests with the Band Manager – which can only authorize operations if they do not cause harmful interference for incumbents. In

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<sup>20</sup> 47 C.F.R. § 90.1217.

<sup>21</sup> Petition at 5 (emphasis added).

<sup>22</sup> CERC Comments at 8.

doing so, the Band Manager will fulfill its obligations of both “incentivizing the use of...5G” and “frequency coordination and interference protection for 4.9 GHz band incumbent public safety operations.”<sup>23</sup>

## V. Conclusion

The Eighth R&O already makes clear that the Commission has authorized 5G in the 4.9 GHz Band. Thus, for the reasons described herein, the Commission should expeditiously approve the Petition’s proposed revisions to the technical rules governing the 4.9 GHz Band to incorporate 5G. In order to ensure that updated standards can be included in the 3<sup>rd</sup> Generation Partnership Project’s (“3GPP”) next release (3GPP Rel. 19), which is anticipated in September 2025, there is a need for the Petition’s proposed amendments to be adopted in short order. As the Commission is aware, the timelines for standards processes are long. Delays in revisions to the technical rules governing the band would likely result in a subsequent 12-18 month delay in the deployment of mobile broadband networks, meaning 5G deployment in the 4.9 GHz Band could stretch beyond 2028.

Additionally, the Commission should ensure the prompt provision of technical information regarding incumbent licensees’ use of the band, and should expeditiously select a Band Manager to use such information to fulfill the twin goals of interference protection and incentivizing the use of 5G and other commercially available technologies in the band. Moving forward with these steps while initiating a rulemaking proceeding regarding the Petition’s proposed amendments will expedite the Commission’s objectives of increasing utilization of the

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<sup>23</sup> 47 C.F.R. § 90.1217.

4.9 GHz Band, lowering equipment costs, and providing for enhanced technologies, including 5G, for public safety uses.

Respectfully submitted,  
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