

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
) DA/FCC #FCC 18-33
Amendment of Part 90 of the Commission's) WP Docket No. 07-100
Rules)

Comments from the Public Safety Spectrum Alliance (PSSA)

The Public Safety Spectrum Alliance (PSSA)¹ is an organization sponsored by the Public Safety Broadband Technology Association (PSBTA).² The purpose of the PSSA is “to ensure that first responders nationwide are able to use the most technologically advanced communications capability that meets the difficult, life-threatening challenges they face as they protect America.” The goal of the PSSA is to “raise awareness in the FCC, Congress, and the White House about the needs of our broadband public safety communications, including use of 4.9 GHz and the continued enhancement of FirstNet – the only nationwide, interoperable wireless communications network built for the first responders who protect America.”³

The PSSA has three guiding principles:

- 1) Protect and preserve 4.9 GHz nationwide spectrum for public safety use.
- 2) Assign the 4.9 GHz spectrum to the FirstNet Authority on behalf of public safety.
- 3) The FirstNet Authority would be required to develop a spectrum plan for the 50 MHz of public safety spectrum at 4.9 GHz. This plan would allow for the continued support and protection of existing public safety licensees while also allocating a portion of the spectrum for 5G technologies and potentially integrating it with FirstNet - National Public Safety Broadband Network (NPSBN).

The PSSA was created by a number of original members of the Public Safety Alliance (PSA), which was established in 2009 with the sole purpose of educating the United States (U.S.) Congress, and the U.S. Executive Branch, including the Federal Communications Commission (FCC), to revise the amount of 700 MHz radio spectrum

¹ Public Safety Spectrum Alliance (www.thepssa.org)

² Public Safety Technology Association (www.thepsbra.org)

³ The FirstNet Authority (<https://firstnet.gov>)

assigned to the public safety community. As a result of the PSA's successful efforts, Title VI - Public Safety Communications and Electromagnetic Spectrum Auctions, was included in the Middle Class Tax Relief and Job Creation Act of 2012.⁴ This legislation not only designated the D Block of 700 MHz spectrum to public safety, it created a clear and unwavering framework under which all aspects of managing the public safety spectrum would reside.

The First Responders Network Authority (FirstNet Authority), an independent authority which operates under the auspices of the National Telecommunications and Information Agency (NTIA)⁵ within the Department of Commerce, was tasked with development and sustainment of the nation's only fully designated public safety network, FirstNet (FirstNet Network). Since, as directed in the law, the FirstNet Authority took charge of overseeing the construction, operation, and technological upgrades, the primary mission of the PSA has been met.

Today, the PSSA is essentially implementing a two-pronged approach in attaining the goals stated within its mission and principles: 1) Educate, empower, and activate first responders in charting the course toward a future of unparalleled, interoperable, and failsafe emergency communications, and 2) Parlay that information and perspective directly to the FCC in order to best facilitate sound decision-making on public safety communications matters.

According to the Sixth Further Notice of Proposed Rulemaking⁶ issued by the FCC, consideration is being given to change the originally prescribed use and designation of the 4.9 GHz band (4940-4990 MHz) spectrum from its current assignees, public safety, as granted by the FCC in 2002, to a broader user group. The FCC seems to believe this 50 MHz of broadband spectrum is currently underutilized by those within the public safety community, and that broadening the types of users who might be permitted to share this spectrum would result in an optimized use model.

The PSSA strongly disagrees with this assessment. As the FCC considers reallocating this critical public safety 4.9 GHz spectrum based on its current status, it must take into account the future use of that spectrum as new technologies are being deployed. The PSSA raises the following points in support of our position regarding the 4.9 GHz spectrum:

- 1) The launch of the 4.9 GHz spectrum to the public safety community did not initially afford accurate use data collection.
 - a. Original licensure requirements did not call for any form of frequency coordination, but was based solely on geographical constructs, not device use. Thus, it is impossible to ascertain the true number of devices using this portion of the spectrum by reviewing data in the FCC's own Universal License Database.

⁴ (US Congress 2012) Middle Class Tax Relief and Job Creation Act of 2012
(<https://www.congress.gov/112/plaws/publ96/PLAW-112publ96.pdf>)

⁵ <https://www.ntia.doc.gov/category/public-safety>

⁶ <https://www.fcc.gov/document/fcc-seeks-expand-use-and-investment-49-ghz-band-0>

- b. The FCC later amended rules for the 4.9 GHz spectrum to require those using point-to-point and point-to-multipoint systems to file more complete license applications.
 - c. These new requirements were not well publicized, which resulted in many point-to-point systems being deployed under the older rules that applied to geographic licenses.
 - d. Because the true number of devices in use in the 4.9 GHz public safety spectrum is yet to be accurately determined, the PSSA disputes the FCC's contention that this spectrum is currently realizing light use by the public safety community.
- 2) Equipment capable of being used in the 4.9 GHz band was slow to come to market. It was not until a few years after the FCC granted this spectrum to public safety that actual devices became available,⁷ and even later when vendors began offering point-to-point equipment capable of operating in the 4.9 GHz band. Companies that provide this equipment are ensuring this equipment does not find its way into non-public safety use since most vendors require a copy of a valid 4.9 GHz FCC license to accompany any purchase of this equipment.
- 3) There is significant demand for nationwide use across the 4.9 GHz spectrum. However, due to the uncertainty of the spectrum's future, messaged through the FCC's continued use-study notifications and the number of Notices of Proposed Rulemaking⁸ (NPRM) issued over the past few years (six to date), the 4.9 GHz band is considered to be in limbo and, therefore, an unreliable place to invest. Public safety agencies wanting to use the spectrum do not feel confident with spending precious taxpayer dollars on a potential moving target. The opposite could be said for the response to the FirstNet Network.
- 4) The FCC is aware that the construction and operation of the FirstNet Network is at least a year ahead of schedule and to date, the FirstNet Authority has met every obligation of the statutory requirements without fail.
- 5) Findings from the Government Accountability Office⁹ (GAO) and testimony from Congressional Hearings¹⁰ have clearly demonstrated the FirstNet Authority's proficiency in meeting or surpassing expectations.

⁷ First certified radio equipment for the 4.9 GHz band was released in September of 2004
<https://www.businesswire.com/news/home/20040901005207/en/YDI-Wireless-Introduces-FCC-Certified-4.9-GHz-Radio>

⁸ NPRM count for 4.9 GHz

⁹ GAO <https://www.gao.gov/products/GAO-17-569>

¹⁰ Congressional Hearings <https://firstnet.gov/newsroom/blog/firstnet-authority-highlights-connecting-communities-annual-report-congress>

- 6) The FirstNet Authority has, by all means of measure, faithfully executed the establishment and operation of one of the largest private/public partnerships ever attempted in the United States.¹¹

We would also like to point out the FCC goals, as described in the Sixth Further Notice of Proposed Rulemaking, are as follows:

- (a) to support the needs of public safety while opening the band to other compatible uses, (b) to maximize spectral efficiency and usage, (c) to promote a common equipment ecosystem that will drive down equipment costs and stimulate investment through economies of scale, (d) to encourage innovation, and (e) to ensure that secondary users do not cause interference to primary users.¹²

The PSSA would like to lend its support in attaining these goals with solutions. We challenge the notion that goal (a) is possible as described further in the FCC document. Irreversibly introducing other users, *compatible* or otherwise, will compromise the integrity and continuity of the spectrum in meeting specific and immutable public safety needs. The FirstNet Authority is a highly functioning independent Federal authority¹³ statutorily regulated by a framework set in place for the benefit of our nation's first responders' broadband interest. To reinvent a strategy for managing spectrum that has been solely designated for the use of the public safety community seems counterintuitive.

In goal (b), the FCC expresses an interest in *optimizing* use of our nation's spectrum. However, in emergency management, *use* is not the only measure of optimization. Oftentimes, first responders have to prepare for extreme scenarios and their responses cannot be left to chance. Since we cannot predict the magnitude of the next emergency any more effectively than we can forecast the rapidly expanding use of technology reliant on ample spectrum, to entrust this spectrum to any entity other than the FirstNet Authority would be inconsistent with previously established practice.

Finally, goals (c), (d) and (e) can also be accomplished through the management within the FirstNet Authority, as they have clearly demonstrated the capacity for all three with the successes of the FirstNet Network.

In light of the aforementioned points, the PSSA believes the spectrum should remain as Part 90 spectrum and for the exclusive use of the public safety community managed through the FirstNet Authority. We respectfully request that the FCC issue a new Notice of Proposed Rulemaking. The new NPRM would stipulate that all 50 MHz of the 4.9 GHz band (4940-4990) would be licensed to the FirstNet Authority for use by the public safety community under Part 90 of the FCC Rules. In working with the public safety community, including The FirstNet Authority Public Safety Advisory Committee (PSAC),¹⁴ assurances can be made that current public safety users are accurately

¹¹ <https://allthingsfirstnet.com/public-safety-advocate-public-private-partnerships/>

¹² <https://www.fcc.gov/document/proposed-further-rulemaking-49-ghz-band>

¹³ <https://www.ntia.doc.gov/category/public-safety>

¹⁴ Public Safety Advisory Committee

[https://firstnet.gov/about/psac#:~:text=Public%20Safety%20Advisory%20Committee%20\(PSAC\),About%20PSACPSAC&text=FirstNet%20established%20the%20PSAC%20in,%2C%20tribal%2C%20and%20local%20](https://firstnet.gov/about/psac#:~:text=Public%20Safety%20Advisory%20Committee%20(PSAC),About%20PSACPSAC&text=FirstNet%20established%20the%20PSAC%20in,%2C%20tribal%2C%20and%20local%20)

identified, and consequently able to continue their operation. Additionally, long-term broadband technology solutions will be evaluated and recommended through the FirstNet Authority to facilitate and coordinate greater use of 4.9 GHz spectrum going forward.

The PSSA is convinced that in order to truly optimize use of the 50 MHz of spectrum known as the 4.9 GHz public safety band, it is critical that it remains in the exclusive stewardship of the public safety community. The most logical pathway to assuring the preservation, and ultimately full utilization of the 4.9 GHz spectrum, is to grant license to The FirstNet Authority, which will provide for the spectrum to follow the current broadband technology trends as they become commercially viable.

There is precedent for the FCC to issue a nationwide license for a range of spectrum. Previously, the FCC twice issued a nationwide license for a nationwide broadband network. The first time was when the original 10 MHz of 700 MHz spectrum was licensed to the Public Safety Spectrum Trust (PSST)¹⁵ in November of 2007. The second time was when the FCC issued the current FCC license to the FirstNet Authority for 20 MHz of 700 MHz spectrum in 2012¹⁶.

The PSSA firmly believe that the 4.9 GHz spectrum must be placed under the purview of the FirstNet Authority and remain exclusively available for public safety broadband services. Members of the PSSA are available to discuss this Comment Filing and to further discuss our position.

[governments.&text=The%20omission%20of%20the%20PSAC,out%20its%20duties%20and%20responsibilities.\)](#)

¹⁵ [Public Safety Spectrum Trust](#), issued FCC license for 10 MHz of 700 MHz spectrum.

¹⁶ <https://www.ntia.doc.gov/press-release/2012/firstnet-praises-fcc-granting-spectrum-license>