

**Communications Committee
Embassy Suites Hotel
2925 Emerywood Parkway
Richmond, Virginia
August 1, 2024
2:00 p.m.**

Members Present:	Members Absent:	OEMS Staff:	Guests:
Sonny Saxton , Chair	Tracey McLaurin , EMS Councils	Devin Chinault	Mary Binford
Gary Tanner , Co-Chair, VA Association of Co.	Lewis Cassada , VA Dept of Emergency Mgmt - Excused	Amber Moore	Randy Ann Davis
Kriste Farley , Secretary, VA APCO	Melissa Meador , Advisory Board - Excused		Kay Patterson
Richard Rubino , Member-at-Large			Rich Troshak
Eric Albert , VML			Joseph Williams
Mike Keefe , Virginia Dept of Emergency Mgmt			Ali Akbar
JC Bolling , Advisory Board, SWVA EMS			Mark Barenklau
Gabe Elias , Virginia SWIC			
Stephen Sutton , VA NENA			

Topic/Subject	Discussion	Recommendations, Action/Follow-up; Responsible Person
I. Call to Order	The meeting called to order by the Chair at 1400 hours.	
II. Committee Chair	<p>Chair welcomes all in attendance and has committee members and attendees introduce themselves.</p> <p>Review/approval of meeting agenda; motion by Gary Tanner, second by Richard R. Minutes are approved at 1404 hours.</p> <p>Review/approval of minutes from May 2, 2024 meeting; motion by Richard, second by Gary. Minutes are approved at 1405 hours.</p> <p>Chair Report (Sonny Saxton):</p> <ul style="list-style-type: none"> - EMS cutbacks – committee becoming more independent - Need to be sure taking action, have momentum, having meetings, making changes - EMD Training Standards to be reviewed for changes 	<p>Agenda approved by the committee</p> <p>Minutes approved by the committee</p> <p>Chair will send out the most recent version of the EMD Training Guidelines and an explanation.</p>
III. OEMS Report	<p>Devin Chinault:</p> <ul style="list-style-type: none"> - No report. <p>Amber Moore:</p> <ul style="list-style-type: none"> - Welcomed Steve Sutton the new VA NENA Representative and announced Melissa Meador was excused but a new Advisory Board Representative 	

Topic/Subject	Discussion	Recommendations, Action/Follow-up; Responsible Person
	<p>Amber Moore, Continued:</p> <ul style="list-style-type: none"> - To JC: requesting EMD implementation remains a priority for RSAF due to the suspension of RSAF for two cycles that pushed back some localities getting EMD implementation; reminded the group that EMD training is now required for PSAPs as of July 1, 2024 per code. JC advised it was already decided what was priority, however he encourages localities to apply for EMD through RSAF. - <u>EMD Accreditation (EMDA) Report</u>: 31 total PSAPs are OEMS EMD Accredited; Winchester and Tazewell became re-accredited, and Loudoun County became accredited again. Certificate awarded to Tazewell County during the meeting. - <u>EMD Status Report</u>: 11 PSAPs are without EMD implementation; 4 have completed training and awaiting implementation, 3 are RSAF grants from Spring 2023 still working on their process, and 1 has no plan/contact about their status; remaining are secondary/have MOU. - <u>Training</u>: See below in new business - <u>VA Fire Chief Association</u>: OEMS will be presenting classes at the February conference in addition to setting up a Communications Center to support VDFP and VFCA during the conference. 	
<p>IV Member Reports</p>	<p>APCO (Kristina Farley):</p> <ul style="list-style-type: none"> - No report. <p>NENA (Stephen Sutton)</p> <ul style="list-style-type: none"> - Spring Conference Recap in Williamsburg <ul style="list-style-type: none"> o Successful golf tournament and a lot of great reviews from classes and overall conference. o Contract secured with Williamsburg hotel for two more years. o Tentative dates for next year: May 20 (golf tournament), May 21 (pre-conference), May 22-23 (main conference). o Exciting plans for new speakers next year already in the works. - George Thomas ENP Scholarships Available <ul style="list-style-type: none"> o NENA offers scholarships reimbursable upon passing the test. - Support for APCO Conference in Roanoke (If not mentioned by APCO) <ul style="list-style-type: none"> o Primary hotel fully booked, with backup options and waitlist due to high demand. Contact Mary Binford and Sheila Ragan for waitlist. - Website Volunteer Needed <ul style="list-style-type: none"> o Seeking member assistance to update NENA’s website. o Interested individuals should contact President Judson Smith. - Legislative Updates from NENA/APCO Committee <ul style="list-style-type: none"> o Committee recommends inviting legislators to visit PSAPs and get under the headset. o Accurate job descriptions reflecting telecommunicators' roles, including technology and training is imperative for the push for enhanced benefits. - <p>Regional EMS Directors Representative (Tracey McLaurin absent)</p> <ul style="list-style-type: none"> - No report per Mark Barenklau 	

Topic/Subject	Discussion	Recommendations, Action/Follow-up; Responsible Person
	<p>VDEM – Statewide Interoperability Coordinator (Gabe Elias)</p> <ul style="list-style-type: none"> - GAB AirMed Committee report out – a lot of about UAS; communications remains a challenge; mixed system in place - FirstNet PTT project in progress: if agencies are exploring, reach out - Rural Emergency Medical Communications Demo Program: Bath and Highland counties, due by 8/9 but if any known agencies are pursuing, let Gabe know for support efforts - Next SIEC meeting is 10/29/2024 in Roanoke, might be a virtual meeting in-between - USFS (USDA Agency) discussion on permission to use most NIFOG national calling, tac channels, permission to program; let SWIC/Gabe know if any issues or barriers with Federal agencies interoperability - COMT/ITSL – new CISA process for less training, awaiting update for scheduling classes - “Between Zero and COML” class will be held at Fall Conference 2024, no pre-requisite for class <p>Virginia Association of Counties (Gary Tanner):</p> <ul style="list-style-type: none"> - No report <p>Virginia Municipal League (Eric Albert):</p> <ul style="list-style-type: none"> - No report <p>VDEM Communications and UAS Programs (Mike Keefe-Thomas – Technical Resources Branch Chief):</p> <ul style="list-style-type: none"> - No report <p>VDEM 911 and Geospatial (Lewis Cassada excused)</p> <ul style="list-style-type: none"> - Mary Binford reported NG911 deployment update 95 deployed and 29 remaining. See report provided for more details. <p>Member-at-Large (Richard Rubino)</p> <ul style="list-style-type: none"> - Report provided prior to meeting - Mary Binford notes FCC report gives states/localities ability to work on own timelines if they have one; penalties if jurisdiction says ready and isn’t, this is handled through the state <p>Advisory Board Member, Southwest Virginia EMS Council (JC Bolling):</p> <ul style="list-style-type: none"> - No report <p>Advisory Board Member (Melissa Meador):</p> <ul style="list-style-type: none"> - No report 	
<p>V Unfinished Business</p>	<p>PSAP online directory status:</p> <ul style="list-style-type: none"> - Education going out to PSAPs this month. There were some set backs with design of portal and changes, however, ready to move forward - Rich Troshak recognizes the value of the directory and thanks staff for their work in upkeep 	

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	<p>EMD regulations development: <u>Training Standards Draft Comment Update</u></p> <ul style="list-style-type: none"> - Sonny states there are still concerns that need reviewed for changes. He will send out the documents to better prepare for next meeting <p>Fire/EMS/Law emergency communications training standards:</p> <ul style="list-style-type: none"> - No update or changes; awaiting further collaboration with DCJS and VDFP 	
VI New Business	<p>RSAF Grant Update:</p> <ul style="list-style-type: none"> - Fall 2024 cycle is active today (August 1, 2024) until September 15, 2024. <p>Training opportunities for PSAPs:</p> <ul style="list-style-type: none"> - Radio Etiquette has been created at the request of Hospital to Home; however, this will be offered for any and all PSAPs whether taught by OEMS staff or provided the information to teach - Upcoming Training: Orange County (August), Martinsville-Henry (September), Wise (October), Lynchburg (October). There are several other inquiries throughout the state for several PSAP classes. <p>MCI Follow-Up Opportunity:</p> <ul style="list-style-type: none"> - Mecklenburg and Loudoun both had recent MCI's, interoperability was vastly different between both situations. It would be valuable to look at both for lessons learned <p>Planning for next committee meeting:</p> <ul style="list-style-type: none"> - Discussion on if the meeting can be moved; due to fiscal restraints remaining, the meetings will continued to be held at The Embassy with the Governor's Advisory Board schedule. The Committee requests that OEMS considers moving the meeting in the future back to the PSAP conference schedules. 	Next meeting agreed on
VII Public Comment	No Public Comment	
VIII Adjournment	Motion to adjourn by Rubino . Seconded by Steve. Meeting adjourned. Meeting adjourned at 1502 hours.	

Gabe Elias, Statewide Interoperability Coordinator

- GOV EMS Advisory Board: AirMed Cmte report out - lots about UAS - Comms remains challenge - mixed system
- Seeking friends: FirstNet PTT project in progress
 - If agencies exploring, reach out
- REMCDP - rural emrg med comm demo prog - Bath/Highland - Due 8/9 but if any of you or agencies pursuing let know - support!
- Next SIEC 29 Oct Roanoke but maybe virtual in between
- SWIC letter to USFS re. USFS (USDA agency) permission to use most NIFOG national calling, tactical channels (Example: VCALL10). USDA indicated they couldn't program without permission. Let SWIC know if any issues/barriers with Federal agency interoperability
- COMT, ITSL - new process CISA less training so no current scheduled
 - Fall Conference 2024 – “Between Zero and COML” – a no-prerequisite overview class

Lewis Cassada, VDEM Public Safety Program Manager

NG9-1-1 Deployment Report

Dashboard : [Virginia Next Generation 9-1-1 Dashboard \(arcgis.com\)](https://arcgis.com)

93 PSAPs deployed

31 PSAPs remaining

5 PSAP's have firm deployment dates in Q3 -2024

July – Giles & Westmoreland

August – Hampton & Eastern Shore

September – Northumberland

6 PSAP's have tentative dates in Q3 – 2024

Bland, Dickenson, Norton, Petersburg, Twin, Waynesboro

Stephen Sutton, Virginia NENA

Topics for report out, more information at meeting:

1. 2024 Virginia NENA/APCO Spring Conference
2. Opportunity for ENP Scholarships
3. Call for Website Volunteer
4. NENA/APCO Legislative Committee Reminders

FCC Regulatory Report

August 1, 2024

Richard Rubino

Supreme Court Ruling Strips Power from Federal Agencies

In a major ruling on Friday, the Supreme Court cut back sharply on the power of federal agencies to interpret the laws they administer and ruled that courts should rely on their own interpretation of ambiguous laws. The decision will likely have far-reaching effects that impact the FCC and major telecom policy initiatives, as well as a variety of other federal agencies regulating everything from environmental protection to healthcare costs.

By a vote of 6-3, the justices overruled their landmark 1984 decision in *Chevron v. Natural Resources Defense Council*, which gave rise to the doctrine known as the *Chevron* doctrine. Under that doctrine, if Congress has not directly addressed the question at the center of a dispute, a court was required to uphold the agency's interpretation of the statute as long as it was reasonable, as a form of deference to the agency's presumed expertise. But in a 35-page ruling by Chief Justice John Roberts, the justices rejected that doctrine, calling it "fundamentally misguided."

Loper Bright Enterprises v. Raimondo and *Relentless v. Chamber of Commerce* were two linked disputes, both brought by herring fishermen who opposed a federal policy requiring them to pay \$700 per day to carry federal monitors on their vessels. The justices took up their appeals last fall, agreeing to address only the *Chevron* question.

With elimination of the 40-year-old *Chevron* doctrine, all federal agencies will have their power to regulate significantly restrained. This is a seismic change for the federal government and a monumental win for groups that oppose federal regulations. In the FCC's case, courts will no longer be compelled to defer to the FCC's "reasonable interpretation" of the Communications Act when reviewing the lawfulness of the agency's actions, making it easier to block ambitious regulations.

Writing for the majority, Justice Roberts said that "agencies have no special competence" and that judges should determine the meaning of federal laws.

Justice Elena Kagan dissented, in an opinion joined by Justices Sonia Sotomayor and Ketanji Brown Jackson. Kagan predicted that Friday's ruling "will cause a massive shock to the legal system."

The Supreme Court has narrowed the scope of *Chevron* deference over the years, holding that only the agency interpretations reached through formal proceedings with the force of law, such as adjudications, or notice-and-comment rulemaking, qualify for *Chevron* deference, while those contained in opinion letters, policy statements, agency manuals, or other formats that do not carry the force of law and are not warranted a *Chevron* deference.

The Court's ruling is certain to breathe life into legal challenges over controversial programs that haven't been expressly mandated by Congress (e.g., net neutrality) and will likely spark new challenges of programs that are viewed as regulatory overreach. The FCC's "expert opinion"

and subject matter expertise will no longer be the end of the question, and judges will be able to come to their own conclusions about the agency's interpretation of the Communications Act.

FCC Enters into \$30,000 Consent Decree for Unauthorized Assignments or Transfers of Private Wireless Licenses

The FCC has entered into a consent decree with Alstom Transport Holding US Inc., a wholly-owned subsidiary of Alstom SA (collectively, Alstom") with the respect to the unauthorized transfer of nine private wireless licenses as part of its acquisition of Bombardier, Inc. and its wholly-owned subsidiaries. The transaction was consummated on January 29, 2021 and applications requesting after-the-fact FCC consent to the transactions were filed on February 10, 2022. That Alstom did not receive the required prior FCC consent prior to closing is not in question. Prior FCC approval is required for any license sales or acquisitions, and acquisitions of entities holding FCC licenses, ahead of the closing of such transactions.

In addition to the \$30,000 civil penalty, Alstom will be required to enter into a compliance program and make periodic reports to the FCC. This case demonstrates that the FCC is getting serious about ensuring that licensees obtain prior authorization before completing transactions.

FCC Expedites Transition to Next Generation 911; CCA Concerned about Implementation Timelines

The FCC last week adopted rules to expedite the transition to Next Generation 911 (a.k.a., NG911) and to support the deployment of advanced 911 capabilities – including video, text and data – that will help first responders to save lives. The new rules create defaults and timelines around some of the sticking points that have held up the transition, including cost allocation and traffic delivery.

The *NG911 Report and Order* (FCC 24-78) will require wireline providers, Commercial Mobile Radio Service (CMRS) providers, covered text providers, providers of interconnected Voice over Internet Protocol (VoIP) services, and providers of Internet-based Telecommunications Relay Service (Internet-based TRS) (collectively "originating service providers" or "OSPs") to take actions to start or continue the transition to NG911 in coordination with 911 Authorities. According to the FCC, people in need of emergency assistance make more than 200 million calls to 911 each year in the United States. State and local 911 authorities are currently in the process of transitioning to NG911 by replacing legacy 911 technology with Internet Protocol (IP)-based infrastructure that will support new 911 capabilities and improve 911 interoperability, security, and system resilience. Completing the NG911 transition also requires originating service providers to format 911 calls to be compatible with NG911 and to deliver the calls to new destination points on IP networks as established by 911 authorities.

Similar to the E911 regulatory framework, the NG911 regulatory framework involve a two-phased approach with each phase initiated by a 911 Authority submitting a valid request to OSPs within their jurisdiction:

- **Phase 1:** Within six months of receiving a valid Phase 1 request from a 911 Authority (or within 12 months for non-nationwide CMRS providers and internet-based TRS providers), an OSP must commence delivery of 911 traffic in IP-based Session Initiation

Protocol (SIP) format to one or more in-state NG911 Delivery Points designated by the 911 Authority.

Phase 1 is intended to enable 911 Authorities to deploy Emergency Services IP Networks (ESInets) in a cost-effective manner by selecting convenient delivery points to receive 911 traffic. It will also improve 911 reliability by using an IP-based format, rather than circuit-switched TDM-based format, to deliver 911 traffic and establish the transmission platforms necessary for upgrading to Phase 2.

- **Phase 2:** Within six months after the latest of (1) the 911 Authority's Phase 2 valid request; or (2) the date when the OSP is required to comply with Phase 1 requirements, or when it does comply with those requirements (whichever is earlier) non-rural wireline providers, nationwide CMRS providers, covered text providers and interconnected VoIP providers must commence delivery of 911 traffic to the designated in-state NG911 Delivery Point(s) in an IP-based SIP format that complies with NG911 commonly accepted standards identified by the 911 Authority, including having location information embedded in the call signaling. **RLECs, non-nationwide CMRS providers and Internet-based TRS providers will have 12 months from these same triggers to comply with Phase 2 requirements.**

In Phase 2, OSPs must install and put into operation all equipment, software applications, and other infrastructure, or acquire all services, necessary to use a Location Information Server (LIS) or its functional equivalent for the verification of its customer location information and records.

"We take these steps because what comes next with next-generation 911 is big," said FCC Chairwoman Jessica Rosenworcel in a signing statement. "It will provide improved support for voice, text, data, and video communications. It will mean more redundancy to protect against outages. For those who call, it will mean the opportunity to provide real-time video of the emergency. It will mean the ability to provide first responders with instantaneous pictures. It will make it possible to transmit a patient's medical records directly to 911 dispatchers. And for those who take calls in an emergency, all of this data can inform public safety efforts, improving emergency response and saving lives."

As a related matter, the Competitive Carriers Association (CCA) submitted *ex parte* comments on a circulation draft of the *NG911 Report and Order* expressing concern that a 12-month extended implementation time frame may be insufficient for certain smaller providers to fulfill requests from 911 authorities, since many still have TDM in all or parts of their networks. "For example, the work required to install legacy network gateway (LNG) and location information server (LIS) elements is significant and costly, and often requires the use of an outside vendor/partner to perform multiple types of translations for multiple different types of legacy call paths," CCA wrote.

"Another complicating factor is the discretion 911 authorities are given in determining the number of delivery points," CCA added. In the absence of a reasonableness standard, CCA believes this could potentially place significant burdens on providers and make the transition process lengthier and more challenging.

For these and other reasons, CCA urged the Commission to provide non-nationwide CMRS providers at least 18 months to complete each phase of the NG911 transition following a request from a 911 authority, rather than 12 months.

FCC Announces Effective Date of New Wireless Emergency Alert Testing Rules

The FCC's Public Safety and Homeland Security Bureau has announced that new rules for the testing of Wireless Emergency Alerts (WEAs) took effect **July 17, 2024**. Under the rules, which were adopted in 2023 as part of an item intended to increase the accessibility of WEA alerts, the FCC determined that Commercial Mobile Service (CMS) Providers may participate in no more than two Wireless Emergency Alert (WEA) tests per county (or county equivalent) per calendar year that the public receives by default. In addition, the entity conducting tests must:

- Conduct outreach and notify the public before the test that live event codes will be used, but that no emergency is, in fact, occurring;
- To the extent technically feasible, state in the test message that the event is only a test;
- Coordinate the test among Participating CMS Providers, and with state and local emergency authorities, the relevant State Emergency Communications Committee (or Committees, if the test could affect multiple states), and first responder organizations, such as Public Safety Answering Points (PSAPs), police, and fire agencies; and
- Provide in widely accessible formats the notification to the public required that the test is only a test and not a warning about an actual emergency.

Verizon CEO Urges FCC Not to Grant 4.9 GHz Band Windfall to AT&T/FirstNet

In an *ex parte* [filing](#) with the FCC, Verizon voiced strong opposition to the Public Safety Spectrum Alliance (PSSA) proposal that would grant the FirstNet Authority control of the 4.9 GHz band and give AT&T (as FirstNet's network partner) a mid-band spectrum windfall. Verizon CEO and Chairman Hans Vestberg met with FCC Chair Jessica Rosenworcel in late June and said his company, along with "a growing number of law enforcement stakeholders and public safety agencies," opposes the PSSA's proposal to "wrest control of the 4.9 GHz band from local public safety agencies and give it to FirstNet and, in turn, AT&T, which would use the band to provide service to public safety and commercial customers."

By way of background, the FCC is considering how it should manage 4.9 GHz band spectrum for public safety use. Some public safety agencies aligned with the PSSA want the 4.9 GHz band assigned to FirstNet. Others that have organized as the Coalition for Emergency Response and Critical Infrastructure (CERCI) disagree with the PSSA proposal and seek to protect local public safety control of the 4.9 GHz band. Verizon, T-Mobile, USCellular and the Competitive Carriers Association (CCA), along with the National Sheriffs Association, Major Cities Chiefs Association and Edison Electric Institute are among the founding members of CERCI.

"Providing AT&T with access to an additional 50 megahertz of mid-band spectrum valued at over \$14 billion and available for commercial use would result in a substantial windfall,

particularly at a time when the Commission and other policymakers are working to develop a pipeline for mid-band spectrum,” Verizon wrote.

An *ex parte* [filing](#) by AT&T earlier in June took exception to the “windfall” claim, saying the best utilization of the 4.9 GHz band is a public safety issue and not an industry matter.

“Unfortunately, industry stakeholders and groups they back have made concerted efforts to attack the positions taken by those in the public safety community simply because these groups do not want the FNA [FirstNet Authority] to access 4.9 GHz spectrum,” wrote AT&T. “They take this position despite the fact, of which they are well aware, that this spectrum is necessary to address public safety’s growing need for dedicated 5G spectrum and that by providing the FNA with access to it, public safety won’t be left behind.”

Vestberg told Commissioner Rosenworcel that if the FCC chooses to make the 4.9 GHz band available for public safety and commercial wireless use, it must assign this spectrum through an appropriate competitive process (e.g., auction, bidding process, etc.) rather than gifting the spectrum to one commercial provider.

“To be clear, Verizon does not believe that is the best way to serve local public safety needs, but PSSA’s proposed giveaway would harm competition, violate the law, and undermine sound spectrum policy,” Verizon wrote.

FCC Proposes \$367,436 Fine for Illegal Marketing of Equipment, Signals Steeper Fines Against Equipment Makers in General

The FCC has proposed to fine ASUSTeK Computer Inc. and its subsidiaries \$367,436 for marketing a Wi-Fi adapter and a Wi-Fi router in violation of the Commission’s equipment marketing rules. Apparently, ASUSTeK did not obtain the required authority from the FCC before modifying both pieces of equipment to operate in excess of their previously authorized power limits. If true, doing so would be a violation of section 302(b) of the Communications Act of 1934, as amended as well as Rule Sections 2.803(b), 2.1043(a), and 15.407(a)(5) of the Commission’s rules.

In assessing the proposed fine, the FCC noted that radio frequency equipment that is capable of operating at excess power creates a risk of harmful interference to other radio frequency devices, and gives the violator an unfair advantage over manufacturers and marketers who follow the FCC’s rules. In this regard, by circumventing the FCC’s equipment authorization process, marketers of unlawful RF devices could benefit from reduced costs as compared to their competitors that market similar devices that are in compliance with the FCC’s Rules.

The alleged violations in question here are similar to ASUSTeK’s previous violations that were a subject of a 2104 consent decree between ASUSTeK and the FCC. In that consent decree, ASUSTeK admitted to marketing Wi-Fi routers and adapters that were modified to exceed authorized power limits. According to the FCC, the record further indicates that ASUSTeK continued to market the GTAXE Wi-Fi router for more than a year after it became aware that the model was noncompliant with its authorization. As a result, for these and additional reasons the FCC has proposed that ASUSTeK pay a forfeiture of \$367,436 – which is the statutory maximum fine available under the FCC’s existing forfeiture calculation methodology for equipment marketing violations.

The FCC has also raised a generic concern regarding its ability to calculate meaningful fines for equipment violations. In this regard, the FCC stated: “we are concerned that in equipment marketing enforcement cases like this one— with a small number of noncompliant equipment models but a large volume of units sold—our existing “per-model” forfeiture calculation, even with substantial upward adjustments, may fail to yield an appropriate forfeiture amount. Accordingly, in future equipment marketing cases we may change our methodology for calculating forfeitures in a way that better aligns forfeitures with the harms caused by the underlying violations, including, where appropriate, increased forfeitures. Doing so would provide stronger incentives to electronic equipment manufacturers and marketers to comply with the Act and the Commission’s equipment marketing rules.” The message here is two-fold: (a) the FCC is dissatisfied with violations by certain equipment manufacturers and (b) it wants to substantially increase its forfeiture authority for equipment violations in order to have a meaningful deterrent effect on violators who may view FCC consent decrees and fines as merely a cost of doing business in the United States.

FCC Announces July 4 Compliance Date and Instructions for 911 Service Provider Reliability Reporting

The FCC has released a Public Notice announcing the compliance date and instructions for Covered 911 Service Providers (C911SPs) to notify the staff of the Public Safety and Homeland Security Bureau when they cease operations. C911SPs are required to annually file a 911 network reliability certification with the Commission.

Under the FCC’s current process, when a certification from a particular C911SP is not received, the FCC is forced to expend resources in order to contact that provider. In some instances, the failure to file is because the C911SP stopped providing service at some point during the prior year. To avoid that wasteful expenditure of Commission resources, the Commission adopted a rule in the 2022 *911 Reliability Second R&O* requiring C911SPs to notify the FCC within 60 days of the day they cease operations. On November 15, 2023, OMB approved the requirement to collect the cessation information, and on June 4, 2024, the Office of the Federal Register published a notice announcing OMB’s approval of this new collection requirement. As a result, compliance with Rule Section 9.19(d)(4) was required **as of July 4, 2024**. Thus, beginning July 4, 2024, all covered 911 service providers must notify the Commission no later than 60 days after they completely cease operations. All notifications of cessation of operations should be filed with the Bureau staff via email to 911reliabilitycertification@fcc.gov.

Major Wireless Association Warns that Lack of Public Safety Consensus at 4.9 GHz Could Lead to FCC Overlay Auction

An ongoing disagreement among traditional public safety groups and a broader coalition of public safety, critical-infrastructure-industry and telecom entities could nudge the FCC to consider conducting a 4.9 GHz overlay auction, suggested Enterprise Wireless Alliance (EWA) President and CEO Mark Crosby in a recent blog post.

A 4.9 GHz overlay auction could prove significant because commercial auctions of the 4.9 GHz band spectrum may draw significant interest from nationwide wireless providers, and complicate the process of gaining access to this spectrum for public safety support.

Over twenty years ago, the FCC allocated fifty megahertz of spectrum in the 4940-4990 MHz band (4.9 GHz band) for fixed and mobile services and designated this band for use in support of public safety. But with advancements in technology and increased band sharing potential, the FCC wanted to evaluate whether the public safety allocation of 4.9 GHz spectrum was underutilized and should be opened up to other users. It eventually adopted a new leasing framework that granted states the option to lease spectrum access through a single statewide entity designated as the State Lessor to state and local entities—whether public safety or non-public safety—as well as to commercial and other private entities in their jurisdictions. However, this decision would draw heat from certain elements of the public safety community, and the FCC in February of 2023 decided it should set up a nationwide coordinator for the band. The details of setting up this new plan for the 4.9 GHz band have led to this latest dispute.

On one side, the Public Safety Spectrum Alliance (“PSSA”) is an alliance amongst the nation’s leading public safety officials and organizations and is an initiative of the Public Safety Broadband Technology Association. PSSA has proposed that the FCC name the FirstNet Authority as the nationwide coordinator for the 4.9 GHz band; and PSSA urged that FirstNet be awarded a nationwide license for the band. This would give FirstNet (which is exclusively managed by AT&T) the ability to not only supervise use of the band, but also to use the spectrum in connection with its nationwide broadband safety network operating in the 700 MHz band.

“The Commission should assign one, nationwide overlay license to a single Band Manager and adopt rules providing that the overlay licensee engages in a sharing agreement with the FirstNet Authority,” wrote Western Fire Chiefs Executive Director Jeffrey Johnson in an April 2024 *ex parte* filing to the FCC on behalf of the PSSA.

On the other side, a group known as the Coalition for Emergency Response and Critical Infrastructure (CERCI), which has called for retaining local public safety control of the 4.9 GHz band and making more intensive use of the band by leasing access to compatible, non-interfering Critical Infrastructure Industry systems. CERCI’s founding members are the Major Cities Chiefs Association, National Sheriffs Association, Competitive Carriers Association, Edison Electric Institute (EEI), T-Mobile, Verizon, and US Cellular, according to a coalition press release.

CERCI Chair Kenneth Corey—a retired chief of the New York Police Department (NYPD)—believes that local public-safety communications operating in the 4.9 GHz band should be protected.

“As a former first responder, I understand the vital role the 4.9 GHz public-safety spectrum band plays in emergency communications,” Corey said in a prepared statement. “Local public-safety agencies must remain free to make their own decisions about their communications needs and build necessary redundancies to protect the public in the event of emergencies.”

“The 4.9 band should not become a nationwide band licensed to FirstNet as has been proposed,” according to Corey’s statement. “The CERCI is committed to protecting local control of the 4.9 band and, at the same time, working with the FCC to find innovative solutions to promote spectrum efficiency and CII uses that support the public interest.”

In an *ex parte* filing last week, Verizon expressed its support for the CERCI positions in the 4.9 GHz proceeding, and spoke about its own first responder service, Verizon Frontline, that competes with FirstNet. “Verizon Frontline provides first responder customers with priority and preemption. Other wireless providers compete every day in the first responder service marketplace. There is no reason to gift valuable mid-band spectrum to one competitor over others,” the Company wrote.

Verizon urged the FCC to consider a lawful way to assign this spectrum through an appropriate competitive process (*e.g.*, auction) rather than gifting the spectrum to one commercial provider. Were there to be an auction, Verizon says it would support proceeds going to public safety priorities, such as funding NG911. Verizon’s recent *ex parte* letter also cited to a report from the Brattle Group which valued the 50 megahertz of 4.9 GHz spectrum at over \$14 billion.

While the FCC’s auction authority has yet to be renewed after expiring in the Spring of 2023, legislative efforts to reinstate auction authority continue. A public safety community compromise could avoid the possibility of an auction, as could an FCC decision not to pursue the auction suggestion.

City of Woodburn Seeks Waiver to License Four Industrial Business Channels for its Trunked Public Safety System

The FCC is seeking comment on the City of Woodburn, Oregon request for waiver of Rule Section 90.35 to permit the licensing of a new trunked private land mobile radio system using four VHF channels allocated to the Industrial/Business Pool in Marion County, Oregon. The affected frequencies are 158.1300, 157.500, 158.325 and 150.9425 MHz.

Rule Section 90.35(a) limits eligibility for the four VHF frequencies to entities that perform commercial, educational, philanthropic or other business-related activities. Public safety and/or governmental related activities do not fall into these categories, and absent a waiver, Woodburn would not be eligible to license the requested Industrial/Business channels for use in its internal public safety and first responder communications. Woodburn has stated that the four Industrial/Business Pool Service channels are needed “for the development of a . . . Digital Trunking System” which will be part of a “cooperative effort between the City of Woodburn Police, Public Works, Transit Department and the City of Hubbard Police and Public Works.” In addition to these four channels, Woodburn proposes to license eight public safety channels, but states that there are no additional VHF Public Safety Pool channels available in its area for use.

\$100K Fine for Operation Under Expired License and Unauthorized Transfers of Control

On April 15, the FCC announced that it entered into a *Consent Decree* with Mobile Communications America, Inc. (MCA) regarding an investigation into the company’s alleged operation under an expired Part 90 radio license and failure to obtain approval prior to transfer of Part 90 radio licenses. As part of the settlement, MCA agreed to pay a civil penalty of \$100,000.

MCA is a privately held corporation incorporated on August 1, 2013, in the state of Delaware. On February 28, 2021, one of MCA's subsidiaries, Mobile Communications of Hall, LLC (MCH), was dissolved, resulting in the pro forma assignment of two business radio licenses from MCH to MCA. On November 18, 2022, MCA consummated the acquisition of two entities – Communications Electronics, Inc. and Communications Electronics of Virginia, LLC – that resulted in the transfer of six total business radio licenses.

MCA failed to notify the Commission of the 2021 pro forma assignment within 30 days of its completion and failed to obtain prior authorization for the 2022 transfer of control of six business radio licenses. Instead, on September 21, 2023, MCA filed several applications through the Universal Licensing System (ULS) seeking waiver of section 1.948 of the Commission's rules and after-the-fact consent to the transactions.

Additionally, on January 3, 2023, a private business radio license owned by MCA expired. Nevertheless, MCA continued its operations under the expired license. MCA filed an application for special temporary authority (STA) on September 20, 2023. The STA was granted on September 25, 2023, under Call Sign WRYV884.16. That license was canceled on October 16, 2023, after MCA's application for a permanent replacement license was granted.

The Bureau's Investigation revealed that MCA operated a radio license without Commission authorization, transferred control of several radio licenses without prior Commission approval, and completed a pro forma assignment of two radio licenses without providing notice of the transaction. To resolve this matter, the FCC and MCA entered into a *Consent Decree* which included the \$100,000 penalty mentioned earlier. ***This action is significant because many companies using private radio systems (e.g., taxi dispatch, intra-factory communications) do not even realize at the top levels of management that they have FCC licenses. Sloppiness with FCC licensing proved costly in this case.***

FCC Denies Waiver Requests to Operate Travelers' Information Stations with Non-Certified Equipment

The FCC has denied the requests of Waldo County and Lincoln County, Maine (the "Counties") to operate Travelers' Information Station (TIS) equipment that is not certified for use under Part 90 of the FCC's Rules. The TIS, which is operated by state and local governmental entities, operates on certain frequencies in the AM Radio band, such as 530 or 1620 kHz.

The Counties sought a waiver of the FCC's Rules because of the desire to "operate a conventional AM broadcast transmitter – certified for use under FCC Rules Part 73 with a capacity of 500 watts – but operating at 10 watts." The Counties noted that the proposed transmitters are not certified under Rule Section 90.203, since the transmitters greatly exceed the required standards for a TIS transmitter. The Counties stated that they would only operate the station above the allowable 10-watt power limitation if, and only if permitted by a separate Special Temporary Authorization ("STA"). Additionally, the Counties stated that the proposed transmitter could function like a TIS transmitter when operating at 10 watts (which is the power limitation for TIS stations).

In further justification, the Counties stated that there is currently "not sufficient need or sales volume to encourage commercial transmitter manufacturers . . . to obtain certifications for their transmitters for the TIS service." Additionally, the Counties argued that installing a 500-watt

transmitter at the outset would make the power increase for [a] TIS station easier to implement during a major emergency if approved by the FCC via a future grant of STA.

In denying the waiver request, the FCC has found that the Counties did not meet the waiver standard – which requires either a finding (a) that the underlying purpose of the rule would not be served or would be frustrated by application to the instant case (and that a grant would be in the public interest) or (b) in view of unique or unusual factual circumstances, application of the rule would be inequitable or unduly burdensome and contrary to the public interest or that there is no reasonable alternative.

Here, the Commission found that the equipment authorization rules are designed to “ensure . . . that RF devices used in the United States operate effectively without causing harmful interference and otherwise comply with the Commission’s rules” and that although the Counties state that the proposed transmitter can be programmed to operate at 10 watts, the capability has not been verified for TIS operations through the Commission’s equipment certification process. As a result, the Commission determined that allowing the equipment would frustrate the FCC’s equipment authorization rules that are designed to ensure that equipment does not cause harmful interference.

It is also important to note that the TIS is intended to serve a 3 km zone with repetitive traveler information. In limiting the coverage zone, the Commission intended to minimize the potential for TIS to cause harmful interference to broadcast stations. Since the Counties did not include an engineering analysis as part of the waiver request, the Commission was not in a position to verify whether full power operation of the proposed transmitters could cause harmful interference to incumbent AM broadcast stations. As a result, the Commission concluded that the Counties had not demonstrated how a grant of the instant waiver request would not frustrate the underlying purpose of the TIS power limitation.

In connection with the second prong, the FCC found that threats of wild fire and severe weather throughout the year were not unique or unusual circumstances as those very same threats affect many areas of the country. Likewise, the FCC found that the Counties failed to demonstrate that there were no other reasonable alternatives to address its situation. Finally, the Commission disagreed with the Counties’ assertion that a grant was warranted because it would “make a power increase . . . quicker to implement during an emergency.”

OEMS Report

- Membership:
 - o Melissa Meador, advisory board member, has been assigned to the committee, we hope to meet her next meeting
 - o Steve Sutton from Danville is the new NENA representative
 - o OEMS Staff Support – Amber Moore
- THANK YOU to our PSAPs who sent cards during National Telecommunicator Week
- Hospital to Home:
 - o Amber and Devin met with H2H to discuss radio etiquette training and a review of best practices and policies/procedures. They invited OEMS to their NEO to discuss the role of OEMS as a whole
- Accreditation Report: 31 total PSAPs are accredited
 - o Loudoun is newly accredited
 - o Winchester and Tazewell are re-accredited
 - Tazewell presentation of their certificate
 - o Still working on a tiered system, presenting next meeting?
- EMD training:
 - o VDEM approved EMD grants for 3 localities this past spring – however this was special initiative and not a permanent grant for them
 - o 11 without implementation of EMD
 - 4 RSAF grants, spring 2023 still working on their process
 - 3 training completed and awaiting on implementation
 - 1 no plan/contact about their status
- Funding:
 - o To JC, FARC Chair: requesting to keep EMD a priority for localities without initial EMD
- Training:
 - o Orange County & City of Lynchburg: all 3 classes presented
 - Orange has 911 participation from all over the state
 - No FIRE/EMS participation unfortunately
 - Information was sent to EMS Council's, unsure if it was pushed out
 - o Martinsville-Henry & Wise: PSAP class, not yet open to the public
 - o Inquired: Roanoke, REMS council area, RVA area
- VFCA:
 - o Communications support will be provided during the conference in February

OEMS Report

- CERT:
 - Exercise on August 17, 2024 in Chesterfield being supported by OEMS Emergency Operations Division
- Portal/Directory update:
 - Should be out this month, no updates are going to be done that were anticipated
 - <https://vdhems.vdh.virginia.gov/emsapps/f?p=EMSWEB:COMMUNICATIONS>