

**Public Safety Wireless Network**

*Saving Lives and Property Through Improved Interoperability*

July 30, 2001

**RECEIVED**

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
TW-A325  
445 Twelfth Street, SW  
Washington, DC 20554

**Re: Ex Parte Filing, In the Matter of the Reallocation of the 216–220 MHz, 1390–1,395 MHz, 1427–1429 MHz, 1429–1432 MHz, 1432–1435 MHz, 1670–1675 MHz and 2385–2390 MHz Government Transfer Bands, ET Docket No. 00-221**

Dear Ms. Salas:

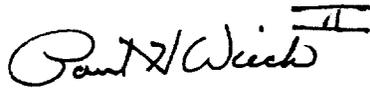
On behalf of the Public Safety Wireless Network (PSWN) Program and pursuant to Section 1.419 of the Commission's rules, 47 C.F.R. § 1.419 (2000), enclosed herewith for filing are an original and four (4) copies of the PSWN Program's ex parte filing, which contains recommendations concerning the proposed reallocation and auction of several government transfer bands, which are currently also used for public safety operations and other valuable services.

The PSWN Program endorses these recommendations, and desires that the Commission include them in its ongoing consideration of the Notice of Proposed Rulemaking on the above-captioned docket, and the comments directed to the Commission by other entities representing participating agencies in the public safety community.

Kindly date-stamp the additional, marked copy of this cover letter and return it in the envelope provided.

Should you require any additional information, please contact the undersigned.

Respectfully submitted,



Brigadier General Paul H. Wieck II  
Iowa Army National Guard  
Chair, PSWN Executive Committee  
Spectrum Working Group



Steven Proctor  
Executive Director,  
Utah Communications Agency Network  
Executive Vice-Chair,  
PSWN Executive Committee

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Before the  
Federal Communications Commission  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Reallocation of the 216–220 MHz, )  
1390–1395 MHz, 1427–1429 MHz, )  
1429–1432 MHz, 1432–1435 MHz, )  
1670–1675 MHz and 2385–2390 MHz )  
Government Transfer Bands )

ET Docket No. 00-221

To: The Commission

**EX PARTE COMMENTS OF THE PUBLIC SAFETY WIRELESS NETWORK (PSWN)**  
**PROGRAM IN RESPONSE TO THE ABOVE REFERENCED NOTICE OF PROPOSED**  
**RULEMAKING**

Filed by: The Public Safety Wireless Network Program

Date: July 30, 2001

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of )  
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Reallocation of the 216–220 MHz, )  
1390–1395 MHz, 1427–1429 MHz, )  
1429–1432 MHz, 1432–1435 MHz, ) ET Docket No. 00-221  
1670–1675 MHz and 2385–2390 MHz )  
Government Transfer Bands )

To: The Commission

**EX PARTE COMMENTS OF THE PUBLIC SAFETY WIRELESS NETWORK (PSWN)  
PROGRAM IN RESPONSE TO THE ABOVE REFERENCED NOTICE OF PROPOSED  
RULEMAKING**

1. The Public Safety Wireless Network (PSWN) Program<sup>1</sup> respectfully submits the following ex parte comments in response to comments filed by other parties regarding the Commission's Notice of Proposed Rulemaking *In the Matter of Reallocation of the 216–220 MHz, 1390–1395 MHz, 1427–1429 MHz, 1429–1432 MHz, 1432–1435 MHz, 1670–1675 MHz and 2385-2390 MHz Government Transfer Bands* (Notice).<sup>2</sup>

2. In its Notice, the Commission directly addresses a number of issues, such as private wireless service providers in the 216–217 megahertz (MHz) band, and the protection of incumbent services from interference<sup>3</sup>, which touch on issues that are of great interest to the PSWN Program. The PSWN Program continues to investigate such wireless communications issues with direct impact on public safety agencies. Through these ex parte comments, the

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<sup>1</sup> The PSWN Program is a federally funded initiative operating on behalf of all local, state, and federal public safety agencies. The Department of Justice and the Department of the Treasury are jointly leading the PSWN Program's efforts to plan and foster interoperability among public safety wireless networks. The PSWN Program is a 10-year initiative that is an effort to ensure that no man, woman, or child loses his or her life because public safety officials cannot talk to one another.

<sup>2</sup> See *In the Matter of Reallocation of the 216–2200 MHz, 1390–1395 MHz, 1427–1429 MHz, 1429–1432 MHz, 1432–1435 MHz, 1670–1675 MHz and 2385-2390 MHz Government Transfer*, ET Docket No. 00-221, FCC 00-395 (rel. November 1, 2000).

<sup>3</sup> As the 216-220 MHz band is to be reallocated on a mixed use basis, SPASUR radar operations will be among the protected services to be accounted for indefinitely. See *The National Telecommunications and Information Administration (NTIA) Spectrum Reallocation Report Response to Title III of the Balanced Budget Act of 1997*, NTIA Special Publication 98-36, February 1998, at page 3-18.

PSWN Program hopes to bring the benefits of its perceptions to the Commission as it decides the matters raised in the Notice.

3. The Omnibus Budget Reconciliation Act of 1993 (“OBRA ‘93”) and the Balanced Budget Act of 1997 (“BBA ‘97”) directed the Secretary of Commerce to provide spectrum previously allocated to the Federal Government for private or commercial development. In accordance with these acts, the National Telecommunications and Information Administration (NTIA) identified 247 MHz of federal spectrum for transfer to non-government use.

4. In particular, the PSWN Program specifically urges the Commission to limit those auctions to only those that are essential to fulfill the congressional intent of the order to sell certain government spectrum to non-government users. In prior decisions, the Commission itself has acknowledged the essential nature of public safety communications, and for that reason, we ask that the outcome of this docket respect the integrity of that use of spectrum. The PSWN Program requests that the Commission resolve any doubts about allocating spectrum in favor of ensuring that mission-critical public safety wireless communications are not subject to any degree of interference at any time.

5. For this reason, we ask that the Commission reaffirm its commitment to providing reliable, interference-free communications on the 216–217 MHz band by limiting the use of this band in the future to low-power devices. As stated in the filing submitted by Electronic Tracking Systems, L.L.C., “[T]here is no way law enforcement tracking can co-exist with high power operations.”<sup>4</sup>

6. The PSWN Program further suggests that the Commission elevate the Low Power Radio Service in the 216–217 MHz band to primary status. It would be patently unfair for new services using this spectrum to have priority of use over incumbent users, especially state and local law enforcement agencies who have been using that band for several years. Suggestions by some commenters that law enforcement services can be easily relocated are inaccurate and will cause additional unnecessary expense for equipment manufacturers and agencies to adapt their operations to transfer to a different frequency. Further, there is no guarantee that spectrum that is appropriate for covert operations and other current uses of this spectrum, will even be available.

7. In addition, the PSWN Program recommends that use of the 216–217 MHz band be

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<sup>4</sup> See *Reply Comments of Electronic Tracking Systems, L.L.C. to NPRM, ET Docket 00-221, April 9, 2001*, at page 3.

limited to applications that would not potentially interfere with the current uses of the band, which, in addition to state and local law enforcement, include assistive listening devices (ALD) for the hearing impaired. This worthwhile capability is in peril if the band is used for high-power operations, such as cellular or paging networks, as was previously recommended by other parties submitting comments to this docket. The PSWN Program also notes that use of ALDs has not been the source of any confirmed interference to public safety operations to date, and that it appears to be fully compatible with current uses of this band by state and local law enforcement. Parties contributing comments to this docket have observed, “The Commission has previously addressed the issue of potential interference to law enforcement tracking. Indeed, the agency determined to dedicate two frequencies exclusively for this purpose in order to minimize ‘the threat of interference from other low power services.’”<sup>5</sup>

8. Also, Datex has offered in its comments to this docket that “a ‘re-purposing’ of the spectrum would frustrate the Commission’s goals regarding the timely delivery of new wireless services to the public and, instead would lead to another protracted administrative delay and force active and successful business plans and technical efforts to be re-written and re-designed based on yet another re-write of the rules.”<sup>6</sup> It should be noted that even some parties who had formerly advocated two-way paging services in that band have since withdrawn their requests, noting that other spectrum is available for such uses and is more suitable for their needs, and that “allocation of the spectrum to another use would be more appropriate.”<sup>7</sup>

9. The PSWN Program also wishes to support the Association of Public-Safety Communications Officials–International, Inc. (APCO) recommendation that the Commission allocate spectrum for real-time kinematic (RTK) survey equipment, a technology that has proven to be valuable in post-disaster infrastructure analysis, “whether here or in some other band.”<sup>8</sup> While cautious in its endorsement of this technology and admitting the clear risk of interference caused by widespread, unlicensed users, APCO recommends that “it would be advantageous for separate channels to be set aside for RTK survey equipment on a nationwide basis.”<sup>9</sup> The PSWN Program concurs with this conclusion.

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<sup>5</sup> *Id.*, at page 3.

<sup>6</sup> See *Reply Comments of Datex Spectrum, L.L.C. to NPRM, ET Docket 00-221, April 9, 2001*, at page 6.

<sup>7</sup> See, e.g., *Mobex Comments to NPRM, ET Docket 00-221, March 8, 2001*, at pages 3, 4 .

<sup>8</sup> See *Comments of APCO to NPRM, ET Docket 00-221, March 8, 2001*, at page3.

<sup>9</sup> *Id.*

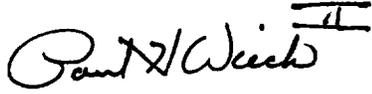
10. Finally, the PSWN Program also supports the Land Mobile Communications Council's (LMCC) recommendation for the establishment of a Land Mobile Communications Service for public safety and private wireless voice and data communications. In its proposal, the LMCC advocates limiting the eligibility for auction of this spectrum to entities that will offer Band Manager services. As noted in its comments, there is already precedent for such a limitation in the 700 MHz band.<sup>10</sup> The LMCC has further recommended the pairing of the 1390–1392 MHz band and the 1427–1429 MHz band for site-specific licensing of private radio services, with licenses awarded based on demonstrated need. This plan would advance the goals of efficiency and flexibility of use in this spectrum. By making a Band Manager responsible for licensing this spectrum, this plan would also promote accountability and reduce the possibility of interference with adjacent users, such as law enforcement personnel and other low power radio services, by both private users and the public safety community. The PSWN Program joins APCO in its endorsement of this suggested use of spectrum for public safety services and urges the Commission to adopt the LMCC's proposal.

11. For these reasons, the PSWN Program urges the Commission to fully consider the opinions provided herein when making policy determinations that will affect the continued use of public safety operations on this band, and ask the Commission to render a decision that is consistent with these recommendations.

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<sup>10</sup> See *Comments of the Land Mobile Communications Council to NPRM, ET Docket 00-221, March 8, 2001*, at pages 4, 5. See also *Comments of APCO to NPRM, ET Docket 00-221, March 8, 2001*, at page 4.

Respectfully submitted,



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Brigadier General Paul H. Wieck II  
Iowa Army National Guard  
Chair, PSWN Executive Committee  
Spectrum Working Group



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Steven Proctor  
Executive Director,  
Utah Communications Agency Network  
Executive Vice-Chair,  
PSWN Executive Committee

Before the  
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Washington, DC 20554

**Certificate of Service**

In the Matter of )  
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1429–1432 MHz, 1432–1435 MHz, ) ET Docket No. 00-221  
1670–1675 MHz and 2385–2390 MHz )  
Government Transfer Bands )

I, Richard N. Allen, Senior Associate, Booz·Allen & Hamilton Inc., 8283 Greensboro Drive, McLean, Virginia, 22102–3838, hereby certify that on this date I caused to be served, by first-class mail, postage prepaid (or by hand where noted) copies of the Public Safety Wireless Network Program’s Ex Parte Comments in response to the Notice of Proposed Rulemaking *In the Matter of Reallocation of the 216–220 MHz, 1390–1395 MHz, 1427–1429 MHz, 1429–1432 MHz, 1432–1435 MHz, 1670–1675 MHz and 2385–2390 MHz Government Transfer Bands*, the original of which is filed herewith and upon the parties identified on the attached service list.

DATED at Fair Oaks, Virginia this 30th day of July, 2001.



Richard N. Allen

## **SERVICE LIST**

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