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February 12, 2007

Via Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: WT Docket Nos. 96-86, 06-150 and 06-169
Ex Parte Notice

Dear Ms. Dortch:

On February 9, 2007, Andrew Rein and the undersigned on behalf of Access Spectrum, LLC, and Cheryl Crate and Kathleen Wallman on behalf of Pegasus Communications Corporation, met with Fred Campbell, Paul D'Ari, Marty Leibman, Cathy Massey, and Jim Schlichting, of the Wireless Telecommunications Bureau. Access Spectrum and Pegasus urged immediate adoption of the Broadband Optimization Plan and also adoption of the Commercial 700 MHz Plan as proposed in the above-referenced proceedings. The enclosed slides were discussed during the course of the meeting.

Pursuant to the Commission's rules, this letter is being submitted for inclusion in the public record in the above-referenced proceedings.

Sincerely,

/s/ Ruth Milkman
Ruth Milkman

cc: Fred Campbell
Paul D'Ari
Marty Leibman
Cathy Massey
Jim Schlichting

Optimizing the Upper 700 MHz Band

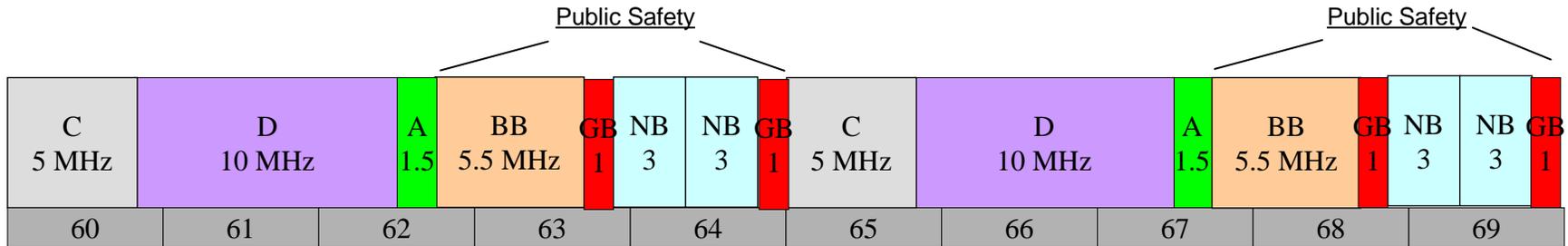
February 2007

Introduction – the 700 MHz band

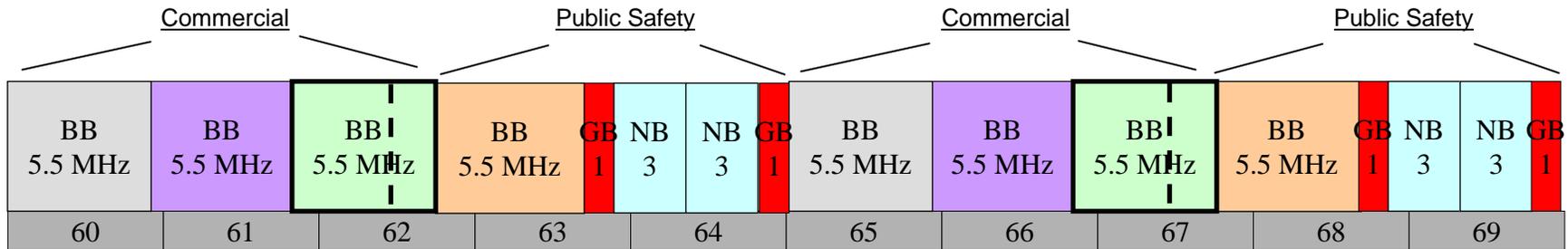
- The manner in which the FCC addresses the 700 MHz band will have a tremendous impact on the future of U.S. broadband development
- The status quo will result in more of the same – no viable broadband for public safety, no “third pipe,” more 3G, failure to maximize opportunities for 4G
- The FCC can rectify this by re-configuring the Upper 700 MHz band to
 - Enhance U.S. broadband development and global leadership by maximizing technology options, usable capacity and spectral efficiency
 - Facilitate the emergence of new entrants by using well-crafted auction rules
 - Leverage commercial network deployments to lower costs for public safety
 - Liberate 6 MHz of under-utilized “guard band” spectrum, thus adding 3 MHz of broadband spectrum to each of the public safety and commercial allocations
- These changes will enable nationwide broadband for public safety, facilitate the creation of a viable third broadband provider, and propel 4G technologies

Reconfiguring the commercial allocation

➤ The Broadband Optimization Plan



➤ The Commercial 700 MHz Plan



Note: the Commercial Plan assumes the adoption of the Broadband Optimization Plan (see appendix for more details about it and the broad public safety and commercial support)

- Re-organize 16.5 MHz of paired commercial spectrum into 5.5 MHz “building blocks”
- Issue auction rules (i.e., “constrained package bidding”) that enable the aggregation of spectrum blocks and geographic areas so the market can determine the optimal size and geographic areas
- Create bidding preference for auction winners of the spectrum adjacent to the public safety allocation in exchange for allowing public safety free access to their infrastructure

Commercial 700 MHz Plan: 5.5 MHz “building blocks”

- 5.5 MHz “building blocks” are a significant improvement over the status quo for the leading wireless broadband technologies
 - CDMA/FLASH-OFDM
 - Permits an additional carrier within each block (i.e., four CDMA/FLASH-OFDM carriers in a 5.5 MHz block vs. three carriers in a 5 MHz block), resulting in a 33% more capacity
 - WiMAX
 - Results in a 10% increase in capacity within each block
 - Harmonizes the Upper 700 MHz and the 2.5 GHz bands
 - Enables the development of a 5.5 MHz profile that will be more useful for the rest of the 700 MHz band
 - W-CDMA/UMTS
 - Permits an additional carrier in the overall band (i.e., four W-CDMA/UMTS carriers in a 16.5 MHz block vs. three carriers in a 15 MHz block), resulting in a 33% more capacity
- Three 5.5 MHz blocks increase the likelihood of the emergence of substantial new entrants
 - New entrants, which are most likely deploy 4G technologies promptly, will also provide incentive to the wireless incumbents to accelerate the introduction of 4G
 - New entrants are critical in the development of a robust “third pipe”

Commercial 700 MHz Plan: “Constrained package bidding”

- Well crafted auction rules (i.e., “constrained package bidding”) enable the market to determine the highest and best use for the spectrum
 - Smaller blocks and geographies create substantial “exposure” risk for large operators and certain new entrants who require regional or nationwide footprints
 - Larger blocks and geographies result in a smaller set of potential bidders as only those that require regional or national footprints are able to justify the expense
 - In both cases, anti-competitive behavior is a danger, as the major wireless incumbents are able to “block” new entrants by “locking up” key geographic areas or blocks, thereby preventing nationwide, regional or market-specific coverage needs of new entrants
 - “Constrained package bidding” allows for smaller blocks and geographic areas, dramatically reduces the “exposure” risk for large operators and makes anti-competitive behavior far more difficult

- Opponents of “package bidding” contend that any such auction would be far too complex for the FCC and for potential bidders
 - The use of “*constrained* package bidding” dramatically reduces the complexity of an auction while preserving most of the benefits

- Three 5.5 MHz blocks licensed in 52 MEAs permits the following packages:
 - Block sizes: three X 5.5 MHz OR one X 11 MHz + one X 5.5 MHz OR one X 16.5 MHz
 - Geographic areas: 52 MEAs OR 12 REAGs (includes 6 in CONUS) OR 1 National

Commercial 700 MHz Plan: public safety benefits

- Harmonizing the commercial and public safety allocations:
 - Enables the public safety community to benefit from commercial economies of scale
 - Encourages commercial operators and the public safety community to select the same technologies with the same profiles
 - Creates multiple commercial partners for public-private partnerships that provide meaningful benefits to the public safety community

- Providing incentives for commercial operators to grant public safety free access to their network infrastructure:
 - Preserves public safety's full control over its own exclusive spectrum
 - Enables public safety to capitalize on where commercial operators would deploy under normal commercial conditions (i.e., 80-90% of the US population)
 - Benefit worth more than \$6B to the public safety community
 - Ensures that public safety deploys “commercial-like” systems that maximize system performance and capacity
 - Frees up funds to “harden” and expand public safety's nationwide broadband network

- Adopting a band plan and auction rules that encourage substantial new entrants:
 - Makes it far more likely that expansive 700 MHz commercial deployments occur quickly

Conclusions

- The 700 MHz band is enormously important for U.S. broadband development, both for commercial and for public safety uses

- The FCC should immediately adopt the Broadband Optimization Plan
 - Knowledge that it will be implemented, creating 33 MHz of fully functional commercial spectrum, is critical to enable consideration of the full range of alternatives with respect to the commercial allocation
 - Adopting the Broadband Optimization Plan does not eliminate any alternatives from the commercial allocation, including the status quo
 - Response to the most recent public safety NPRM will be seriously impaired unless public safety's non-narrowband allocation is "liberated" by the Broadband Optimization Plan
 - The relevant proceedings are ripe for decision and the Broadband Optimization Plan has considerable support and virtually no opposition

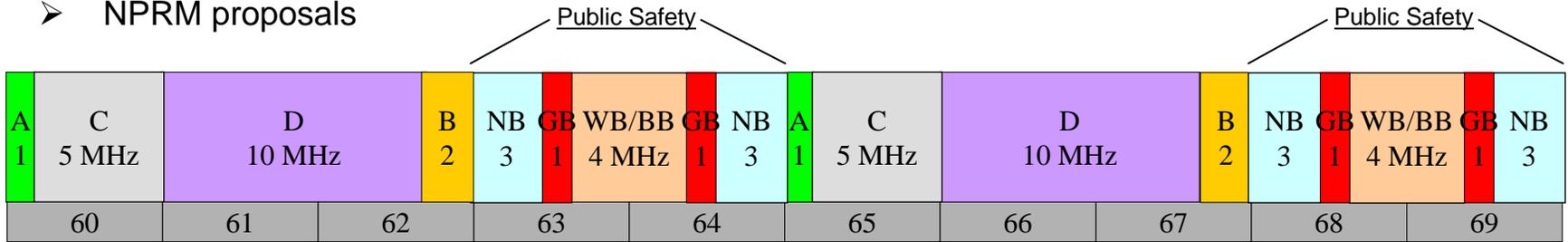
- Serious consideration of the Commercial 700 MHz Plan is critical

- Prompt action on the Broadband Optimization Plan and prompt consideration of the Commercial 700 MHz Plan will:
 - Not delay the Congressionally-mandated auction
 - Permit adequate time for planning prior to the DTV transition

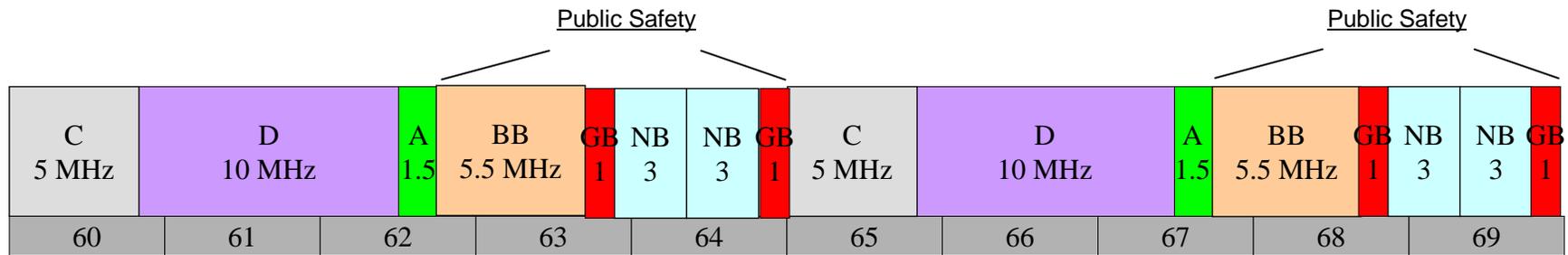
Appendix

Re-configuring the public safety allocation

➤ NPRM proposals



➤ The Broadband Optimization Plan



- Consolidate public safety's narrowband spectrum
- Contribute three of the four MHz from the B Block to public safety for internal guard bands
- Contribute the remaining one MHz from the B Block to the A Block, relocate it and issue cooperative technical rules to enable commercial broadband operations throughout the commercial allocation and foster public-private partnerships

Support for the Broadband Optimization Plan

- Public safety strongly supports the prompt adoption of the Broadband Optimization Plan
 - Increases public safety's usable broadband capacity by almost 40% while maintaining its entire narrowband capacity
 - Enables the use of all wireless broadband technologies including 4G
 - Facilitates nationwide, interoperable communications
 - Provides increased interference protection for narrowband channels
 - Results in minimal costs

- The Broadband Optimization Plan also provides considerable benefit to the commercial sector
 - Augments the existing commercial broadband capacity by 10%
 - Facilitates the public/private partnerships referenced above
 - Enables consideration of the full range of alternatives with respect to the commercial allocation