

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010)	WT Docket No. 96-86
)	
)	

To: The Commission

COMMENTS OF THE BLOOSTON RURAL CARRIERS

The law firm of Blooston Mordkofsky Dickens Duffy & Prendergast, LLP (“Blooston”), on behalf of its rural telephone clients (the “Blooston Rural Carriers”) and pursuant to Section 1.419 of the Commission’s Rules, hereby submits comments on the Commission’s Ninth Notice of Proposed Rulemaking in the above-captioned proceeding.¹

Statement of Interest

The Blooston Rural Carriers include a large number of rural telephone companies, rural telephone cooperatives, rural telephone affiliates and other small businesses that have a demonstrated commitment to serving rural America. These companies have made substantial investments in their rural communities to ensure that consumers have access to services ranging from basic dial tone (including Lifeline and Link-Up Services), to state-of-the-art commercial

¹ See Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, *Ninth Notice of Proposed Rulemaking*, 72 Fed. Reg. 1201 (January 10, 2007) (“*Ninth NPRM*”).

mobile radio services (including the obligation to provide enhanced 911 service) to advanced wireline and wireless broadband services using DSL, cable modem and/or wireless technologies. Many of these companies have participated in the FCC's recent auction of Advanced Wireless Services (or "AWS") licenses, and many hope to bid in the Commission's upcoming (though not yet scheduled) auction of commercial wireless licenses in the Upper and Lower 700 MHz Bands. As such, all of the Blooston Rural Carriers play a critical role in bringing telecommunications services to rural America (including access to emergency services), and all have a significant interest in the outcome of this proceeding.

Comments

In the *Ninth NPRM*, the FCC has proposed a comprehensive plan to promote the development and deployment of an integrated, nationwide, interoperable, broadband public safety network. The proposal provides, among other things, that the Commission (1) allocate 12 megahertz of the 700 MHz public safety spectrum from wideband to broadband use; (2) assign this spectrum nationwide to a single national public safety broadband licensee; (3) permit the national public safety broadband licensee to also operate on a secondary basis on all other public safety spectrum in the 700 MHz band; (4) permit the licensee to use its assigned spectrum to provide public safety entities with public safety broadband service on a fee for service basis; (5) permit the licensee to provide "unconditionally preemptible" access to its assigned spectrum to commercial service providers on a secondary basis; (6) facilitate the shared use of commercial mobile radio service (CMRS) infrastructure for the efficient provision of public safety broadband service; and (7) establish performance requirements for interoperability, build out, preemptibility of commercial access, and system robustness.

The Blooston Rural Carriers support the Commission’s proposed reconfiguration of the 700 MHz Public Safety Band to allow for broadband public safety use. The development of an integrated, nationwide, interoperable network to provide first responders with broadband communications capability is a novel idea that has many benefits. Having an IP-based broadband wireless network would allow many enhanced voice and data applications, as well as interoperability parameters that are flexible and software-defined. And allowing a portion of the existing 24 megahertz of public safety spectrum set aside from the Upper 700 MHz band to be used for broadband deployment, unlike other recent proposals,² would be consistent with the intent of Congress, as expressed in Section 337(a) of the Communications Act of 1934, as amended (the “Act”).³ This provision requires the Commission to allocate 24 megahertz of the spectrum between 746 MHz and 806 MHz for public safety services, and to allocate 36 megahertz of that spectrum for commercial use to be assigned by competitive bidding pursuant to Section 309(j).⁴

Likewise, the Blooston Rural Carriers support many of the Commission’s objectives in proposing its new public safety licensing model. Providing for a single, nationwide public safety licensee will create significant economies of scale and scope, help spur the development of new 700 MHz technologies, and help to maximize efficiency in the use of public safety spectrum resources. However, certain aspects of the Commission’s proposed public safety model, in particular its proposal to allow the national public safety licensee to lease access to its network (on a secondary and unconditionally preemptible basis) to commercial service providers, are

² See, e.g., Petition for Rulemaking of Cyren Call Communications Corporation, RM 11348, filed April 27, 2006.

³ 47 U.S.C. §337(a), as enacted by the Balanced Budget Act of 1997, Pub. L. No. 105-33, Title III, 111 Stat. 251 (1997).

⁴ *Id.*

troubling. Allowing such commercial access, even on a preemptible and secondary basis, could prove detrimental to the viability of smaller and rural wireless carriers, threatening thousands of jobs and the availability of commercial services that rural consumers depend upon. Rural service providers and entrepreneurs (many of which qualify as small or very small businesses under the Commission's Rules) have made significant investments in their spectrum licenses and in the construction of rural wireless networks. They should have a reasonable expectation that the FCC will not create a heavily subsidized competitor – one that did not have to pay for its spectrum – or allow that competitor to lease its spectrum on any terms (secondary or otherwise) to any commercial service provider. Such an arrangement would threaten the fragile economics of many smaller carriers and very likely put some carriers out of business.

Many Lower 700 MHz band licensees from Auctions 44 and 49 (which concluded in September of 2002 and June of 2003) are only beginning to construct wireless networks or they are still in the early stages of business planning with the DTV transition not scheduled to be complete for another two years (*i.e.*, until the February 17, 2009 analog TV shut-down date).⁵ Indeed, many small businesses and rural telephone companies that were successful bidders in last year's AWS-1 auction ("Auction No. 66") have long-form applications still pending before the Commission. It would be extremely unfair to these companies to allow a government-sponsored entity that obtained its spectrum rights for free, and which enjoys nationwide economies of scale, to make its excess public safety spectrum capacity available for commercial use. Given the sparse population density of many rural areas, the newer technologies that the Commission contemplates will be used to construct such a broadband public safety network – "possibly employing OFDM or similar advanced waveforms" and "able to dynamically and efficiently

⁵ See Digital Television Transition and Public Safety Act of 2005, part of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (Feb. 8, 2006)

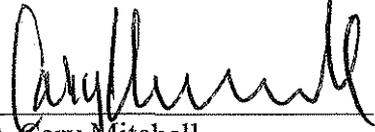
exploit [. . .] unused spectrum fragments”⁶ – would almost certainly provide sufficient network capacity that a reseller or nationwide carrier seeking a roaming partner would never need to worry that access to the rural network might be “preempted” because of an emergency.

Conclusion

The Blooston Rural Carriers support the Commission’s proposed reconfiguration of the 700 MHz Public Safety Band to allow for broadband public safety use, as well as many of the Commission’s objectives in proposing its new public safety licensing model. However, the Commission must avoid a situation where a nationwide public safety licensee is permitted to become a subsidized competitor to small businesses and rural telephone companies. Without adequate protections, such an arrangement would upset the investment-backed expectations of rural service providers and threaten the viability of many small businesses.

Respectfully submitted,

THE BLOOSTON RURAL CARRIERS

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⁶ Ninth NPRM at Para. 40

Attachment A

The Blooston Rural Carriers

Advanced Communications Technology, Inc.	Sheridan, WY
All West Communications	Kamas, UT
Cannon Valley Communications, Inc.	Bricelyn, MN
Clear Lake Independent Telephone Company	Clear Lake, IA
Command Connect, LLC	Sulphur, LA
Consolidated Telcom	Dickinson, ND
Dumont Telephone Company	Dumont, IA
Golden West Telecommunications Cooperative, Inc.	Wall, SD
Interstate Telecommunications Cooperative	Clear Lake, SD
Kennebec Telephone Company, Inc.	Kennebec, SD
Lonsdale Telephone Company, Inc.	Lonsdale, MN
Manti Telephone Company	Manti, UT
Mid-Rivers Telephone Cooperative, Inc.	Glendive, MT
Peñasco Valley Telephone Cooperative, Inc	Artesia, NM
Ponderosa Telephone Company	O'Neals, CA
Red River Rural Telephone Association, Inc.	Abercrombie, ND
Santel Communications Cooperative	Woonsocket, SD
South Central Utah Telephone Association	Escalante, UT
South Slope Cooperative Communications Co.	North Liberty, IA
Spring Grove Communications	Spring Grove, MN
Uintah Basin Telecommunications Association, Inc.	Roosevelt, UT
Van Buren Telephone Co., Inc.	Keosauqua, IA
Winnebago Telephone Cooperative Association	Lake Mills, IA