

LAWLER, METZGER, MILKMAN & KEENEY, LLC

2001 K STREET, NW
SUITE 802
WASHINGTON, D.C. 20006

RUTH MILKMAN
PHONE (202) 777-7726

PHONE (202) 777-7700
FACSIMILE (202) 777-7763

March 7, 2007

Via Electronic Filing

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

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

Dear Ms. Dortch:

On March 6, 2007, Michael Gottdenker, Andrew Rein, and the undersigned on behalf of Access Spectrum, LLC, and Mark Pagon, Cheryl Crate and Kathleen Wallman on behalf of Pegasus Communications Corporation met with Commissioner Copps and his Acting Legal Advisor John Branscome. Access Spectrum and Pegasus urged the adoption of the Broadband Optimization Plan, consistent with their previous written submissions 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

Attachment

cc: Commissioner Copps
John Branscome

Optimizing the Upper 700 MHz Band

March 2007

What is the Broadband Optimization Plan (“BOP”)?

- The BOP reorganizes the public safety and guard band spectrum to confer the maximum benefits possible to public safety within the existing statutory framework
 - Allows a broader array of broadband technologies
 - Increases broadband capacity while maintaining spectrum for narrowband applications such as voice
 - Reduces the likelihood of interference to both public safety and neighboring commercial operations
 - Facilitates public safety/commercial broadband partnerships

- Public safety has embraced the work of the 700 MHz Technical Working Group and supports prompt adoption of the BOP
 - *“NPSTC agrees with the report’s analysis [the Second TWG Report] and believes that the guard band proposal [the BOP] should be at the forefront of any action by the Commission addressing the 700 MHz band.” (NPSTC Letter – 02/22/07)*

- The FCC should adopt the BOP immediately in order to:
 - Facilitate consideration of proposals in the 9th NPRM to promote use of public-private partnerships to enable public safety broadband
 - Permit the public safety community to move forward with deployments

Support for the BOP

- The public safety community has endorsed the BOP, both the First and Second Technical Working Group (“TWG”) Reports and is supported by:
 - NPSTC, APCO, IACP, IAFC, New York State, Major Cities Chiefs Association, Major Counties Sheriffs Association, National Sheriffs Association, the American Association of State Highway Transportation Officials, American Radio Relay League, American Red Cross, Association of Fish & Wildlife Agencies, Forestry Conservation Communications Association, International Association of Emergency Managers, International Municipal Signal Association, National Association of State Emergency Medical Services Officials, National Association of State Foresters, National Association of State Telecommunications Directors), the State of Hawaii, the Mobile County Public Works and the following 700 MHz Regional Planning Committees: Region 4 (Arkansas), Region 5 (Southern California), Region 7 (Colorado), Region 8 (Metropolitan New York City Area), Region 9 (Florida), Region 10 (Georgia), Region 11 (Hawaii), Region 13 (Illinois except Southern Lake Michigan counties), Region 14 (Indiana except Southern Lake Michigan counties), Region 17 (Kentucky), Region 22, (Minnesota), Region 24 (Missouri), Region 26 (Nebraska), Region 30 (New York - Albany area), Region 32 (North Dakota), Region 33 (Ohio), Region 35 (Oregon), Region 39 (Tennessee), Region 45 (Wisconsin except Southern Lake Michigan counties), Region 54 (Chicago – Southern Lake Michigan counties) and Region 55 (New York – Buffalo)

- Commercial support for the BOP is also broad
 - DirecTV, EchoStar, Google, Intel, Northrop Grumman, the SDR Forum, Skype, the WiMAX Forum, Yahoo, etc...

Opposition to the BOP

- Verizon Wireless and AT&T recently opposed the BOP and proposed an alternative that Public Safety has specifically and repeatedly rejected
 - NPSTC, Access Spectrum and Pegasus have filed detailed refutations of the Verizon Wireless and AT&T filings
 - The 6+6 alternative advanced by Verizon Wireless and AT&T fails to address technical issues, resolution of which was an explicit prerequisite for public safety's consideration of any re-configuration of its spectrum allocation
 - Issues related to the Canadian border would not be solved and the 6+6 plan would actually create significant problems for public safety entities in the fourteen border states, especially New York State
 - Equipment re-programming and spectrum planning database issues would not be solved
 - The 6+6 plan has not undergone any technical review whatsoever
 - No single public safety entity has supported the 6+6 plan

- Public Safety has specifically rejected this alternative
 - *“While objecting to the guard band licensee proposal [the BOP], Verizon urges that the public safety narrowband channels be relocated... the relocation entails numerous challenges, all of which are resolved by the proposal [the BOP]. Verizon addresses none of them; its recommendation should be rejected.” (NPSTC Letter – February 23, 2007)*

Summary

- Simply put, the BOP:
 - Results in an additional 3 MHz of usable broadband spectrum for BOTH public safety and commercial use and creates a 1 MHz “talk-around” channel that public safety can use in emergency situations
 - Significantly reduces the potential for harmful interference to BOTH public safety AND neighboring commercial systems in part by requiring the use of guard bands and buffer spaces within public safety’s allocation
 - Makes the Upper 700 MHz band more attractive for 4G technologies, for new entrants and for public-private partnerships
 - Solves the technical concerns that Public Safety said must be addressed before considering any movement of the narrowband channels
 - Is good for public safety, good for future commercial licensees and good public policy

- The FCC should immediately adopt the BOP:
 - If implemented, it will create 33 MHz of commercial broadband spectrum, resulting in many more alternatives with respect to the commercial allocation that promote broadband competition
 - Adopting the BOP is consistent with a variety of band plans for the commercial allocation, including a 10 MHz D Block and a 5 MHz C Block
 - Prompt action on the BOP and a full consideration of the commercial alternatives that build upon the BOP can be achieved consistent with the statutory deadline for the auction

Appendix

Broadband for Public Safety

➤ NPRM Proposals

Public Safety

Public Safety

A	C	D	B	NB	GB	WB/BB	GB	NB	A	C	D	B	NB	GB	WB/BB	GB	NB
1	5 MHz	10 MHz	2	3	1	4 MHz	1	3	1	5 MHz	10 MHz	2	3	1	4 MHz	1	3
	60	61	62		63		64		65		66	67		68		69	

➤ The 6+6 Plan

Public Safety

Public Safety

A	C	D	B	BB	GB	NB	NB	A	C	D	B	BB	GB	NB	NB
1	5 MHz	10 MHz	2	5 MHz	1	3	3	1	5 MHz	10 MHz	2	5 MHz	1	3	3
	60	61	62		63		64		65		66	67		68	69

➤ The Broadband Optimization Plan

Public Safety

Public Safety

C	D	A	BB	GB	NB	NB	GB	C	D	A	BB	GB	NB	NB	NB
5 MHz	10 MHz	1.5	5.5 MHz	1	3	3	1	5 MHz	10 MHz	1.5	5.5 MHz	1	3	3	1
	60	61	62		63		64		65		66	67		68	69