

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Implementing a Nationwide, Broadband,)
Interoperable Public Safety Network in) PS Docket 06-229
The 700 MHz Band)
)
The Development of Operational,)
Technical and Spectrum Requirements for) WT Docket 96-86
Meeting Federal, State and Local Public)
Safety Communications Requirements)
Through the Year 2010)

To: The Commission

REPLY COMMENTS OF APCO

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”) hereby submits the following brief reply to comments submitted in response to the Commission’s *Ninth Notice of Proposed Rulemaking*, FCC 06-181 (released December 20, 2006), 72 Fed. Reg. 1201 (January 10, 2007) (“*Ninth NPRM*”) in the above-captioned proceedings.¹

The *Ninth NPRM* attracted a wide-variety of comments from public safety and industry parties. However, there was a clear pattern: most of the public safety agencies and organizations that filed comments were deeply skeptical of, or opposed to, the Commission’s proposal. Some objected to the concept of a single licensee due to the impact on local autonomy and current data system planning, and some urged that

¹ Due to the very short reply comment period (necessitated by the need for rapid Commission decisions in this and related proceedings), APCO reserves the right to provide further responses through *ex parte* communications, consistent with Commission rules.

wideband systems must remain an option.² Virtually all in public safety indicated that 12 MHz was simply insufficient to meet public safety's own data network requirements, let alone provide sufficient spectrum to facilitate economically viable public/private partnerships.³ None of the public safety commentators (or any other party) believe that secondary broadband operation on narrowband channels would be a reality anytime soon.⁴ As a result of these conclusions, public safety parties agreed with APCO's view that the Commission's proposal in the *Ninth NPRM* is seriously flawed, in large part due to the absence of a workable mechanism to pay for the national public safety data network.

The only enthusiastic, detailed support for the *Ninth NPRM* proposal came from academics with no public safety experience and a few commercial entities that would enjoy direct or indirect economic benefit from the proposal. Some hope to sell their equipment, technology, or infrastructure access to public safety, while others seem to be at least equally motivated by a desire to stymie debate regarding the Public Safety Broadband Trust. Many of these parties attempt to argue that public safety has sufficient spectrum and that somehow, a viable public/partnership model could work in just 12 MHz. We strongly disagree.

The CTIA submission is illustrative of the problems with many of the industry comments. Desperate to kill any suggestion that public safety needs more spectrum, CTIA argues that its wireless carrier members serve far more customers than do public

²*E.g.*, Comments of Region 22 (Minnesota) Regional Planning Committee, Comments of City of Philadelphia, Comments of NATOA, Comments of State of California.

³ *E.g.*, Comments of National Public Safety Telecommunications Council

⁴ *See* Comments of SDR Forum.

safety agencies with a comparable amount of spectrum.⁵ CTIA is comparing apples to oranges. Commercial wireless providers have large contiguous blocks of nationwide spectrum, and are free to focus their operations in well-populated areas, offering networks with substantial coverage gaps and the risk of dropped or blocked calls. Commercial networks are also built on an assumption that all of the subscribers in a particular area will not be using their devices at the same time (when that does happen, networks become overloaded or fail).

In contrast, public safety land mobile spectrum is spread across non-contiguous portions of the VHF Low Band, VHF High Band, UHF, and 700/800 MHz bands. Public safety systems must also operate with substantially higher levels of reliability than commercial systems, offering instant, potentially simultaneous access for all users, and ubiquitous coverage over both densely populated and remote areas. CTIA also cites an academic study suggesting that public safety should use cellular technology to be more efficient.⁶ Yet, there are not sufficient numbers of public safety users in most areas to justify the enormous costs of the cellular architecture required to provide necessary levels of coverage and reliability.

CTIA also points to a broadband system planned for 10 MHz of non-public safety spectrum in New York City, and another planned for 2.5 MHz in the National Capital Region (“NCR”), apparently suggesting that such systems can meet all local public safety broadband requirements.⁷ However, New York City and the NCR have cobbled together

⁵ CTIA Comments at 8.

⁶ CTIA Comments at 9.

⁷ CTIA Comments at 9-10.

whatever spectrum they can find (including non-public safety spectrum unlikely to be available in other areas) to develop at least some degree of broadband operation. The fact that they are working with what they can find is hardly evidence that there is no need for *additional* spectrum to meet all of their regional requirements.

CTIA further attempts to suggest that the 4.9 GHz band will accommodate much of public safety's broadband needs, relying in part on misleading and inaccurate references to APCO's statements to the Commission in 2000.⁸ As CTIA is well aware, the limited range and other propagation characteristics of 4.9 GHz band make it impractical for wide-area, mobile broadband operations. The band will instead be used for very short-distance incident command operations and "hot spot" broadband capability. APCO made this clear in its comments in the 4.9 GHz proceeding, noting that 700 MHz was far superior for wide-area, mobile communications, and that using the 700 MHz band for short-range communications would be an inefficient use of scarce radio spectrum.⁹

Even apart from the question of whether 12 MHz is enough spectrum for public safety use, no party provides evidence or economic analysis to suggest how 12 MHz could possibly provide for public safety requirements *and* provide sufficient *marketable* excess spectrum capacity to attack the infrastructure investment contemplated in the *Ninth NPRM*. Indeed, Cyren Call provides analysis to suggest the opposite conclusion. Absent a basis for public private partnerships, where will the funding come from to support a national broadband network managed by a single public safety licensee?

⁸ CTIA Comments at 11.

⁹ Comments of Association of Public-Safety Communications Officials, WT Docket 00-32 (Apr. 26, 2000)

One new party, Frontline Wireless, LLC, proposes a different approach that merits further analysis. Frontline suggests that the Commission reallocate 10 MHz from the D block, and auction it with special conditions that the auction winner must address specified public safety requirements, including the cost-free provision of infrastructure to the public safety national licensee proposed in the *Ninth NPRM*. We continue to support the Public Safety Broadband Trust proposal, which involves legislation to reallocate the C and D blocks for public safety broadband communications, with the spectrum licensed to public safety-controlled trust that would work with public/private partnerships to build, maintain, and operate a nationwide broadband network. Without in any way diminishing our support for the PSBT approach, we believe that the Frontline proposal deserves further consideration, as it at least attempts to address some of the most significant flaws in the *Ninth NPRM*, especially the lack of sufficient spectrum and a funding mechanism for the network infrastructure. However, further details of the Frontline proposal must be put forward, and much more analysis is necessary.

CONCLUSION

For the reasons discussed above and in our initial comments, the Commission's proposal in the Ninth NPRM contains serious flaws that would need to be resolved before it can be given further consideration.

Respectfully submitted,

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