

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

In the Matter of	)	
	)	
Service Rules for the 698-746, 747-762	)	WT Docket No. 06-150
and 777-792 MHz Bands	)	
	)	
Revision of the Commission’s Rules to Ensure	)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency	)	
Calling Systems	)	
	)	
Section 68.4(a) of the Commission’s Rules	)	WT Docket No. 01-309
Governing Hearing Aid-Compatible	)	
Telephones	)	
	)	
Biennial Regulatory Review – Amendment of	)	WT Docket No. 03-264
Parts 1, 22, 24, 27, and 90 to Streamline and	)	
Harmonize Various Rules Affecting Wireless	)	
Radio Services	)	
	)	
Former Nextel Communications, Inc.	)	WT Docket No. 06-169
Upper 700 MHz Guard Band	)	
Licenses and Revisions to Part 27 of	)	
the Commission’s Rules	)	
	)	
Implementing a Nationwide,	)	PS Docket No. 06-229
Broadband, Interoperable Public	)	
Safety Network in the 700 MHz	)	
Band	)	
	)	
Development of Operational, Technical and	)	WT Docket No. 96-86
Spectrum Requirements for Meeting Federal,	)	
State and Local Public Safety	)	
Communications Requirements Through the	)	
Year 2010	)	

**COMMENTS OF THE STATE OF CALIFORNIA**

The State of California as represented by its Department of General Services,  
Telecommunications Division (hereinafter “State”) hereby submits these comments in response

to the Commission's *Further Notice of Proposed Rulemaking* in the above-captioned proceedings.

## **INTRODUCTION**

The State operates an extensive array of land mobile radio communications systems for use by various California public safety agencies, including the California Highway Patrol, the Department of Forestry and Fire Protection, the Department of Transportation, the Department of Parks and Recreation, the Department of Fish and Game, the Department of Corrections and Rehabilitation, the Department of Water Resources, the Department of Justice, the Emergency Medical Services Authority, and the Governor's Office of Emergency Services. We routinely assess the functional and operational needs of its public safety agencies for radio voice and data communications

The State also is an active participant in various committees and work groups discussing the radio voice and data communications needs of tribal, county, and local public safety agencies. As such, the State is cognizant of the escalating need for broadband data operability and interoperability by California's public safety agencies statewide. The State is poignantly aware of the daunting implications of accommodating these broadband needs, especially when considering that many of our essential wireless voice systems are in need of upgrades.

## **RESPONSE TIME TOO BRIEF**

As a precursor to further comments, the State feels compelled to note the uncharacteristically brief "comment" and "reply comment" periods associated with the subject FNPRM – especially in view of the its convoluted nature. Despite the exigencies faced by the Commission, informed decisions with far-reaching and long-term implications require careful

consideration. Although, the State, along with other respondents, will attempt to respond to this FNPRM to the greatest extent practicable, we perceive that we are being forced to do so with a lack of thoroughness that could have been mitigated if given more normal amounts of time.

## **SALIENT FRONTLINE PROPOSAL POINTS**

In its FNPRM, the Commission noted that Frontline proposes service rule changes allowing a single nationwide 10 megahertz license (a new “E” Block) consisting of the paired 757-762 MHz and 787-792 MHz frequencies, and that this new paired “E” Block licensee would construct and operate a common infrastructure to support a broadband public safety network as well as its own commercial broadband network<sup>1</sup>. Frontline’s proposal is premised on the Commission adopting a number of proposed measures, including (a) designating 12 megahertz of the 700 MHz Public Safety spectrum from wideband to broadband use; (b) positioning that 12 megahertz of broadband public safety spectrum at the bottom of the public safety allocation in the 700 MHz Band; and (c) assigning this spectrum nationwide to a single national public safety broadband licensee<sup>2</sup>. Frontline further proposes imposing specific obligations on this nationwide licensee with respect to the newly created “E Block” including the following<sup>3</sup>:

- Construction of a common, interoperable network infrastructure that can be used by both the public safety broadband network and the “E Block” licensee’s commercial network (the details of the network to be specified in a Network Sharing Agreement negotiated by the “E Block” licensee and the National Public Safety Licensee at a future date).

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<sup>1</sup> See FCC 07-72 at ¶272.

<sup>2</sup> See FCC 07-72 at ¶273

<sup>3</sup> See FCC 07-72 at ¶274

- Meet certain build-out benchmarks including providing coverage to 75 percent of the United States population within four years of the 700 MHz “auction clearing date” and providing coverage to 98 percent of the United States population within 10 years.
- Manage and operate the public safety broadband network, and collect a reasonable network management fee (this fee, and the terms and conditions governing the “E Block” licensee’s management of the network, to be specified in the yet to be defined Network Sharing Agreement).
- Provide priority access to public safety broadband operations during times of emergency (requirements for which also would be specified in the Network Sharing Agreement).

Relative to this last bullet, the Commission noted that Frontline’s proposal would be premised on the adoption of additional matters addressed in the *700 MHz Public Service Eighth Notice* and *700 MHz Public Safety Ninth Notice* including permitting the public safety licensee to provide unconditionally preemptible access to its assigned spectrum to commercial providers on a secondary basis, and facilitating the shared use of commercial mobile radio service (CMRS) infrastructure for the efficient provision of public safety broadband service<sup>4</sup>.

## **PUBLIC SAFETY BROADBAND CONSORTIUM**

The Network Services Agreement and the single National Public Safety Broadband Licensee are crucial to the success of the proposed nationwide, interoperable broadband network and its viability to public safety. The National Public Safety Broadband Licensee must embody the wherewithal necessary to accommodate the public safety broadband service tenets espoused

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<sup>4</sup> See FCC 07-72 at footnote 553

by the Commission in the 700 MHz Public Safety Ninth Notice<sup>5</sup>. The State believes this can only be accomplished if a public safety consortium imbued with the requisite authority and breadth of pertinent experience necessary to negotiate an equitable Network Services Agreement holds the license. This public safety broadband consortium should comprise representatives from organizations such as the National Governors Association (NGA), the National Association of Counties (NACo), the U.S. Council for Mayors (USCM), the National League of Cities (NLC), the National Association of State Telecommunications Directors (NASTD), National Association of State Emergency Medical Services Officials (NASEMSO), the National Association of State Chief Information Officers (NASCIO), the American Association of State Highway Transportation Officials (AASHTO), the Association of Fish & Wildlife Agencies (AFWA), the Association of Public-Safety Communications Officials-International (APCO), the Forestry Conservation Communications Association (FCCA), the International Association of Chiefs of Police (IACP), the International Association of Emergency Managers (IAEM), the International Association of Fire Chiefs (IAFC), the International Municipal Signal Association (IMSA), and the National Association of State Foresters (NASF).

## **CONCURRENT BUILD OUT OF “E” BLOCK AND PUBLIC SAFETY BROADBAND NETWORK**

Subject to a mutually agreeable Network Services Agreement between the National Public Safety Broadband Licensee and the “E” Block licensee(s), the State could support the Frontline proposal that the 700 MHz “E” Block licensee pay for and construct a national broadband network that spans both the 700 MHz “E” Block and the adjacent public safety

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<sup>5</sup> See *700 MHz Public Safety Ninth Notice* (FCC 06-181) at ¶20-26

broadband block of spectrum<sup>6</sup>. The State is concerned, however, that there could potentially be multiple “E” Block licensees, either as a result of the auction or as a result of subsequent business arrangements made by the auction winner. Irrespective of the outcome, the State recommends that each and every incremental implementation of the nationwide infrastructure (including the deployment of any ancillary hardware or software) fully accommodate both the 700 MHz “E” Block and the adjacent public safety broadband block of spectrum simultaneously. The 700 MHz “E” Block licensee(s) should not be permitted to give priority to building out only the spectrum for which it is licensed, and thus more in control of, and not provide Public Safety with priority access to spectrum as may be required by Commission Rules.

#### **ACCEPTANCE TESTING OF PREEMPTIVE CAPABILITY**

The State can support granting the “E” Block licensee access to the public safety broadband spectrum only to the extent such spectrum is not being used by public safety entities. Furthermore, Public Safety entities must have unconditional rights to immediate and unconditional preemption of non-public safety use of this portion of the spectrum at any time for any reason. The State also can support granting Public Safety priority access to the “E” Block spectrum during times of emergency.

The State believes that this pre-emptive capability must be instantaneously available to field users at all levels of government. To meet the needs of Public Safety, initiating this pre-emptive capability cannot require any sort of hierarchical approval chain for implementation. Achieving this level of priority is critical to the infrastructure’s viability to public safety.

The State strongly recommends that this pre-emptive capability be demonstrated prior to

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<sup>6</sup> Frontline Comments in PS Docket No. 06-229

the deployment of equipment in either the public safety or the “E” Block segments of this spectrum. As such, the State recommends that final acceptance for each and every incremental implementation of the nationwide infrastructure be predicated on demonstrable proof that both forms of priority access are seamlessly achievable.

### **EXCEPTION TO CARTE BLANCHE PREEMPTION OF COMMERCIAL USERS**

In his statement relative to FCC 07-72, Commissioner Michael J. Copps questioned whether preempting commercial users in favor of public safety users during times of emergency could have unintended and possibly dangerous consequences. He urged readers to contemplate giving some degree of priority to certain commercial communications – such as 911/E911 calls. The State agrees that 911/E911 calls should not be relegated to indiscriminate preemption. As it is likely modern broadband technologies and applications will have the sophistication necessary to distinguish 911/E911 calls from more mundane data and prioritize them accordingly, they should be given the requisite level of network priority. In any event, this specific instance should be a topic of discussion and determination when developing the Network Services Agreement. The Network Services Agreement should allow for the addition of other exceptions as they might be identified in the future.

### **INTERIM BROADBAND WAIVER**

Despite the aggressive build out schedule proposed by Frontline, the proposed coverage of 98% of the United States population in ten years will leave significant areas in the Western United States without service. While the economic feasibility of providing service in the remaining 2% is not apparent, public safety agencies must, nonetheless, provide vital services to

these areas of the country. If public safety entities are left with no ability to license any portion of the high-speed data channels, the proposed 700 MHz public safety broadband spectrum in these areas will lie dormant for an indeterminable period. The State believes that the Commission should allow public safety entities to retain access to some wide band channels such that they can license and construct local data systems where necessary until such time as the “E” Block auction winner is willing to construct in that area.

The State recommends that this licensable block be in the upper portion of the proposed 700 MHz public safety broadband block, immediately adjacent to the Guard Band separating the narrowband public safety spectrum from the broadband public safety spectrum. It should be large enough to accommodate a  $\approx$  600 kHz buffer between the remaining broadband block and the wideband channels, and accommodate three or four consecutive 150 kHz wideband channels (nine or twelve 50 kHz wideband channels respectively). This would affect less than 1.25 MHz of the 700 MHz public safety broadband allocation with negligible impact.

## **NARROWBAND WAIVER**

The State notes that in many of these same sparsely populated areas, 800 MHz public safety voice channels that have been available for decades, have not been utilized due to the availability of spectrum alternatives better suited to the locations. In such areas, the 700 MHz narrowband channels are unlikely to be utilized in the foreseeable future. The State requests that the Commission consider waivers allowing wideband channel usage within the 700 MHz public safety narrowband block given these circumstances based upon a recommendation from the appropriate regional planning committee(s).

## **CONCLUSION**

The State recognizes that the Network Services Agreement and the single National Public Safety Broadband Licensee are crucial to the success of the proposed nationwide, interoperable broadband network and its viability to public safety. Therefore, the State requests that the Commission give careful consideration to the long-term impacts of the decisions being made in this Proceeding..

Respectfully submitted,

STATE OF CALIFORNIA

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