

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

In the Matter of)	
)	
Service Rules for the 698-746, 747-762 and 7770792 MHz Bands)	WT Docket No. 06-150
)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules)	WT Docket No. 06-169
)	
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
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**

The National Rural Electric Cooperative Association (“NRECA”) appreciates this opportunity to offer comments in the above captioned proceeding. The Federal Communications Commission’s (“Commission” or “FCC”) Further Notice of Proposed Rulemaking (“FNPRM”)¹ seeks comment on the “Public Safety Broadband Deployment Plan” (“Broadband Plan”) submitted by Frontline Wireless, LLC (“Frontline”).² The

¹ *In re Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band*, 72 Fed. Reg. 24238 (released May 2, 2007)(hereinafter FNPRM).

² See Comments of Frontline Wireless, LLC, Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150 (filed March 6, 2007); Comments and Reply Comments of Frontline Wireless, LLC, *Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band*, PS Docket No. 06-229 (Feb 26, 2007 and March 13, 2007).

Broadband Plan proposes a reconfiguration of the upper portion of the Upper 700 MHz Commercial Services Band, designating a 10 MHz “E Block” for a commercial licensee. This commercial licensee would be required to construct and operate a centralized, nationwide, interoperable public safety broadband network utilizing both public safety and commercial 700 MHz spectrum.³ Frontline’s proposal raises numerous complex issues that it will need to address, however, NRECA respectfully submits these comments in support of certain principles included in its Broadband Plan.

BACKGROUND

NRECA is the not-for-profit, national service organization representing nearly 1,000 rural electric systems, which serve 39 million customers in 47 states.⁴ NRECA’s members depend upon private wireless communications systems to safely operate, monitor, control and repair their electric systems. NRECA members form part of the nation’s critical infrastructure, providing essential services and working in concert with local fire, police and rescue units in times of emergencies and natural disasters.

NRECA agrees with the Broadband Plan to the extent it provides critical infrastructure industries access to sufficient spectrum to foster the development of a robust, nation-wide communications network to meet the needs of public safety service providers and other segments of the emergency and disaster response community.⁵ Critical infrastructure entities, such as rural electric cooperatives, must be included in any plan to create a robust nation-wide network capable of achieving the resiliency, reliability and interoperability envisioned by the Commission. NRECA offers the following

³ FNPRM at ¶ 61.

⁴ NRECA is also a member of the Critical Infrastructure Communications Coalition and the United Telecom Council.

⁵ FNPRM at ¶ 74.

comments on the Frontline’s proposed Broadband Plan.

DISCUSSION

I. Broadband Network Governance.

The Commission asks whether to impose specific requirements on the “Network Sharing Agreement” governing the relationship between the “E Block” licensee and national public safety licensee.⁶ As this network is expected to be a primary source of communications interoperability or emergency response, we believe strongly that its governance going forward MUST include all those who respond to emergencies; i.e., utilities, healthcare and transportation beyond public safety. Neither public safety agencies nor any other party can do its job properly during emergency recovery without being able to coordinate with the others. The public interest at stake is too great to exclude critical infrastructure industries, as well as other first response industries, from oversight of the network going forward. Therefore, it is imperative to create a formal oversight group, comprised of representatives from all prospective user groups, to assure the public safety network is timely constructed and operated in an effective and reliable manner.

II. Allocation of spectrum for use by Critical Infrastructure Industries.

The Commission noted that it would not be appropriate to provide more spectrum to any party without an auction.⁷ While Congress did mandate 24 MHz for public safety (thus putting a limit on public safety spectrum in the band), no spectrum was allocated to critical infrastructure. Critical infrastructure industries are considered “public safety radio services” and exempt from having to obtain spectrum via auction under Congress’s

⁶ FNPRM at ¶ 72.

⁷ FNPRM at ¶ 41.

and the FCC's own interpretations of § 309(j) of the Communications Act.⁸

Consequently, there is neither compelling reason nor statutory restriction why the FCC cannot allocate spectrum for use by critical infrastructure industries without an auction. Critical infrastructure industries play an unheralded but vital role in any emergency response and recovery effort. Without dedicated spectrum for reliable communications, power restoration efforts can become problematic. Sustained, reliable electricity is crucial to the safety and success of first responders, keeping their communications devices charged, the lights on and equipment running. There is no better basis for allocating spectrum without an auction given the vital role of critical infrastructure industries during emergency recovery efforts and the current lack of dedicated spectrum to keep power restoration reliable.

III. Access to 700 MHz guard band spectrum.

Granting critical infrastructure industries access to returned guard band spectrum is crucial as a means of achieving a reliable, robust nationwide network. Utility communications infrastructure has routinely demonstrated an ability to survive severe storms and other disasters.⁹ Critical infrastructure communications are robust systems providing vital data and voice in support of day to day operations and emergency response situations. However, robust systems are only as good as the spectrum they utilize. The limited availability of a common band of spectrum remains a significant factor precluding truly interoperable communications systems. Allowing critical infrastructure entities, such as the nation's rural electric cooperatives, access to the

⁸ *Implementation of Sections 309(j) and 337 of the Communications Act of 1934, as Amended*, WT Docket No. 99-87, Report and Order, 15 FCC Rcd. 22709, 22747, (2000).

⁹ *See the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, Report and Recommendations to the F.C.C., note 2 at p. 12* (June 12, 2006) ("Katrina Report").

returned guard band spectrum is imperative to realize the rapid deployment of a robust, nation wide, broadband interoperable network. Therefore, the Commission should take this unique opportunity, consistent with the public interest, and assign spectrum for public safety radio services.

IV. Access to proposed “E Block” spectrum.

Alternatively, if the Commission opts not to dedicate spectrum for critical infrastructure communications, it should require by rule that critical infrastructure industries have priority access to the proposed “E Block”. Granting critical infrastructure entities direct access to the proposed “E Block” will bring much needed additional capacity allowing the public safety community to interoperate during emergency response and restoration efforts. Because critical infrastructure industries perform essentially public safety-type functions in times of natural disasters and other emergencies, allowing direct access to the “E Block” by critical infrastructure providers is an efficient spectrum solution that will go far in advancing the implementation of reliable, interoperable communication networks on a nation-wide basis.

CONCLUSION

NRECA commends the Commission for its efforts to assess the needs of the public safety industry and pursue creative solutions to the communications problems faced by the Nation’s first responders and critical infrastructure industries.

Communications interoperability is an integral component of any viable disaster response and the upper 700 MHz band presents the last real opportunity for the Commission to address the ongoing problems of emergency communications interoperability for the

foreseeable future. NRECA urges the inclusion of critical infrastructure entities in any viable plan to establish near-term first responder communications interoperability.

We appreciate the opportunity to provide these comments to the Commission.

Respectfully submitted,

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION

By: Wallace F. Tillman /s/
Wallace F. Tillman
Vice President, Energy Policy & General
Counsel

David N. Predmore /s/
David N. Predmore, Corporate Counsel

National Rural Electric Cooperative
Association
4301 Wilson Boulevard
Arlington, VA 22203-1860
703-907-5848

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