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May 31, 2007

*Via Electronic Filing*

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

Re: WT Docket Nos. 96-86, 06-150 and 06-169; PS Docket No. 06-229  
*Ex Parte* Notice

Dear Ms. Dortch:

On May 30, 2007, Andrew Rein, Gunnar Halley and the undersigned on behalf of Access Spectrum, LLC, and Cheryl Crate, Paul Kolodzy, and Kathleen Wallman on behalf of Pegasus Communications Corporation, met with Julius Knapp, Ronald Repasi, and Alan Stillwell of the Office of Engineering and Technology. Access Spectrum and Pegasus urged the adoption of Band Plan Proposal Number 3 (or one of its variations: Band Plan Proposal Numbers 4 and 5), consistent with their comments submitted on May 23, 2007 in the above-referenced dockets. The attached slides were discussed during the course of the meeting.

Separately, on May 29, 2007, Michael Gottdenker, on behalf of Access Spectrum, LLC, spoke by telephone with Fred Campbell, Chief of the Wireless Telecommunications Bureau, regarding the license modifications required to implement Band Plan 3.

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

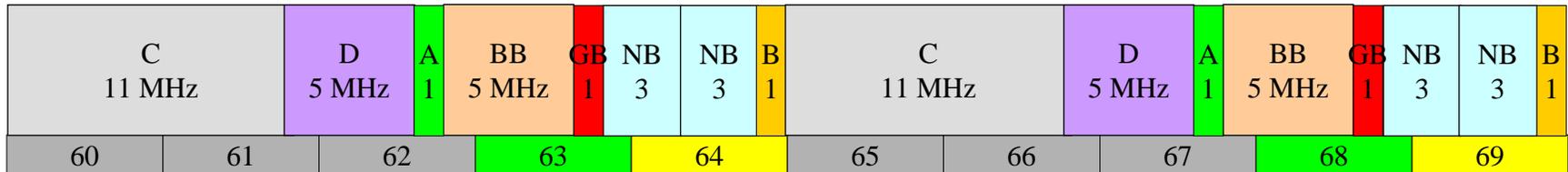
cc: Fred Campbell                      Ronald Repasi  
      Julius Knapp                        Frank Stillwell

# **Optimizing the 700 MHz Band: The FCC's Further NPRM**

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**May 2007**

# Band Plan 3 is the right choice



- Solves public safety's international border issue, provides funding mechanism for re-locating its existing narrowband operations
- Provides the proper incentives for public safety and the A&B Block licenses to cooperate to enable the Commission to auction 32 MHz of commercial broadband spectrum
- Optimizes the band for public-private partnerships whether or not the FCC adopts a "conditional auction" approach
- Facilitates the provision of next-generation wireless broadband and enables the entry of a major, nationwide wireless broadband operator
  - The Coalition for 4G in America (DirecTV, Echostar, Google, Intel, Skype, Yahoo) and Verizon Wireless support Band Plan 3
- Enables the entry of multiple regional/local wireless broadband operators
  - The Lower 700 MHz contains 24 MHz of unauctioned spectrum and 12 MHz of previously auctioned spectrum in EAs and CMAs which can be used for wireless broadband upon the completion of the DTV transition

# Support for Band Plan 3

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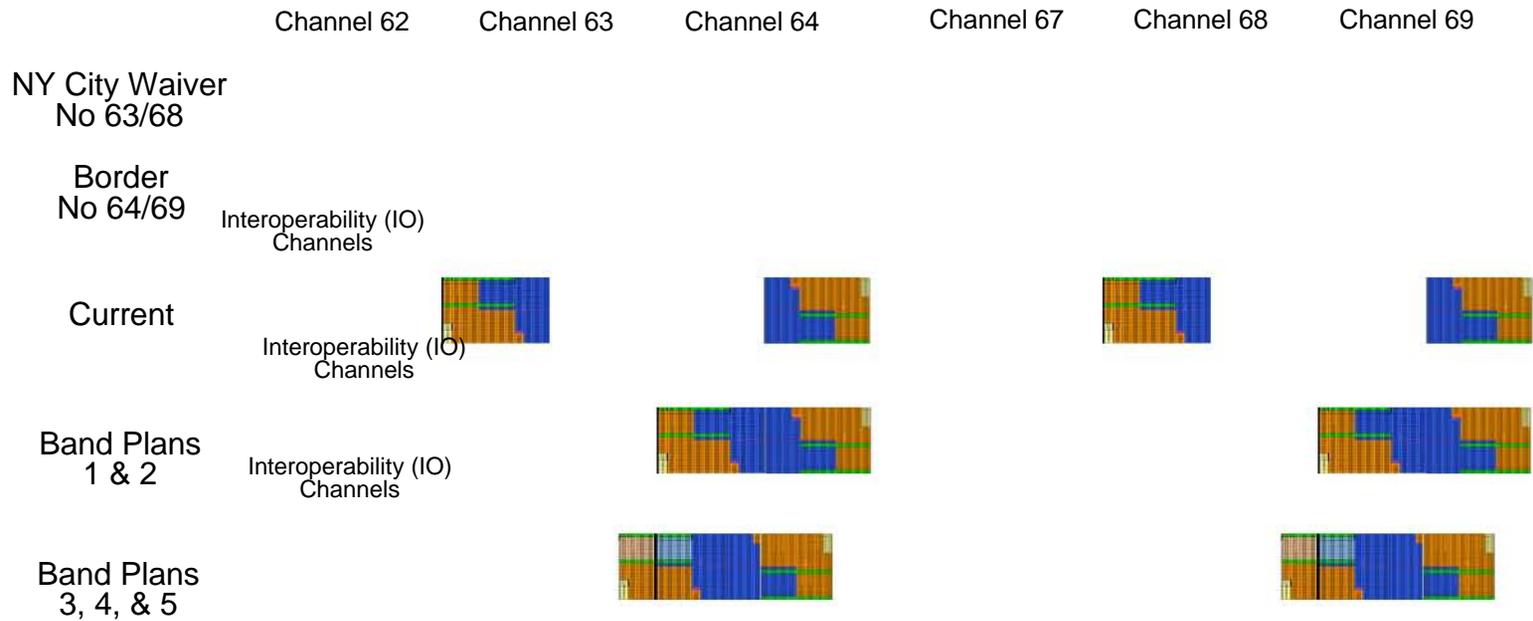
- Public safety – NPSTC, APCO, National Association of Telecommunications Officers and Advisors, National Association of Counties, the US Conference of Mayors, National League of Cities, Missouri State Highway Patrol, City of Independence (MO)
  
- Commercial support
  - The Coalition for 4G in America (DirecTV, Echostar, Google, Intel, Skype, Yahoo)
  - Verizon Wireless
  - Motorola
  - Northrop Grumman
  - WCA, CCIA
  - Upper 700 MHz Licensees (Access Spectrum, Pegasus, Dominion 700, Harbor Guard Band, Radiofone PCS)
  
- Several other commercial entities support Band Plan 4 or 5 or variations thereof . These options are inferior to Band Plan 3 but solve the problems created by Public Safety’s narrowband consolidation
  - Ad Hoc Public Interest Spectrum Coalition
  - SpectrumCo, MetroPCS, Leap Wireless, US Cellular, and several rural operators/coalitions/associations
  - Frontline Wireless and Cyren Call support variations of Band Plan 4
  - M/A-Com
  - NENA

# Band Plans 1 and 2 must be rejected

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- Band Plans 1 and 2 would be catastrophic for Public Safety
  - Interoperability for Public Safety's mission-critical narrowband voice networks would be eliminated in the Canadian and Mexican border regions
    - Any temporary solution in which the public safety agencies in border regions are using one set of interoperability channels while the rest of the country uses another set of channels *eliminates* interoperability
    - With today's public safety radios, maintaining interoperability through the use of different sets of interoperability channels is not possible
  - Public Safety would be saddled with the costs of re-tuning its narrowband systems, costs that would be indeterminate since the Canadian TV transition is scheduled for more than 4 years from now while the Mexican TV transition is not yet scheduled
  
- Band Plans 1 and 2 would be sub-optimal for commercial purposes
  - Utilize an easement on the adjacent commercial allocation which will drive down the value of the spectrum and invite litigation
  - Create a "Swiss cheese" spectrum plan
    - The Upper 700 MHz D Blocks will be only 4 MHz pairs in 15% of the country
  
- Virtually all support for Band Plans 1 or 2 is driven by a preference for particular license or geographic sizes which could easily be accommodated under Band Plans 3, 4 or 5

# The international border issue



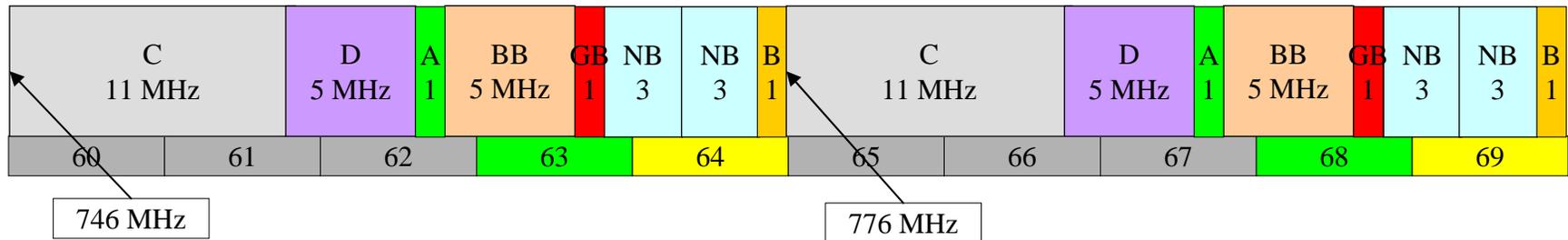
- Public Safety must have permanent, nationwide, narrowband interoperability channels on TV channels 63, 64, 68 AND 69 or there will be NO interoperability with agencies in the eighteen border states
- NPSTC Comments (page 24)
  - *“The purpose of using radios that utilize standardized interoperability is to avoid the current reprogramming or capacity challenges when out of region agencies are dispatched to an incident. Under the easement proposal, this critical capability will be lost. Simply put, unless there are permanent narrowband interoperability channels uniformly distributed across states, regions and the country in all of TV channels 63, 64, 68 and 69, there will be no interoperability for agencies in eighteen border states. **This presents an unacceptable risk to the safety of members of the public safety community and the citizens in these border areas.**”*

# The funding mechanism for Band Plans 3, 4 or 5

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- The Upper 700 MHz Licensees have committed to fund the costs related to the re-location of public safety's narrowband systems under the following conditions:
  - The technical rules for the new A Block must be harmonized to those of the current C&D Blocks including identical out-of-band emissions rules and coordination requirements
    - The Commission should endorse the framework detailed in the Second Technical Working Group Report
  - The Upper 700 MHz Licensees must receive MHz-pop auction discount vouchers for the spectrum the licensees are giving up to implement the re-packing

# The interference environment



- Band Plan 3 mimics the interference conditions of the Broadband Optimization Plan
  - Public Safety has endorsed both proposals
- The 776 MHz interface
  - As long as the B Block is commercial, the Commission can and should make clear that the new B Block be subject to guard band rules
  - If the B Block is ever re-licensed to Public Safety, the Commission can and should make clear that any public safety operations deployed in this spectrum should not expect to receive special interference protection
- The 746 MHz interface
  - The current rules provide sufficient protection to the Upper 700 MHz licensee
  - Assertions about the need to retain the A Block that have been placed into the record rest on totally incorrect conceptions about the role and rights of the A Block ‘

# Conclusion

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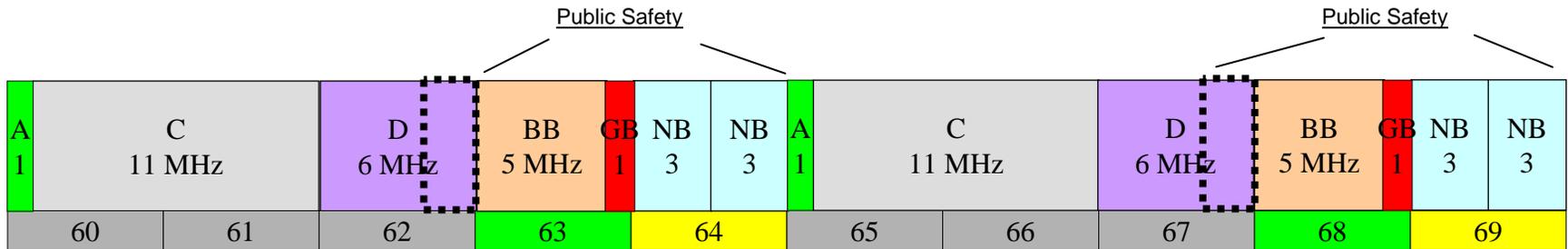
- Band Plan 3 is the right choice
  - It has the backing of Public Safety and a wide variety of commercial interests
  
- Band Plans 1 and 2 must be rejected
  - The consequences to Public Safety would be catastrophic and present an unacceptable risk
  - The negative consequences to the commercial use of the Upper 700 MHz band would be meaningful
  - The presence of alternatives (such as Band Plans 3, 4 or 5) that do solve Public Safety's concerns and allow for optimal use of the commercial allocation speaks to the wisdom of rejecting Band Plans 1 and 2
  - Support for particular sized licenses and geographies can easily be accommodated under Band Plans 3, 4 or 5

# Appendix

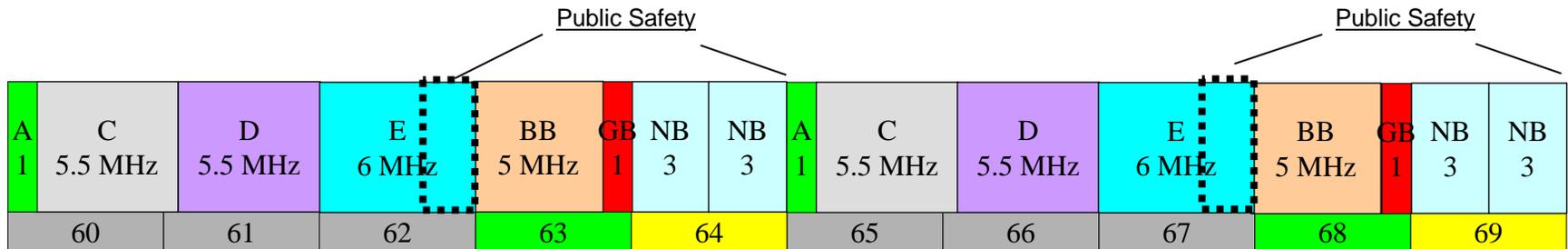
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# Band Plans – Set 1

➤ Band Plan 1 – C&D licensed in REAGs



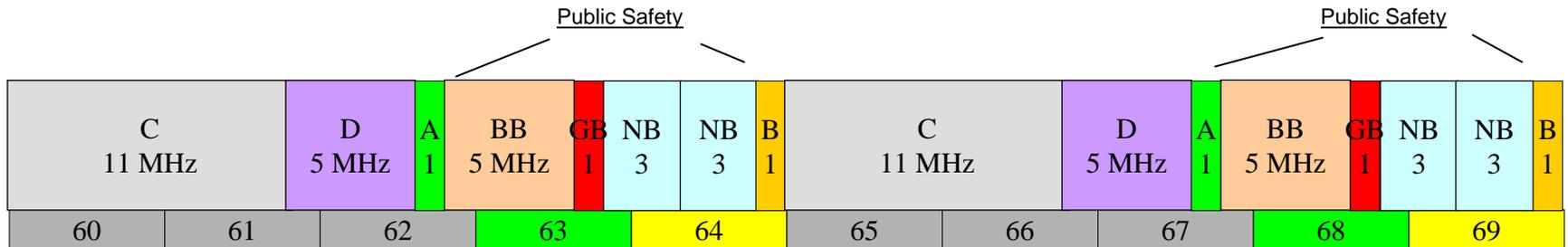
➤ Band Plan 2 – C&D licensed in REAGs; E licensed in EAs



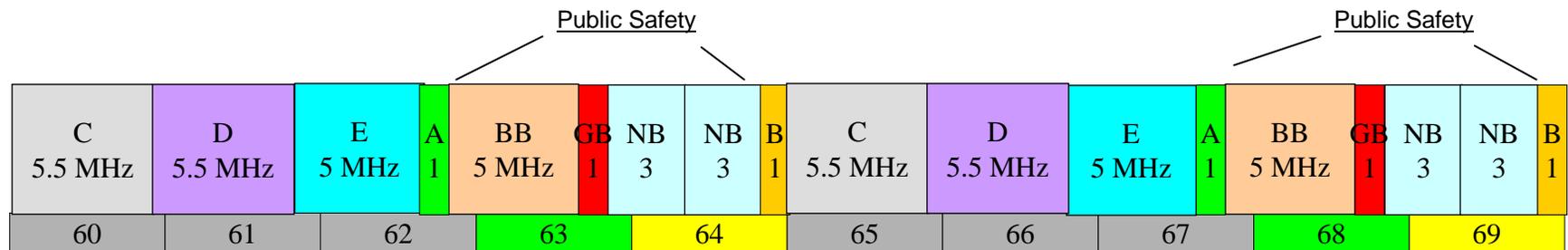
- Note: dotted black line indicates current B Block licensees (2x2 = 4 MHz) which hold licenses covering about 15% of the country leaving a 4 MHz pair or 8 MHz in these areas
- Note: these proposals attempt to solve the international border issues through the use of a “temporary easement” instead of a “permanent shift” as in proposals 3,4 and 5. The “temporary easement” does not solve public safety’s interoperability issues

# Band Plans – Set 2

- Band Plan #3 – Coalition for 4G in America proposes the C be licensed in REAGs; D in MEAs



- Band Plan #4 – C&D licensed in REAGs; E licensed in EAs



- Band Plan #5 – C licensed in REAGs; D&E licensed in EAs

