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June 1, 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 31, 2007, Andrew Rein and the undersigned on behalf of Access Spectrum, LLC, and Cheryl Crate on behalf of Pegasus Communications Corporation, met with Fred Campbell, Linda Chang, Paul D'Ari, David Hu, Tim Maguire, Paul Moon, Paul Murray, Roger Noel, Erik Salovaara, and James Schlichting of the Wireless Telecommunications Bureau. 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.

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

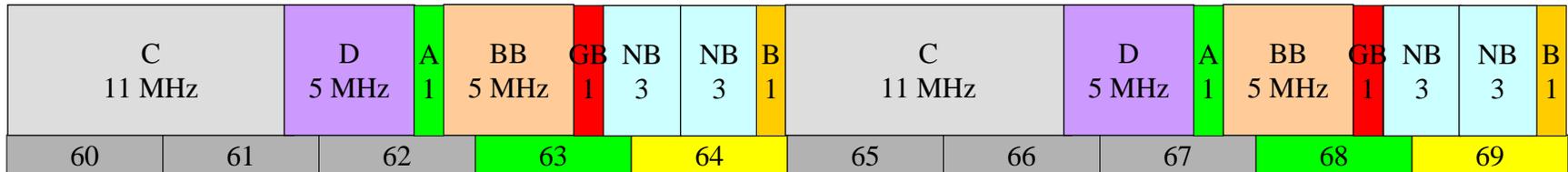
Attachment

cc: Fred Campbell Paul Moon
Linda Chang Paul Murray
Paul D'Ari Roger Noel
David Hu Erik Salovaara
Tim Maguire James Schlichting

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

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

- 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

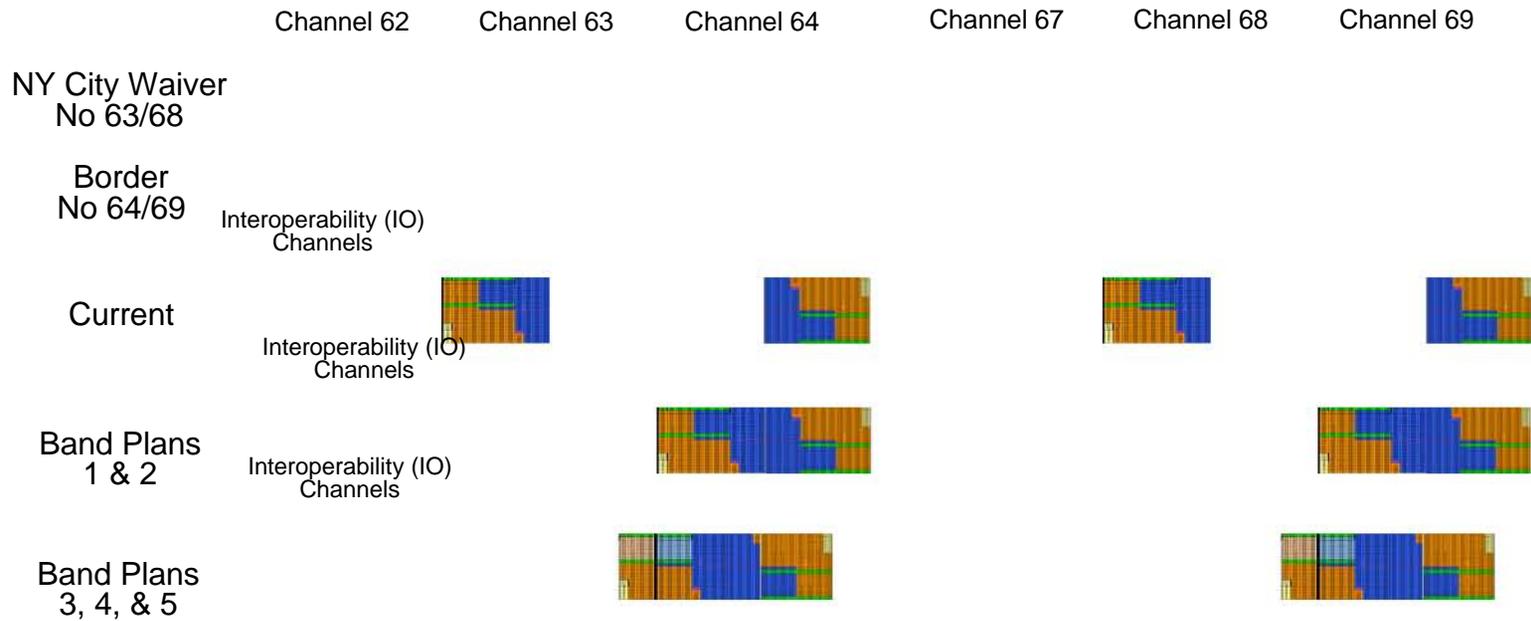
Band Plans 1 and 2 must be rejected

- 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 paired 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

- 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

Other topics

- License modifications required to implement Band Plan 3
 - Upper 700 MHz licensees giving up spectrum in return for auction discount vouchers
 - MHz-pop auction discount vouchers should be granted
 - Upper 700 MHz licensees “re-packing” into the new A Block
 - The Commission should endorse the Upper 700 MHz licensees’ agreement
 - Should any Upper 700 MHz licensee prefer to retain its current position, workable “grandfathering” alternatives exist that are far superior to Band Plans 1 or 2

- Two-sided auctions – the “option variant”
 - Enables the FCC to rationalize the band while:
 - Guaranteeing the D/E Block licensees a full 6 MHz pair
 - Permitting the individual A Block licensees to retain some flexibility
 - Avoiding any complications related to the software required to conduct a two-sided auction
 - Decision on whether and how to implement could be delegated by the Commission to the Wireless Telecommunications Bureau

Conclusion

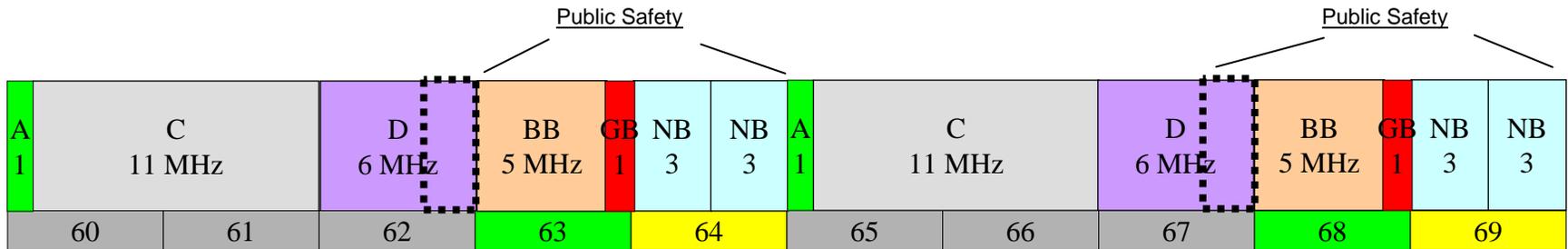
- Band Plan 3 is the right choice
 - It has the backing of Public Safety and a wide variety of commercial interests

- 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

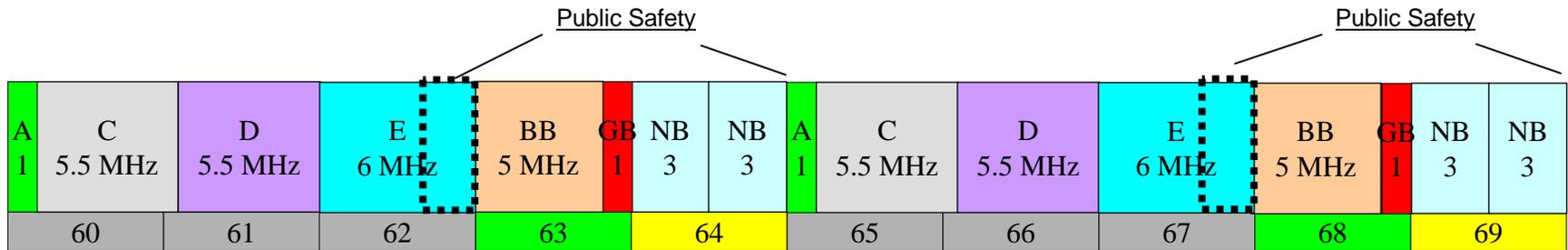
Appendix

Band Plans – Set 1

➤ Band Plan 1 – C&D licensed in REAGs



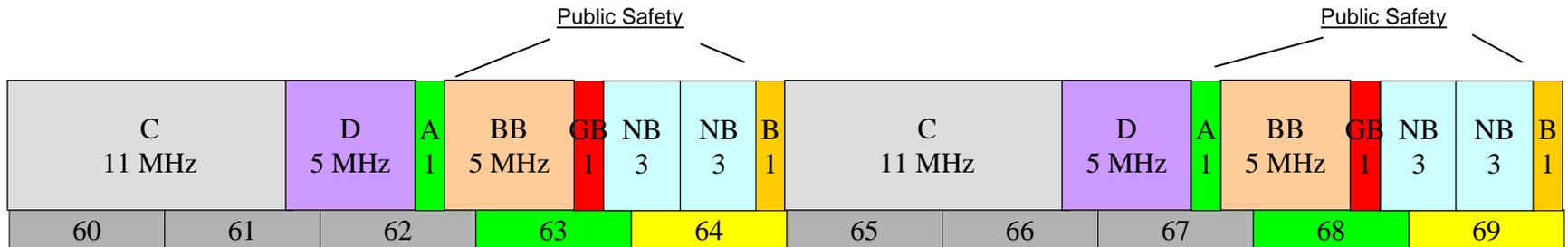
➤ Band Plan 2 – C&D licensed in REAGs; E licensed in EAs



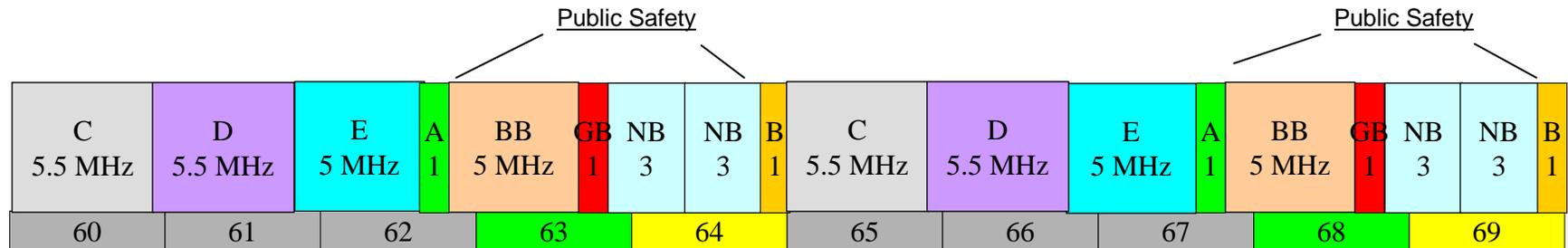
- Note: dotted black line indicates current B Block licensees (2x2 = 4 MHz) which hold licenses covering about 15% of the country leaving a 4 MHz pair or 8 MHz in these areas
- Note: these proposals attempt to solve the international border issues through the use of a “temporary easement” instead of 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

