

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

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

REPLY 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 reply comments in response to the Commission’s *Further Notice of Proposed Rulemaking (“FNPRM”)* in the above-captioned proceedings.

THE STATE SUPPORTS THE PUBLIC/PRIVATE PARTNERSHIP CONCEPT

As noted in its Comments, the State can support the concept of a Public/Private Partnership as being a viable alternative to developing and deploying a Broadband Wireless Network nationwide. In particular, we concur with:

- APCO’s proposal that the National Public Safety Licensee should compile a detailed statement of requirements (“SoR”) or similar document as soon as possible after adoption of the auction rules, and the SoR should be made available to prospective bidders. There also should be sufficient opportunity for preliminary discussions between prospective bidders and the National Public Safety Licensee to further clarify the SoR¹. The importance of entering into any venture with a clear understanding of all the major issues in play as well as all associated nuances cannot be overstressed. In practice, this is not always achievable, however, due diligence dictates that all that can be revealed – should be revealed.
- Cyren Call’s proposal that provisions establishing a balanced 700 MHz

¹ See FNPRM Comments of the Association of Public-Safety Communications Officials, Inc. (“APCO”), PS Docket No. 96-86 et al (filed May 23, 2007) at 15

- public/private partnership must be imbedded in the Commission's rules².
- NPSTC's proposal that an agreement between the winner of the "E" Block auction and the national public safety licensee must be negotiated and approved by the Commission prior to issuance of the E-Block license³.

THE STATE SUPPORTS BANDPLAN PROPOSALS 3, 4 OR 5 OF THE FNPRM

The State supports NPSTC's assessment of the five proposals on which Comments were solicited in the FNPRM, and its recommendation that the Commission adopt Proposal 3, Proposal 4, or Proposal 5 subject to the additional condition that the final band plan addresses a mechanism to reimburse those licensees forced to modify 700 MHz band radios that have already been deployed on 700 MHz channels.

The State remains concerned that negotiations with Mexico regarding use of the 700 MHz along the border between the U.S. and Mexico do not appear to have made significant progress. Since this situation makes it impossible for us to evaluate the full impact of these bandplan proposals, we request that the Commission consider the possible need to provide some spectrum within the current TV Channels 63 and 68 to allow narrowband operations near the border with Mexico.

POPULATION COVERAGE DOES NOT CONSTITUTE GEOGRAPHIC COVERAGE

² See Cyren Call comments at p. 7-23

³ NPSTC comments at p. 9

The State is particularly concerned about the realities of coverage noted in Comments filed by RCC⁴. Specifically, we note that:

- 81% of the land area would be uncovered for at least four years;
- 44% of the land area would be uncovered for between four and seven years;
- 39% of the land area would be uncovered for between eight and ten years; and
- 29% of the land area would never be covered

Of further concern is the fact that these percentages increase significantly in areas west of the Mississippi River. Furthermore, geographic areas for which State agencies bear the responsibility for providing services lie primarily in the last 3 bulleted areas. For this reason, the State supports the NPSTC proposal that the ten-year benchmark for service be established at 99.3% of the population⁵.

In supporting NPSTC's proposal, however, the State wishes to reiterate its own comments that such an increase does not go far enough. While the economic feasibility of providing service in the remaining geography is not apparent, public safety agencies must, nonetheless, provide vital services to these areas of the country. In its Comments, the State noted that "...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

⁴ Comments of RCC, PS Docket No. 96-86 et al (filed May 23, 2007) at 62

⁵ Comments of NPSTC, PS Docket No. 96-86 et al (filed May 23, 2007) at 12

indeterminable period⁶.” The State then proposed that the Commission allow interim wideband channel use in the upper portion of the proposed public safety broadband block. Other respondents expressed a similar position⁷. Thus, the State supports the well-developed NPSTC concepts including:

- the ability for Regional Planning Committees (RPCs) to solicit information from state and local agencies to determine if there is a consensus within a region as to whether the portion of the public safety broadband block under consideration for interim local systems should be made available for wideband *or broadband* systems apart from (but interoperable with) the national broadband network.
- the inclusion of a contiguous 1.25 MHz channel and 1 MHz guard band between public safety broadband and narrowband blocks for that purpose.
- such use would have primary status until February 2019, i.e., 10 years after full TV clearing (thereafter, the spectrum would revert to the national licensee for inclusion in the national broadband network).
- if the national broadband network is not operating in a region and substantially serving the same area, local/regional wideband or broadband systems could continue operating with primary status beyond February 2019 until the nationwide broadband network is available in that area.

⁶ Comments of California, PS Docket No. 96-86 et al (filed May 23, 2007) at 7-8

⁷ Some examples include Comments of the Missouri State Highway Patrol (MSHP), PS Docket No. 96-86 et al (filed May 23, 2007) at 28 and Appendix A, the Comments of Association of Public Safety Communications Officers, Inc. (APCO), PS Docket No. 96-86 et al (filed May 23, 2007) at 20-22, and the Comments of NPSTC, PS Docket No. 96-86 et al (filed May 23, 2007) at 17-22

A REMEDY FOR “E” BLOCK LICENSEE DEFAULT IS NECESSARY

The State concurs with the recommendation of both APCO and NPSTC that the Commission invoke Section 214 of the Communications Act such as to prohibit the “E” Block licensee from terminating certain services without Commission consent⁸. APCO and NPSTC further note that while this mechanism would provide an adequate restriction for a financially healthy company, they recognize additional measures must be taken to accommodate situations wherein the service provider has lapsed into insolvency.

NPSTC proposed that the Commission should require the posting of a letter of credit or similar instrument that will be engaged in the event of an “E” Block licensee default and will fund the continued investment and maintenance of the network. APCO also noted the need for a performance bond or other financial security to ensure continuity of service. Cyren Call proposed requiring the “E” Block licensee to create an escrow arrangement, structured by the National Licensee, that would fund several years of network operations fixed costs⁹. Whatever method may be adopted, the State concurs that some approach must be adopted that demonstrates that the “E” Block licensee will be financially capable of delivering an acceptable nationwide broadband network.

⁸ See APCO Comments at 20 and NPSTC Comments at 15

⁹ See Cyren Call Comments at 18-20

POWER FLUX DENSITY (“PFD”) LIMITS SHOULD AVOID INTERFERENCE WITH PUBLIC SAFETY NARROWBAND RADIO CHANNELS

In its comments, Motorola expressed concern that the same power flux density (“PFD”) limits applied to commercial operations would be insufficient to protect some public safety narrowband services from public safety broadband services¹⁰.

While the State does not feel qualified to comment with regard to the specific levels PFD levels proposed by Motorola, we are concerned with any potential for interference the public safety broadband network might impose on the 700 MHz public safety narrowband channels. Therefore, we concur with establishing a requirement that any broadband system constructed as a result of the subject FNPRM shall not cause interference into any public safety narrowband radio system. Furthermore, the State recommends that the Acceptance Test Plan for the public safety broadband network include a test to ensure the public safety broadband network has been designed so as not to cause any interference to public safety narrowband channels.

¹⁰ See Comments of Motorola, Inc. on the FNPRM, WT Docket No. 96-86 at 26-27

CONCLUSION

The State understands the Commission's need to move forward rapidly in bringing this proceeding to a close. However, the State urges the Commission to give careful consideration to the significant impact its decisions will have upon the services Public Safety agencies are able to provide to their constituents for a great many years. The Commission's actions in this proceeding will affect Public Safety agencies that are large and small; professional and volunteer; urban, suburban, and rural. Public Safety agencies are required to provide services to ALL of the people within the bounds of their jurisdiction, and the services provided within one portion of the jurisdiction cannot vary significantly from the services provided in another area. Thus, the Commission should bear in mind that efficiency and economics alone are not, and cannot, be the primary basis for decisions on these matters.

Respectfully submitted,

STATE OF CALIFORNIA

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