



July 3, 2007

The Honorable Joe Barton, Ranking Member
House Committee on Energy and Commerce

The Honorable Fred Upton, Ranking Member
Subcommittee on Telecommunications and
the Internet

Dear Representatives Barton and Upton,

We are writing this letter in response to your June 29, 2007, letter to Chairman Kevin Martin and the other FCC Commissioners discussing the 700 MHz auction and Frontline's Plan. Unfortunately, you have been given incorrect information about the Frontline Plan and about the auction. This misinformation goes to the heart of the positions taken in your letter, which we respectfully ask should be reconsidered in light of the correct information provided below:

Under Frontline's Plan, public safety will be free to negotiate with the auction winner and other carriers. The letter states that Frontline's proposal would "jury-rig the 700 MHz auction," and "force public safety officials to negotiate with one winner, of one auction, with one pre-determined business plan." In fact, to give public safety maximum flexibility and commercial protection, Frontline has proposed one-way arbitration by the FCC, binding on the E Block licensee but not on the public safety licensee, and has further proposed that public safety be allowed to walk away from the FCC arbitral decision and contract with any carrier for network services.

Frontline's Plan allows incumbents to participate in the auction. The letter alleges that Frontline's "wholesale and so-called open access requirements...are blatant poison pills to discourage competing bids," and "an outright ban on participation by incumbents is similarly self-serving." It is a flat-out untruth that Frontline has proposed to ban incumbents from participating in the auction. Incumbents can bid subject to the same conditions as everybody else. And in fact, AT&T has already expressed interest in bidding on spectrum with open access conditions.

The Frontline Plan will not result in lower auction revenues. The letter urges the FCC to avoid the Frontline Plan because it will jeopardize the "auction proceeds." The real threat of jerry-rigging and low auction revenues comes from the status quo. Economists sophisticated in auctions around the world have demonstrated that the incumbents will pay a "blocking" premium of perhaps \$3 billion to keep out competition. Knowing that, new entrants will either not participate or drop out early. The result will be low auction revenues. Moreover, the incumbents will warehouse the spectrum, fail to drive broadband penetration, short change rural interests, cripple smaller rural carriers by charging exorbitant roaming rates, stifle innovation, and shortchange compelling public safety needs.

Frontline's open access and wholesale proposals are designed to benefit public safety users. Your letter claims that Frontline's open access and wholesale proposals "do not even have anything to do with public safety." Yet, these features will certainly benefit public safety. For example, an open access commercial network will create more competition and innovation among device manufacturers and service providers, thereby enabling public safety agencies to make purchases in the future from a much larger and innovative range of device manufacturers and service providers at far lower prices than they presently pay.

Frontline's Plan is timely and would prevent a regulatory decision that fails to serve the American people. The letter alleges that Frontline's Plan is an "11th-hour proposal," Frontline filed timely comments in the public safety docket on February 26, 2007, eleven months prior to the date when the auction is statutorily required to begin and over four months ago. To give one example of how Frontline's proposal has advanced the public interest, the incumbent carriers opposed any coverage requirements for the shared public safety network and then reluctantly proposed 75% population coverage in year 10. In contrast, Frontline proposed as a condition of the commercial license a 99% population coverage requirement in year 10. Frontline's proposal would cover 68% of the landmass of the continental United States. The incumbents' proposal would cover 13%. Their coverage proposal shortchanges public safety's needs, as the incumbents always have. After Katrina and 9/11, this country deserves more.

Frontline's team has extensive experience and an impressive record of building start-up, high tech businesses. Your letter warns of a plan with "no track record of success." But, Frontline's principals have played a major role in starting or growing such successful companies as Google, Federal Express, Netscape, Vanguard Cellular and McCaw Communications. Frontline's founding partners can get this job done: We have built wireless networks and were among the innovators that first developed the internet's potential. Frontline has made available Citibank, its investment bankers, to answer questions about the viability of its plans, which many others will surely emulate, and it would be happy to make that available to you at your convenience.

Public safety has supported the Frontline Plan. As Wanda McCarley, president of the Association of Public-Safety Communications Officials International and a member of the governing board of the National Public Safety Telecommunications Council, stated in her recent testimony before the Senate Committee on Commerce, Science and Transportation, public safety supports Frontline's conditional auction approach because "there is simply no other viable method to pay for a national broadband network that will meet public safety requirements." There are details still to be worked out but a review of the comparable coverage proposals above shows why the Frontline approach is the right one for public safety, and none other comes close.

Frontline's approach allows for a great variety of license sizes, spectrum blocks, and providers. Your letter claims that the *Ninth NPRM*, compared to the Frontline Plan, will create more diversity in license sizes and spectrum blocks and will make it easier for the Commission to diversify providers: "national, regional, and local; large medium and

small; incumbent and new entrant; rural and urban.” In fact, Frontline’s Plan, which built on the FCC’s *Ninth NPRM*, allows for more diversity and provides opportunities for all types of providers using a wholesale, open access model. By establishing a mix of licenses of varying sizes and geographic regions in the C and D Blocks, while creating a nationwide license in the E Block for the shared public safety/commercial network, Frontline’s Plan will provide vital roaming solutions for small carriers, facilitate competitive access to critical broadband spectrum and further the public’s interest in a competitive and robust wireless 4G marketplace.

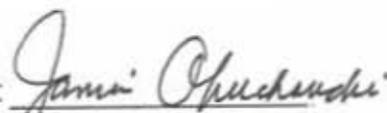
Frontline is the only commercial entity to propose extensive buildout requirements. The letter alleges that public safety is worried that “the network will not be available for years.” Frontline has promised to construct a network to public safety standards with clear and aggressive coverage benchmarks after 5, 7, and 10 years, culminating in a network reaching 99% of the population. These are nearly identical to the benchmarks proposed by the public safety community and far exceed the buildout requirements grudgingly proposed by the incumbents, which are not responsive to public safety’s needs but to their own commercial interests.

Forcing public safety to wait for commercial entities to help them has been a proven failure, and the government has chosen not to fund the buildout. The letter recommends that the FCC allow the market to determine a partner for public safety, as proposals may come from any of the auction winners or other licensees “all of whom may be willing to provide public safety access to additional spectrum.” The history of inaction after 9-11, Katrina and other disasters shows that this will not occur. And the existing carriers intend to build to commercial standards, not public safety’s more demanding specifications. In contrast, Frontline’s Plan is designed specifically to ensure that public safety is not forced to rely on commercial entities who “may be willing” to help. Moreover, the Frontline Plan would give public safety the option to choose a different network provider if the incumbents change their historic course and provide a better alternative.

It is clear that the various incorrect statements quoted above are based on inaccurate information. It is also clear that this inaccurate information goes to the very core of your concerns. The 700MHz auction is the last opportunity to solve public safety’s continued, urgent needs. It is the last opportunity to facilitate competition and innovation in wireless. It is the last opportunity to drive wireless broadband penetration. All this can be accomplished while conducting the auction on time, optimizing auction revenues and maximizing spectrum-use efficiency. We look forward to working with you to ensure these vital national goals.

Sincerely,


Haynes G. Griffin

By: 
Janice Obuchowski

By: 
Reed Hundt

Cc: The Honorable John Dingell, Committee Chairman
The Honorable Ed Markey, Chairman, Subcommittee on Telecommunications and the
Internet
Members of the House Commerce Committee
FCC Chairman Kevin Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert M. McDowell