

**Before the  
Federal Communications Commission  
Washington, D.C. 20054**

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
	)	
Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones	)	WT Docket No. 01-309
	)	
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. 03-264
	)	
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
	)	
Declaratory Ruling on Reporting Requirement under Commission's Part 1 Anti-Collusion Rule	)	WT Docket No. 07-166
	)	

**STATEMENT FOR THE RECORD**  
**BY THE**  
**COMMONWEALTH OF VIRGINIA**

The Commonwealth of Virginia (“Commonwealth”), by its counsel, hereby submits this Statement for the Record in light of the pending auction of 700 MHz frequencies, and in further support of its Petition for Reconsideration<sup>1</sup> of the Federal Communications Commission’s (“Commission”) Second Report and Order in the above dockets.<sup>2</sup>

The Commonwealth of Virginia has previously filed a waiver request<sup>3</sup>, a Petition for Reconsideration, and (with Pierce County Public Transportation Benefit Area Corporation, “Pierce Transit”) Joint Reply Comments<sup>4</sup>.

The Commonwealth, by its Virginia Information Technologies Agency, has also filed a certification as to specific information regarding its deployment of equipment in the 700 MHz spectrum as of August 30, 2007 which will require relocation, as required by the Commission<sup>5</sup>.

The Commonwealth’s Petition for Reconsideration (and the Pierce Transit Petition for Reconsideration)<sup>6</sup> raised three issues, requesting that the Commission reconsider: (1) its unreasonable deadline prohibiting new narrowband operations by 700 MHz public safety incumbents outside the new 700 MHz consolidated narrowband blocks adopted in the Second Report and Order, after August 30, 2007; (2) its decision to limit reimbursement to 700 MHz

---

<sup>1</sup> *Commonwealth of Virginia Petition for Reconsideration*, WT Docket No. 06-150, PS Docket No. 06-229, WT Docket No. 96-86 (filed September 24, 2007).

<sup>2</sup> *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, et al*, Second Report and Order, WT Docket No. 06-150, et al., FCC 07-132 (rel. Aug. 10, 2007) (“Second Report and Order”).

<sup>3</sup> *Commonwealth of Virginia Waiver*, WT Docket No. 06-150, PS Docket No. 06-229, WT Docket No. 96-86 (filed August 30, 2007). The Commonwealth of Virginia also filed supplements to its waiver request at the request of Commission staff.

<sup>4</sup> *Joint Reply Comments of Pierce Transit and the Commonwealth of Virginia*, WT Docket No. 06-150, PS Docket No. 06-229, WT Docket No. 96-86 (filed October 26, 2007).

<sup>5</sup> Virginia Certification letter dated October 19, 2007, received by the Commission October 22, 2007 in WT Docket 06-229.

<sup>6</sup> *Pierce Transit Petition for Reconsideration*, WT Docket No. 06-150, PS Docket No. 06-229, WT Docket No. 96-86 (filed September 24, 2007).

incumbents for relocation expenses associated with the migration and consolidation of incumbent 700 MHz public safety operations to radios and base stations actually deployed and in operation as of the August 30, 2007 deadline; and (3) the unprecedented \$10 million cap on total relocation costs for all 700 MHz public safety incumbents. The Virginia Congressional delegation, as well as the Washington State Congressional delegation, have unanimously requested that the Commission act favorably on these issues<sup>7</sup>.

While the Commission has granted very limited interim waivers to the Commonwealth<sup>8</sup> and Pierce Transit<sup>9</sup> to continue deployment of their equipment pending the Commission's decision on reconsideration, no other action has been taken by the Commission.

The Commonwealth, having timely filed a waiver request on August 30, 2007 and its Petition for Reconsideration on September 24, 2007, fully hoped and expected that the Commission would grant its requests for relief on reconsideration prior to the scheduled January 24, 2008 start date of the 700 MHz auction, in order to provide clarity to the public safety community.

Unfortunately, this has not yet occurred. The Commonwealth is therefore filing this Statement for the Record to put the Commission, and all bidders in the 700 MHz auction, on formal notice that the Commonwealth expects to be reimbursed, in full, for all of its relocation costs, for all equipment which it had contracted for as of August 30, 2007, without regard to any "cap". Please take notice that the Commonwealth intends to pursue all legal avenues available to it to obtain a favorable determination as to its rights and to collect such relocation costs from the successful bidders for 700 MHz spectrum and/or from the Commission.

---

<sup>7</sup> Submission for the record on behalf of the Commonwealth of Virginia, filed November 21, 2007, consisting of a letter to Chairman Martin dated November 20, 2007 from the entire Virginia Congressional delegation; *See also* Letter from Washington Congressional Delegation to Chairman Martin, dated December 12, 2007.

<sup>8</sup> *Order*, FCC 07-195 (released November 14, 2007).

<sup>9</sup> *Order*, DA 08-123 (released January 18, 2008).

The Commonwealth is committed to preserving the integrity of its STARS and other public safety communications systems for the benefit of its citizens, and cannot allow public safety communications in the Commonwealth to be harmed by having public safety spectrum taken away without being fully compensated for its relocation costs.

Respectfully submitted,

**COMMONWEALTH OF VIRGINIA**



---

Peter E. Broadbent, Jr.  
Christian & Barton, L.L.P.  
909 East Main Street, Suite 1200  
Richmond, Virginia 23219  
(804) 697-4109  
*Attorney for the Commonwealth of Virginia*

Dated: January 23, 2008

854531