80. *Combined use of spectrum.* We seek comment on whether, in order to provide the D Block licensee with appropriate flexibility to achieve an efficient and effective implementation of the 700 MHz Public/Private Partnership obligations, we should amend our rules to clarify that the D Block licensee may construct and operate the shared wireless broadband network using the entire 20 megahertz of D Block spectrum and public safety broadband spectrum as a combined, blended resource. In particular, we seek comment on whether, in designing and operating the shared network, the 10 megahertz of D Block spectrum and the 10 megahertz of public safety broadband spectrum may be combined, in effect, into a single and integrated 20 megahertz pool of fungible spectrum that may be assigned to users without regard to whether a public safety user is being assigned frequencies in the D Block or a commercial user is being assigned frequencies in the public safety broadband spectrum, so long as the network provides commercial and public safety users with service that is consistent with the respective capacity and priority rights of the D Block license and Public Safety Broadband License and with our rules. For example, such a network would have to guarantee that public safety users have priority access to at least 10 megahertz of spectrum capacity consistent with the 10 megahertz associated with the Public Safety Broadband License, but, at any particular time, the network might be using frequencies associated with either the D Block license or the Public Safety Broadband License to provide that capacity.[96]

81. We seek comment on whether permitting the combined use of spectrum in this fashion would provide for a more efficient and effective use of spectrum, whether it provides further flexibility to evaluate and use all available wireless broadband technologies to build and operate the network and thus promote our ultimate goal of making available a nationwide interoperable broadband network for public safety users. We also seek comment on whether such combined use would be consistent with the different rights and obligations associated with the D Block license and the Public Safety Broadband License, respectively, and whether, in light of these and other considerations, it would be in the public interest to allow such use. Commenters should also discuss whether permitting such combined use of the spectrum associated with these two licenses would be consistent with the requirements of Sections 337(a) and (f) and the Commission rules allotting specific frequencies for use by the Public Safety Broadband Licensee and the D Block licensee.

82. *Power flux density, and related notification, and coordination requirements.* In the text of the *Second Report and Order*, we indicated that we would not adopt any power flux density (PFD) limit requirement in the public safety broadband segment, based on the limited record received on this issue.[97] We also noted that, should additional facts be presented, we might revisit this issue.[98] The applicable rules adopted by the *Second Report and Order,* however, require the Public Safety Broadband Licensee to meet a PFD limit when operating base stations at power levels above 1 kW ERP.[99] In light of this discrepancy between the text of the order and the rules, we seek comment on whether we should retain this PFD requirement for the public safety broadband spectrum.[100] Further, we note that Verizon

[96] We note that, under current rules for the 700 MHz Public/Private Partnership, public safety users would be entitled in emergencies to the full combined 20 megahertz of capacity on a priority basis. Elsewhere in this Second Further Notice, we seek comment on whether to eliminate or clarify this requirement.

[97] *See id.*, 22 FCC Rcd at 15417 ¶ 358.

[98] *Id.*

[99] *See* 47 C.F.R. § 90.542(a)(5), (b).

[100] This requirement had initially been imposed on Upper 700 MHz C and D Block licensees to protect public safety narrowband licensees from interference.

Wireless ("Verizon") filed a petition for reconsideration of the *First Report and Order*[101] with regard to certain of the notification and coordination obligations placed on commercial 700 MHz licensees.[102] First, Verizon requests that we eliminate the PFD/notification requirement for Upper 700 MHz C and D Block licensees when operating base stations at power levels above 1 kW ERP in non-rural areas. And second, with respect to Upper 700 MHz C and D Block licensees operating in rural areas, Verizon requests that such licensees: (1) should only have to coordinate with adjacent block licensees (*i.e.*, not all other 700 MHz licensees) when seeking to operate at power levels greater than 1 kW ERP; (2) should be permitted to use a power level of "1 kW ERP and 1 kW/MHz ERP" as the trigger for coordination instead of 1 kW ERP;[103] and finally, (3) should be subject to a PFD/notification requirement, rather than a coordination requirement, when operating base stations at power levels greater than 1 kW ERP and 1 kW/MHz ERP.[104] In light of this petition, we seek comment on whether to apply any or all of Verizon's proposed rule changes to the public safety broadband spectrum.

83. *Other technical requirements.* As noted above, we also seek comment on whether to establish, modify, or clarify the requirements with regard to any other critical aspect of the network that may significantly affect its commercial viability or its ability to meet the needs of public safety. For example, should we further specify the technical requirements and standards with regard to interoperability or network availability?

(ii) Priority Public Safety Access to Commercial Spectrum During Emergencies

84. Background. In addition to requiring that the network meet certain technical specifications, we also required that the D Block licensee provide the Public Safety Broadband Licensee with priority access, during emergencies, to the spectrum associated with the D Block license (in addition to the 700 MHz public safety broadband spectrum). At the same time, we noted that the potential disruption of commercial service in the D Block, while appropriate in an emergency situation, must be limited to the most serious occasions in order to avoid jeopardizing the commercial viability of the 700 MHz Public/Private Partnership. To balance these competing concerns, we thus required the parties to define "emergency" for purposes of priority access to D Block license spectrum as part of the NSA.[105] We also provided that in the event that the parties are unable to agree that an emergency situation requires priority access to the D Block license spectrum, especially in circumstances that do not clearly fall within the definition of "emergency" negotiated by the parties in the NSA, the Public Safety Broadband Licensee

[101] *See* 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 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, *Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 8064 (2007) (*First Report and Order*).

[102] Petition for Reconsideration of Verizon Wireless, WT Docket No. 06-150 (filed June 14, 2007) (Verizon Petition).

[103] Upper 700 MHz C and D Block licensees may operate base stations at power levels up to 2 kW/MHz ERP in rural areas.

[104] Verizon Petition at 8-12.

[105] *Second Report and Order*, 22 FCC Rcd at 15441-42 ¶ 426.

may request that the Commission declare, on an expedited basis, that particular circumstances warrant emergency priority access.[106]

85. Discussion. We seek comment on whether we should continue to require that the D Block licensee provide the Public Safety Broadband Licensee with priority access, during emergencies, to the spectrum associated with the D Block license. We seek comment on whether this obligation is essential to ensure that the network capacity will meet public safety wireless broadband needs, or whether removing the obligation could significantly improve the chances that this proceeding will succeed in achieving our goal of making available to public safety users a nationwide, interoperable, broadband network that incorporates the greater levels of reliability, robustness, security, and other features required for public safety services.

86. If we continue to require that the D Block licensee provide the Public Safety Broadband Licensee with priority access, during emergencies, to the spectrum associated with the D Block license, we seek comment on whether we should provide more clarity on the circumstances that would constitute an "emergency" for this purpose. If so, we ask whether any or all of the following events should define an "emergency:"

- The declaration of a state of emergency by the President or a state governor.
- The issuance of an evacuation order by the President or a state governor impacting areas of significant scope.
- The issuance by the National Weather Service of a hurricane or flood warning likely to impact a significant area.
- The occurrence of other major natural disasters, such as tornado strikes, tsunamis, earthquakes, or pandemics.
- The occurrence of manmade disasters or acts of terrorism of a substantial nature.
- The occurrence of power outages of significant duration and scope.
- The elevation of the national threat level, as determined by the Department of Homeland Security, to either orange or red for any portion of the United States, or the elevation of the threat level in the airline sector or any portion thereof, as determined by the Department of Homeland Security, to red.

87. Are there any other events, or modifications to the above, that would assist in removing uncertainty in reaching a definition of "emergency?" Would this proposed definition of "emergency" be too burdensome on the D Block licensee? If we adopted some or all of the above event-defining emergencies, should we permit the parties to the NSA to propose different or additional scenarios that should be considered emergencies? Further, should we make explicit that priority access in emergency situations be limited to the geographic and/or jurisdictional area directly affected by the emergency? Should we establish time limits on the duration of priority access? If so, how should such time limits be based? Alternatively, should we establish limits on the priority access given to the D Block spectrum capacity, for example by limiting public safety's priority access to D Block spectrum capacity in emergencies to 50 percent?

[106] *Id.* at 15442 ¶ 427. We delegated authority to the Defense Commissioner to decide these requests. See 47 C.F.R. § 0.181.

(iii) Performance Requirements Relating to Construction of the Network

88. Background. In the *Second Report and Order*, we decided that the D Block license would be issued for a period of 10 years and imposed unique performance requirements for the D Block license in connection with the construction of the shared wireless broadband network. Specifically, we required the D Block licensee to provide signal coverage and offer service to at least 75 percent of the population of the nationwide D Block license area by the end of the fourth year, 95 percent by the end of the seventh year, and 99.3 percent by the end of the tenth year.[107] We further specified that "the network and signal levels employed to meet these benchmarks be adequate for public safety use . . . and that the services made available be appropriate for public safety entities in those areas."[108]

89. Certain other requirements were imposed to further ensure coverage of highways and certain other areas such as incorporated communities with a population in excess of 3000.[109] We concluded that these build-out requirements "will ensure that public safety needs are met."[110] We also required, however, that, "to the extent that the D Block licensee chooses to provide commercial services to population levels in excess of the relevant benchmarks, the D Block licensee will be required to make the same level of service available to public safety entities."[111]

90. Discussion. We seek comment on whether we should revise the performance requirements that we imposed on the D Block licensee with regard to building out the nationwide, interoperable broadband network and, if so, how those requirements should be revised. We also invite comment on whether to extend the license term for that license, and possibly the Public Safety Broadband License, if we determine to provide for construction benchmarks that extend past the initial license term that we established for the D Block license.

91. We seek comment on whether we should retain the existing end-of-term population benchmark of 99.3 percent or whether instead we should adopt a lower population benchmark that is equal to or more aggressive than the 75 percent benchmark that is applicable to the C Block. We note that each of the top four nationwide carriers is currently providing coverage to approximately 90 percent or more of the U.S. population.[112] Given that existing commercial wireless infrastructure already covers approximately 90 percent of the population, we seek comment on whether it is reasonable to expect that the D Block licensee would be able to meet at least a 90 percent of the population coverage requirement or more, or whether some other coverage requirement is appropriate.

92. Based on extrapolations from one estimate in the record, it appears that reducing the population coverage level from 99.3 to 98 percent would result in a potential cost savings for the D Block licensee of approximately $3.1 billion in capital expenditures and reducing the coverage level to 95 percent would result in a potential cost savings of approximately $6.1 billion in capital expenditures.[113]

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[107] *Second Report and Order*, 22 FCC Rcd at 15445 ¶ 437.

[108] *Id.* at 15446 ¶ 440.

[109] *See id.* at 15445 ¶ 438 – 15446 ¶ 440.

[110] *Id.* at 15445 ¶ 437.

[111] *Id.* at 15446 ¶ 440.

[112] UBS Warburg Investment Research, U.S. Wireless 411, at 17 (Mar. 18, 2008).

[113] *See* Frontline Petition for Reconsideration at 22 (stating that increasing the 10-year coverage requirement from 99 percent of the population to 99.3 percent added $1 billion in costs to the network). Commission staff extrapolated from Frontline's analysis to estimate potential cost savings associated with various coverage levels. First, Commission staff estimated Frontline's implied network cost per square mile by taking the difference in (continued....)

Even assuming that a more reasonable estimate of potential cost savings may amount to around half these figures, reducing the coverage level to 98 percent would result in a potential cost savings of approximately $1.6 billion and reducing the coverage level to 95 percent would result in a potential cost savings of around $3.1 billion.[114] We seek comment on these specific estimates, as well as any other estimates that commenters can provide relating to the incremental additional costs associated with covering each percentage (in whole or part) of the population above 95 percent. We also note that reducing the population coverage level for the end-of-term benchmark from 99.3 percent to 98 percent or 95 percent would also reduce the geographic area covered by the network. We estimate, for example, that under the current 99.3 percent end of term build-out benchmark, approximately 61 percent of the geographic area of the country would be covered by the network. By contrast, with a 95 percent end-of-term build-out benchmark, we estimate that approximately 40 percent of the geographic area of the country would be covered.[115] We seek comment on these estimates, or on any related estimates.

93. More generally, we seek comment on how much a dedicated, nationwide, interoperable broadband network for public safety, built to the requirements outlined in the *Second Report and Order*, costs to build and operate. We seek as much detail on these costs as commenters can provide. How should the Commission balance the potential savings associated with adopting less stringent performance requirements with our goal of establishing a nationwide interoperable public safety network?

94. As we consider appropriate construction benchmarks for the D Block license, we note that for the 22 megahertz C Block we required licensees to provide signal coverage and offer service to at least 40 percent of the population in each EA of the license area within four years and to at least 75 percent of the population in each EA of the license area by the end of the ten-year license term.[116] Given that the licenses in the C Block were successfully auctioned in Auction 73, and that at least one bidder has put together a nearly nationwide geographic footprint with these licenses, we assume that the D Block licensee should, at the very minimum, be able to meet these benchmarks with respect to its nationwide license. We seek comment on this assumption.

95. Depending on which performance benchmarks we may ultimately adopt, should we include benchmarks that extend beyond the end of the initial 10 year license term? If so, should we also

(Continued from previous page)
square miles between CONUS population coverage at 99.3 percent and 99 percent (149,048 square miles), and then dividing Frontline's $1 billion cost savings by this difference in square miles. Using this methodology, Commission staff estimated Frontline's implied network cost per square mile to be approximately $6,700. In estimating the difference in square miles between population coverage at 99 percent and 99.3, Commission staff used U.S. Census-based population data by county, starting with the county that has the highest population density, and working down in counties to arrive at 99 and 99.3 percent of the U.S. population. Using the implied network cost per square mile derived from the Frontline data, Commission staff estimated that reducing the CONUS population coverage level from 99.3 to 98 percent would result in a reduction of 913,612 square miles covered by the network. This reduction in square miles is multiplied by the implied cost of $6,700 to arrive at potential network cost savings for the D Block licensee of approximately $3.1 billion. Similarly, Commission staff estimated that reducing the CONUS population coverage level from 99.3 to 95 percent would result in a reduction of 462,591 square miles covered by the network. This reduction in square miles is multiplied by the implied cost of $6,700 to arrive at potential network cost savings for the D Block licensee of approximately $6.1 billion.

[114] By reducing this estimated implied network cost per square mile by 50 percent (from $6,700 to $3,355), Commission staff estimated a potential cost savings of approximately $1.6 billion if the coverage level were reduced to 98 percent, and a potential cost savings of $3.1 billion if the coverage level were reduced to 95 percent.

[115] See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, *Twelfth Report*, 23 FCC Rcd 2241, at 5 (2008) (Twelfth CMRS Competition Report).

[116] *Second Report and Order*, 22 FCC Rcd at 15351 ¶¶ 162-63.

extend the term of the D Block license accordingly? Would doing so make it easier for the D Block licensee to meet the performance requirements the Commission adopted? If, for example, we were to adopt a 15 year license term, would such a modification increase the commercial viability of the required network while still meeting public safety needs? If we were to adopt a 15 year license term, how should the interim build-out benchmarks be modified? We could, for example, require the D Block licensee to provide signal coverage and offer service to at least 50 percent of the population of the nationwide license area by the end of the fifth year, 80 percent of the population of the nationwide license area by the end of the tenth year, and 95 percent of the population of the nationwide license area by the end of the fifteenth year. Would modifying the license term and performance requirements in this way, or similar way, serve the public interest? Alternatively, if we extend the overall license term, should we add additional interim benchmarks to reflect the longer deployment period? What potential impact would these revised terms and benchmarks have on the near-term and long-term needs of public safety? Would roaming be a possible solution to increased coverage needs?

96. We also seek comment on how making changes to the license term and performance requirements as described above would affect other aspects of the rules that we adopted, such as the requirement that the D Block licensee and Public Safety Broadband Licensee negotiate inclusion into the build-out schedule coverage of major highways and interstates, as well as incorporated communities with a population in excess of 3,000 people?[117] In addition, we seek comment on whether any aspect of the renewal requirements for the D Block licensee should be revised. In the *Second Report and Order*, we determined that, at the end of the 10 year license term, the D Block licensee will be allowed to apply for license renewal that will be subject to its success in meeting the material requirements set forth in the NSA as well as all other license conditions, including meeting the performance benchmark requirements.[118] Because the initial NSA term will expire at the same time, we also required the D Block licensee to file a renewed or modified NSA for Commission approval at the time of its license renewal application.[119] Should we make any changes to these requirements?

97. How will the possibility of NSA re-negotiation at some point in the future affect the incentives of public safety users to develop reliance on the public safety broadband network? What steps could provide public safety users with confidence that using the broadband network will remain attractive after potential changes to the NSA at renewal time?[120] What are the downsides to such an approach?

98. As discussed above, we are seeking comment on whether the license term of the D Block should be revised. In adopting the ten-year license term for the Public Safety Broadband Licensee, we sought to harmonize the license terms to facilitate the contemplated leasing arrangement and build out requirements. Accordingly, should we determine to extend the term of the D Block license, we seek comment on whether we also should extend the Public Safety Broadband Licensee term in a corresponding manner. Further, we determined in the *Second Report and Order* that the NSA was to have a term not to exceed 10 years from February 17, 2009, to coincide with the term of the D Block license. Thus, we also ask whether we should extend the term of the NSA to be co-extensive with any extended term we may adopt for the D Block.

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[117] We do not revisit our decision to prohibit geographic partitioning and spectrum disaggregation for the D Block licensee in the context of the 700 MHz Public Private Partnership. We continue to find that such restriction is necessary to ensure the integrity of the public/private partnership and nationwide broadband network.

[118] *Second Report and Order*, 22 FCC Rcd at 15450 ¶ 458.

[119] *Id.*

[120] *See* A New Proposal for a Commercially-Run Nationwide Broadband System Serving Public Safety by Jon M. Peha, Associate Director, Center for Wireless and Broadband Networking, Professor of Electrical Engineering and Public, PS Docket No. 06-229, WT Docket No. 96-86 (filed Feb. 27, 2007), at 9.

99. We also seek comment on whether we should revise our rules to permit the D Block licensee to use Mobile Satellite Service to help it meet its build-out benchmarks. In the *Second Report and Order*, we found that satellite services can enable public safety users to communicate in rural and remote areas that terrestrial services do not reach. We also stated that satellite technology can provide the only means of communicating where terrestrial communications networks have been damaged or destroyed by wide-scale natural or man-made disasters.[121] As a result, we required that the D Block licensee make available to public safety users at least one handset that includes a seamlessly integrated satellite solution.[122] In addition, we strongly encouraged the D Block licensee and the Public Safety Broadband Licensee to negotiate large-scale satellite service agreements that could be used to either expand or expedite build-out in rural areas and to replace terrestrial services where terrestrial facilities are damaged or destroyed.[123]

100. In light of the potential for Mobile Satellite Services to supplement the D Block licensee's coverage, we seek comment in this Second Further Notice on whether it would serve the public interest to permit the D Block licensee to utilize Mobile Satellite Service as a way to meet, in part, its build-out requirements. We seek comment on whether this proposal could better enable the D Block licensee to meet its performance requirements by providing the licensee with additional means for ensuring that broadband public safety services are available in remote and rural areas. If the D Block licensee is able to make use of Mobile Satellite Service coverage, we seek comment on whether satellite coverage would make it easier to cover gaps in rural areas in the terrestrial 700 MHz public safety network. We seek comment on whether this additional flexibility in infrastructure deployment would serve to bolster the availability, robustness, and survivability of the public safety communications network. If we permit the D Block licensee to use Mobile Satellite Services to help it meet the build-out benchmarks, we seek comment on whether we should limit the extent to which it can rely upon such services and, if so, how its reliance on Mobile Satellite Services should be limited.

101. We also seek comment on whether the D Block licensee's obligation to meet its build-out requirements should be delayed or relaxed if the licensee ensures that handsets with terrestrial and mobile satellite components are available in areas that have not been built out with a terrestrial network, but are covered by a Mobile Satellite Service footprint. Alternatively, we seek comment on whether we should retain the terrestrial build-out requirement, but provide the D Block licensee with more flexibility if it makes terrestrial/mobile satellite handsets available for public safety use. We seek comment, for example, on whether the D Block licensee should be provided scaled flexibility based on the substitutability of the satellite offering for terrestrial services to be used by public safety users. Factors that we could consider in assessing such an offering might include: (1) the capabilities of the satellite component (*e.g.*, voice, data, video, interoperability, priority/preemption); (2) the availability of terrestrial/mobile satellite data devices, in addition to handheld voice devices; and (3) geographic coverage. To the extent we determine to lower the population coverage level for the end-of-term benchmark from 99.3 percent to 98 percent or 95 percent, is there some other way than Mobile Satellite Service to provide service to 99.3 percent of the population?

102. What would be the marginal cost to public safety entities of using Mobile Satellite Service-based communications services? To what extent would these marginal costs be comparable to the marginal cost of using the terrestrial component of the public safety broadband network? Is it reasonable to require the D Block licensee to ensure some degree of comparability of costs for public

[121] *Second Report and Order* at 15452 ¶ 463.

[122] *Id.* at 15452 ¶ 464.

[123] *Id.* at 15453 ¶ 467.

safety end users if the D Block licensee relies upon Mobile Satellite Service to fulfill a network buildout requirement? How could such comparability be defined and enforced?

103. We also seek comment on whether there are other terrestrial or non-terrestrial technologies or services that the D Block licensee may utilize to satisfy its performance requirements.[124] We reiterate the questions asked of Mobile Satellite Services above with regard to other such non-terrestrial technologies, and we seek comment on the costs and benefits of such technologies, particularly in comparison to Mobile Satellite Service, and whether permitting the use of such technologies to satisfy in part the D Block licensee's performance requirements would raise any other issues that should be addressed by the Commission.

104. We further seek comment on whether, to reduce the cost of meeting our build-out requirements, we should adopt rules to promote or facilitate access by the D Block licensee to public safety towers and/or rights of way, and if so, what measures would be appropriate? We might, for example, obligate the licensees in the 700 MHz Public/Private Partnership to make "reasonable, good-faith efforts to obtain access" to both public safety towers and public safety rights of way, as earlier proposed by one party in this proceeding.[125] We seek comment on this option, and on whether measures should be adopted to provide public safety entities with some degree of obligation or incentive to provide such access. Commenters proposing such a measure should also discuss the Commission's authority to adopt it. Alternatively, should we clarify that the D Block licensee has flexibility to provide this type of incentive, such as by agreeing to reduced rates for services to public safety entities that provide access to their towers, and otherwise leave the issue to be negotiated between the two licensees and the relevant public safety entities? Are there impediments that might limit the ability of public safety entities to enter into such arrangements? If so, what steps can the Commission take to address such impediments that are within its authority and consistent with the public interest?

105. Finally, as an alternative approach for establishing construction requirements, we seek comment on whether we should employ a "two tiered" build out obligation, such that the D Block licensee would be allowed to incrementally enhance its network. Under this approach, the D Block licensee could satisfy its "first tier" build out requirement by meeting a subset, or some lower-cost aspects, of the technical requirements we adopt for the public-private partnership, and later enhance the network to meet public safety needs. The D Block licensee would then be required to satisfy a "second tier" requirement and fully upgrade portions of the network to meet all technical requirements adopted for the shared wireless broadband network based on certain temporal and/or public safety take-rate-based triggering mechanisms. Would adopting this two tiered performance requirement serve our goals to ensure a commercially viable opportunity for the D Block licensee to construct a shared wireless broadband network suitable for public safety use? If so, what "first tier" requirements or capabilities should the D Block be required to meet? When should the D Block licensee be required to fully upgrade

[124] *See, e.g.*, Letter from Gerald Knoblach, CEO, Space Data Corporation, to Marlene H. Dortch, Secretary, FCC, AU Docket No. 07-157, ET Docket No. 04-186, *Ex Parte* (filed April 29, 2008) (arguing that wide area technologies such as Space Data's SkySite Platforms, which "create a wireless network consisting of transceivers on weather balloons that operate in near space from 60,000 to 100,000 feet," can "address issues associated with build-out and landmass coverage for the 700 MHz D Block . . . ."); Interoperable Communications: Hearing Before the H. Subcomm. on Telecommunications and the Internet, 110th Congress (2008) (statement of Robert F. Duncan, Rear Admiral, United States Coast Guard (ret.), Senior Vice President, Rivada Networks). *See also* Letter from Cheryl A. Tritt, Counsel to Space Data Corp., to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 96-86, 05-211, and 06-150, PS Docket No. 06-229, AU Docket No. 07-157, *Ex Parte Notice* (filed Oct. 24, 2007).

[125] *See* Notice by Frontline Wireless, LLC, WT Docket No. 06-150 and 06-169, PS Docket No. 06-229 (filed Mar. 27, 2007), Draft Rules at 5.

to the entire set of technical requirements? Should we specify a certain amount of time following each construction benchmark, or after a certain take-rate is achieved by public safety entities?

b. Respective Roles and Responsibilities of the D Block Licensee and Public Safety Broadband Licensee with regard to Construction, Management, Operations, and Use of the Network

106. In adopting the 700 MHz Public/Private Partnership in the *Second Report and Order*, we sought to delineate the respective roles and responsibilities of the D Block licensee and the Public Safety Broadband Licensee in a manner that would ensure that the construction and operation of a shared, interoperable broadband network infrastructure that operated on the 20 megahertz of spectrum associated with the D Block license and the Public Safety Broadband License and that served both the needs of commercial and public safety users.[126] Under this plan, the D Block licensee and its related entities would finance, construct, and operate the shared network,[127] while the Public Safety Broadband Licensee would represent the interests of public safety community and ensure that the shared network meets their needs.[128]

107. In establishing the 700 MHz Public/Private Partnership, we determined that promoting commercial investment in the build-out of a shared network addressed the most significant obstacle to constructing a public safety network – the limited availability of public funding.[129] We concluded that providing for a shared infrastructure would help achieve significant cost efficiencies, provide the public safety community with priority access to commercial spectrum during emergencies, and speed deployment of a nationwide interoperable broadband network for public safety. At the same time, by providing the D Block licensee with rights to operate commercial services in the 10 megahertz of public safety broadband spectrum on a secondary, preemptible basis, this partnership would help defray the costs of build-out and ensure that the spectrum is used efficiently.[130]

108. We stated that the D Block licensee would have the "exclusive right and obligation to build out the shared network," using both the spectrum associated with the D Block license as well as the public safety broadband spectrum leased from the Public Safety Broadband Licensee.[131] We determined that providing for "commercial operations" on the public safety broadband spectrum, on a secondary and preemptible basis, was "an integral part of a viable framework for enabling the 700 MHz Public/Private Partnership to finance construction of a nationwide, interoperable public safety broadband network."[132] We also afforded the D Block licensee "operational flexibility" in using the leased spectrum to provide "an appropriate balance between the commercial and public safety operations in the public safety broadband spectrum."[133] We stated that the spectrum leasing component of the partnership "permits the D Block licensee to construct a network to serve its business needs, yet preserves the network

[126] *See, e.g.*, 22 FCC Rcd at 15426 ¶ 383 , 15431 ¶ 396.

[127] *See, e.g., id.* at 15428 ¶ 386, 15431 ¶ 395-96, 15432 ¶ 399, 15437 ¶ 415, 15441 ¶ 425, 15445-46 ¶¶ 437-43, 15450 ¶ 457, 15449 ¶ 452, 15467 ¶ 517.

[128] *See, e.g., id.* at 15421-25 ¶¶ 373-75, 15426-27 ¶ 383, 15433-34 ¶ 405, 15437-38 ¶ 416.

[129] *Id.* at 15431 ¶ 396.

[130] *Id.*

[131] *Id.* at 15432 ¶ 399. *See also, e.g., id.* at 15450 ¶ 457; 47 C.F.R. § 27.1303.

[132] *Id.* at 15437 ¶ 416.

[133] *Id.* at 15438 ¶ 417.

infrastructure required for primary public safety use in the Public Safety Broadband Licensee's band."[134] We considered the D Block licensee's commercial operations throughout the 20 megahertz band of spectrum, including operations on a secondary basis with regard to public safety spectrum, as a necessary condition in order to "harness private sector resources to facilitate construction of a nationwide interoperable public safety broadband network."[135]

109. Meanwhile, in the *Second Report and Order* we provided that the Public Safety Broadband Licensee's responsibilities would center around directly representing the public safety interests with respect to the 700 MHz Public/Private Partnership, negotiating on their behalf with the winning bidder of D Block license and ensuring that their interests are met in the NSA.[136] Among other things, as discussed above, we provided that no commercial interest may be held in the Public Safety Broadband Licensee, that no commercial interest may participate in the management of the licensee, and that the licensee must be a non-profit organization.[137] We assigned various general responsibilities that we considered in keeping with the Public Safety Broadband Licensee's responsibilities, as discussed more fully below. We afforded the Public Safety Broadband Licensee "significant flexibility and control in connection with the construction and use of the nationwide broadband public safety network," while at the same time we sought "to balance that discretion with the concurrent and separate responsibilities" of the D Block licensee.[138]

110. Finally, we provided some guidance on the service fees that the D Block licensee could charge public safety users for their access to the shared network, both for "normal network service" using the public safety broadband spectrum and for priority access to the D Block spectrum.[139] We required that these fees, to be negotiated by the winning bidder of the D Block license and the Public Safety Broadband Licensee, be specified in the Network Sharing Agreement.[140] In addition, we indicated that the Public Safety Broadband Licensee, as part of its administration of public safety access to the shared wireless broadband network, might assess "usage fees to recoup its expenses and related frequency coordination duties."[141]

111. Below, we seek comment on whether we should clarify or revise the roles and responsibilities relating to the D Block licensee and the Public Safety Broadband Licensee. We also seek comment on whether we should clarify or revise the guidance or requirements relating to fees, including both service fees and spectrum usage fees. Finally, we seek comment generally on whether additional revisions or clarifications regarding the construction, operation, management, or use of the shared network would help ensure that the goals of the 700 MHz Public/Private Partnership are achieved.

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[134] *Id.*

[135] *Id.* at 15438 ¶ 419.

[136] *Id.* at 15437 ¶ 416 (role of the Public Safety Broadband Licensee "in ensuring that the public/private network established pursuant to the 700 MHz Public/Private Partnership serves the interests of public safety"), 15438 ¶ 417 (Public Safety Broadband Licensee, through its spectrum leasing arrangement with the D Block licensee, "has the regulatory means (and obligation) to preserve the fundamental public safety function of the band").

[137] *Id.* at 15421-22 ¶¶ 373-374.

[138] *Id.* at 15426 ¶ 383.

[139] *Id.* at 15448-49 ¶¶ 450-52.

[140] *Id.* at 15448 ¶ 450.

[141] Id. at 15426 ¶ 383.

(i) Role and Responsibilities of the D Block Licensee

112. Background. As discussed above, the D Block licensee is generally responsible for financing, construction, and operation of the shared network, which will serve both commercial users and public safety users. Also as noted above, we considered the D Block licensee's "commercial operations" throughout the 20 megahertz band of spectrum as a necessary condition in order to "harness private sector resources to facilitate construction" of the network.[142]

113. Discussion. We invite comment on whether additional clarity with regard to the role and responsibilities of the D Block licensee would be helpful to ensure that the 700 MHz Public/Private Partnership achieves its goal in creating a shared, interoperable broadband network. We further seek comment on the appropriate extent of the relationship between the D Block licensee and individual public safety entities with regard to either the establishment of service with those entities or ongoing customer care and billing, bearing in mind the role and responsibilities of the Public Safety Broadband Licensee, which we discuss below.

114. As we have indicated, the ability of the D Block licensee to finance construction of the shared network is critical. Have we established sufficient and appropriate incentives in the 700 MHz Public/Private Partnership that ultimately will enable the D Block licensee to finance and construct the shared network as contemplated? Are there additional steps we can take, or further clarifications, that would improve the likelihood of the success for this partnership?

115. With respect to management and operations of the network, we expect that the D Block licensee will establish a network operations system to support the network infrastructure that it deploys and uses to serve its commercial customers. Such network operations functions typically include a network operations/monitoring center, billing functions, customer care, and similar functions. Should these network operations functions be viewed, much like the build-out of a common network infrastructure, as responsibilities to be assumed solely by the D Block licensee for the benefit of both its commercial customers and the public safety users represented by the Public Safety Broadband Licensee? If the D Block licensee were to assume all traditional network service provider operations, would this better enable the Public Safety Broadband Licensee to administer access to the national public safety broadband network by individual public safety entities, coordinate frequency usage, assess usage fees, and exercise its sole authority to approve equipment and applications for use by public safety entities?

116. We also seek comment on the factors that will affect and determine the D Block licensee's commercial operations and anticipated profitability. Commenters are encouraged to be as specific as possible and to provide detailed projections and figures where possible. What types of commercial customers can the licensee be expected to serve (e.g., critical infrastructure industries, commercial wireless carriers seeking additional spectrum or roaming capacity, commercial wireless customers, automotive companies and service providers, large enterprise customers)? How might current trends and recent developments in the commercial wireless market and the general financial markets affect the D Block licensee's financial model?

(ii) Role and Responsibilities of the Public Safety Broadband Licensee

117. Background. As discussed above, the Public Safety Broadband Licensee generally is charged with representing the interests of the public safety community to ensure that the shared interoperable broadband network meets their needs. In the *Second Report and Order*, we assigned the following responsibilities to the Public Safety Broadband Licensee concerning its partnership with the D Block licensee:

[142] *Id.* at 15439 ¶ 419.

- General administration of access to the national public safety broadband network by individual public safety entities, including assessment of usage fees to recoup its expenses and related frequency coordination duties.
- Regular interaction with and promotion of the needs of the public safety entities that would utilize the national public safety broadband network, within the technical and operational confines of the NSA.
- Use of its national level of representation of the public safety community to interface with equipment vendors on its own or in partnership with the D Block licensee, as appropriate, to achieve and pass on the benefits of economies of scale concerning network and subscriber equipment and applications.
- Sole authority, which cannot be waived in the NSA, to approve, in consultation with the D Block licensee, equipment and applications for use by public safety entities on the public safety broadband network.
- Responsibility to facilitate negotiations between the winning bidder of the D Block license and local and state entities to build out local and state-owned lands.[143]

118. We also identified several other of the Public Safety Broadband Licensee's responsibilities, which included:

- Coordination of stations operating on public safety broadband spectrum with public safety narrowband stations, including management of the internal public safety guard band.
- Oversight and implementation of the relocation of narrowband public safety operations in channels 63 and 68, and the upper 1 megahertz of channels 64 and 69.
- Exercise of sole discretion, pursuant to Section 2.103 of the Commission's rules, whether to permit Federal public safety agency use of the public safety broadband spectrum, with any such use subject to the terms and conditions of the NSA.
- Responsibility for reviewing requests for wideband waivers and including necessary conditions or limitations consistent with the deployment and construction of the national public safety broadband network.[144]

119. As noted above, we also provided that no commercial interest may be held in the Public Safety Broadband Licensee, that no commercial interest may participate in the management of the licensee, and that the licensee must be a non-profit organization.[145] We indicated, however, that, as part of its administration of public safety access to the shared wireless broadband network, the Public Safety Broadband Licensee might assess usage fees to recoup its expenses and related frequency coordination duties.[146]

120. We afforded the Public Safety Broadband Licensee flexibility in overseeing the construction and use of the nationwide broadband public safety network, while seeking "to balance that discretion with the concurrent and separate responsibilities" of the D Block licensee.[147] In order to fulfill

[143] *Id.* at 15427 ¶ 383.

[144] *Id.*

[145] *Id.* at 15421-22 ¶¶ 373-374.

[146] *Id.* at 15426 ¶ 383.

[147] *Id.* at 15426 ¶ 383.

these obligations, we indicated that the Public Safety Broadband Licensee should have "operational control of the network to the extent necessary to ensure public safety requirements are met."[148]

121. Discussion. As an initial matter, we seek comment on whether we should clarify that the Public Safety Broadband Licensee may not assume any additional responsibilities other than those specified by the Commission in this proceeding. We also seek comment generally on whether we should clarify, revise, or eliminate any of the specific responsibilities listed above that the Public Safety Broadband Licensee must assume. We seek comment in particular on whether to clarify or revise the division of responsibility between the Public Safety Broadband Licensee and the D Block licensee regarding direct interaction with individual public safety entities in the establishment of service to such entities, the provision of service, customer care, service billing, or other matters. What division will best serve the interests of public safety and the goals of this proceeding?

122. In addressing these questions, we ask commenters to consider the unique role served by the Public Safety Broadband Licensee by virtue of holding the single nationwide public safety license, while not being an actual user of the network. As evidenced by many of the responsibilities given to the Public Safety Broadband Licensee, at a fundamental level, the Public Safety Broadband Licensee would in many respects function much like the way regional planning committees presently do in the 700 MHz and 800 MHz bands, yet with a nationwide scope. For example, like regional planning committees, the Public Safety Broadband Licensee would administer access to the spectrum, coordinate spectrum use, interact with and promote the needs of individual public safety agencies, and ensure conformance with applicable technical and operational rules. One important difference, however, is that unlike regional planning committees, the Public Safety Broadband Licensee is the licensee of the spectrum that it administers. Further, the Public Safety Broadband Licensee has distinct abilities, in that it may assess usage fees to recoup its costs, can use its national level of representation to pass on the benefits of economies of scale for subscriber equipment and applications, and holds sole authority to approve, in consultation with the D Block licensee, equipment and applications for public safety users, and to permit Federal public safety agency use.

123. In light of these similarities and differences, we ask whether it would add clarity to the Public Safety Broadband Licensee's role to specify how it is to carry out these responsibilities. For example, are there certain elements of the existing regional planning committee functions that we should adopt for the Public Safety Broadband Licensee? For those functions distinct from regional planning committees, should we adopt specific rules to govern how the Public Safety Broadband Licensee is to carry out such functions? Other responsibilities listed above are more specific to the Public Safety Broadband Licensee's status as a partner with the D Block licensee. These include its role to facilitate negotiations between the D Block licensee and state and local agencies for local build-outs, oversight and implementation of narrowband relocation, and review of wideband waiver requests. Thus, while a number of the Public Safety Broadband Licensee responsibilities are in a frequency planning and coordination role, the Public Safety Broadband Licensee is at the same time an equal partner with the D Block licensee with respect to the overall partnership we envision. Accordingly, we seek comment on how the Public Safety Broadband Licensee's role as one half of the 700 MHz Public/Private Partnership should impact how we modify or clarify the respective responsibilities of the D Block licensee and the Public Safety Broadband Licensee.

124. While the Public Safety Broadband Licensee may need some discretion to carry out its partner-related responsibilities, there may need to be more specific limits on the nature of this role. For example, related to the Public Safety Broadband Licensee responsibilities discussed herein, we previously noted that among the shared wireless broadband network requirements we adopted in the *Second Report*

[148] *Id.* at 15434 ¶ 405.

and Order was that the network infrastructure incorporate operational control of the network by the Public Safety Broadband Licensee "to the extent necessary" to ensure public safety requirements are met.[149] As we have reiterated throughout this item, the underlying premise of the 700 MHz Public/Private Partnership is the responsibility of the D Block licensee for construction of a broadband network for shared commercial and public safety use. Thus, primary operational control of the network is inherently the responsibility of the D Block licensee (and its related entities), which would in turn generally provide the operations and services that enable the Public Safety Broadband Licensee to ensure public safety requirements are met. Conversely, allowing duplication of some or all of these operational functions may result in a structure more akin to a reseller of services, which could inject an inappropriate "business" or "profit" motive into the Public Safety Broadband Licensee structure, detracting from the intended primary focus of the Public Safety Broadband Licensee. Accordingly, we seek comment on whether to clarify that none of the responsibilities and obligations of the Public Safety Broadband Licensee, either as previously adopted or as possibly revised pursuant to this Second Further Notice, would permit the Public Safety Broadband Licensee to assume or duplicate any of the network monitoring, operations, customer care, or related functions that are inherent in the D Block licensee's responsibilities to construct and operate the shared network infrastructure.

125. We further seek comment on whether to expressly provide that neither the Public Safety Broadband Licensee nor any of its advisors, agents, or service providers may assume responsibilities akin to a "mobile virtual network operator,"[150] because such a role would be contrary to the respective roles and responsibilities of the D Block licensee and Public Safety Broadband Licensee regarding construction, management, operations, and use of the shared wireless broadband network, may unnecessarily add to the costs of the 700 MHz Public/Private Partnership, and may otherwise permit "for profit" incentives to influence the operations of the Public Safety Broadband Licensee.

126. In addition, we seek comment on whether we should modify Section 2.103 of the Commission's rules to limit Federal public safety agency use of the public safety broadband spectrum to situations where such use is necessary for coordination of Federal and non-Federal activities. If so, should Commission approval be required? That would ensure that Federal public safety agencies will be able to interoperate with state and local public agencies in the use of 700 MHz public safety broadband services during incidents of mutual interest. In other situations, Federal public safety agencies would, of course, be able to purchase 700 MHz wireless broadband services from commercial service providers using the D Block, just as they purchase satellite service from commercial service providers. How does the proposed public safety broadband network for state and local users compare (on a technical level or in terms of functionality) with the planned Integrated Wireless Network ("IWN") for Federal users?[151] What lessons can the Commission learn from the IWN program? To what extent should development of

[149] *Id.*

[150] A mobile virtual network operator is a non-facility-based mobile service provider that resells service to the public for profit. *See* Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993, WT Docket No. 05-71, *Tenth Report*, 20 FCC Rcd 15908, 15920 ¶ 27 (2005).

[151] The IWN is a collaborative effort by the U.S. Departments of Justice, Homeland Security, and the Treasury to provide a consolidated nationwide Federal wireless communications service that replaces stovepipe stand-alone component systems, and supports law enforcement, first responder, and homeland security requirements with integrated communications services (voice, data, and multimedia) in a wireless environment. The IWN will implement solutions to provide Federal agency interoperability with appropriate links to state, local, and tribal public safety, and homeland security entities. *See* http://www.usdoj.gov/jmd/iwn. On April 17, 2007, the Department of Justice announced that it has selected General Dynamics C4 Systems to implement wireless communications services to department field agents as part of the IWN program. *See* http://www.usdoj.gov/opa/pr/2007/April/07_jmd_256.html.

the public safety broadband network be coordinated with the agencies responsible for construction and planning of the IWN program?

(iii) Fees

127. Background. In the *Second Report and Order*, we provided guidance concerning the service fees that the D Block licensee could charge public safety users for their access to and use of the public safety broadband network and, in times of emergency, to the D Block spectrum.[152] We also discussed the importance of the D Block licensee's ability to offer commercial services using the public safety broadband spectrum leased from the Public Safety Broadband Licensee.[153]

128. We required that all service fees – including service fees that the D Block licensee would charge public safety users for normal network service using the public safety broadband spectrum and for their priority access to the D Block spectrum – be specified in the Network Sharing Agreement.[154] We stated our expectation, however, that the winning bidder of the D Block license and the Public Safety Broadband Licensee will negotiate a fee structure for priority access to the D Block in an emergency that will protect public safety users from incurring unforeseen (and unbudgeted) payment obligations in the event that a serious emergency necessitates preemption for a sustained period.[155] We also encouraged the parties to negotiate a fee agreement that incorporates financial incentives for the D Block licensee based on the number of public safety entities and localities that subscribe to the service.[156] We noted that, for the negotiation of reasonable rates, typical commercial rates for analogous services may be useful as a guide, but that the negotiated rates may in fact be lower than typical commercial rates for analogous services.[157]

129. In addition, we considered the D Block licensee's opportunity to provide commercial services using the public safety broadband spectrum (on a secondary, preemptible basis) to be "an integral part of a viable framework for enabling the 700 MHz Public/Private Partnership to finance construction of a nationwide, interoperable public safety broadband network."[158] We also noted that permitting such access to this spectrum "will harness private sector resources to facilitate the construction" of the network.[159]

130. We did not discuss the commercial fees that the D Block licensee might charge subscribers to the commercial services that it offers using the shared network. We left that to the marketplace. As discussed above, however, we seek comment in this Second Further Notice on whether all non-public safety users of the shared spectrum – including critical infrastructure users – should be

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[152] *Second Report and Order*, 22 FCC Rcd at 15448-49 ¶¶ 450-52.

[153] *Id.* at 15437-39 ¶¶ 414-19, 15441 ¶ 425.

[154] *Id.* at 15448 ¶ 450.

[155] *Id.* Elsewhere, we stated that this "[p]riority service, although provided to public safety, will still be commercial, and will not appreciably impair the D Block licensee's ability to provide commercial services to other parties." *Id.* at 15437 ¶ 413.

[156] *Id.* at 15448 ¶ 450.

[157] *Id.* at 15449 ¶ 451.

[158] *Id.* at 15437 ¶ 416.

[159] *Id.* at 15439 ¶ 419. *See also id.* at 15438 ¶ 417 (stating that the requirement that the Public Safety Broadband Licensee lease the public safety broadband spectrum to the D Block licensee spectrum "permits the D Block licensee to construct a network to serve its business needs . . . .").

treated as commercial users that gain access to the shared network through the commercial services provided by the D Block licensee.[160]

131. Discussion. We seek comment on whether we should further clarify, revise, or specify the service fees that the D Block licensee may charge public safety users for access to the shared network. We also seek comment on whether we should provide any guidance on whether the Public Safety Broadband Licensee may assess spectrum usage fees for the leasing of the public safety broadband spectrum to the D Block licensee or the amount of any fee permitted. Is there any additional guidance that we could provide with regard to fees that the D Block licensee or Public Safety Broadband Licensee might assess that would be helpful in ensuring that the goals of the 700 MHz Public/Private Partnership are achieved?

132. *Network service fees*. We invite comment on whether we should reconsider any aspect of the rules regarding service fees to be paid by public safety users, including any applicable fees for normal network service and fees for priority access to the D Block in an emergency. Specifically, we seek comment on whether we should clarify any aspect of these service fees that was left to negotiations. Did we provide adequate guidance in the *Second Report and Order* to enable the parties to negotiate reasonable rates for all fees? Or should the Commission adopt a more detailed fee structure or formula to facilitate negotiations on this issue?[161] For example, should we specify that the D Block licensee is entitled to charge rate-of-return or cost-plus rates, taking the incremental costs of public safety network specifications and other costs attributable uniquely to public safety users into account? Alternatively, would requiring public safety users to pay the same rates as commercial users be sufficient? Should we mandate that public safety users be entitled to receive the lowest rate that the D Block licensee offers to its commercial users for analogous service? Commenters suggesting that the Commission adopt a detailed fee structure should provide detailed information on their proposals and discuss how adopting such proposals would result in just and reasonable rates and strike the best balance among competing interests in determining fees. Would more clearly defining the circumstances that would constitute an "emergency," as addressed elsewhere, impact how fees should be structured for priority access?

133. We also seek comment on whether particular uses of the public safety broadband network by public safety users should be free and others fee-based. On what bases can this distinction be made? Is it practical to use service- and context-based distinctions such as between voice and advanced data services, mission-critical and non-mission-critical communications, emergency and non-emergency events, priority and non-priority access, or similar metrics? Would it instead be preferable to rely on technical distinctions, such as a specified number of minutes or bits, a percentage of network capacity, or similar metrics? Would either approach give sufficient certainty to public safety users and/or the commercial D Block licensee?

134. *Spectrum leasing fees associated with the public safety broadband spectrum leasing arrangement.* In the *Second Report and Order*, we did not specifically address whether the Public Safety Broadband Licensee, when leasing access to the public safety broadband spectrum to the D Block licensee, may impose any spectrum usage fees for use of this spectrum. We seek comment on whether any aspect of the spectrum leasing arrangement should be clarified by the Commission, or whether spectrum usage fees might be considered reasonable or unreasonable given the role of the spectrum

[160] *See supra* discussion in section III.A.1.

[161] *See, e.g.*, Frontline September 20, 2007 Request at 3 (proposing a formula that would limit the amount public safety users could be charged to that necessary to recover (1) the amortized, incremental fixed costs of building the network to public safety standards, plus (2) ongoing operating expenses for maintaining the network to public safety standards, minus (3) the amortized value of secondary use of the Public Safety Broadband Licensee spectrum by commercial customers).

leasing arrangement in the 700 MHz Public/Private Partnership. When we provided guidance in the *Second Report and Order* on determining reasonable network service fees, we assumed that the network service and priority access fees may in fact be lower than typical commercial rates in part to reflect the value of the D Block licensee's access to the public safety spectrum through leasing. We seek comment on whether and how any spectrum usage fees might affect the reasonableness of service and emergency access fees discussed above? Should we prohibit any spectrum usage fees associated with the spectrum leasing arrangement? Is the D Block's responsibility for building the public safety broadband network sufficient in-kind contribution for use of the public safety spectrum? If we allow spectrum usage fees, should we require public safety users to pay commercial rates for their access to the shared network?

2. Negotiation of the Network Sharing Agreement

135. Background. To ensure the timely establishment and execution of an NSA that adequately safeguards the public interest, we provided rules to govern the process by which the winning bidder of the D Block license and the Public Safety Broadband Licensee would negotiate and establish the agreement.[162] Under these rules, the parties were required to begin negotiations on the date that the D Block winning bidder filed its long form application and to conclude negotiations within six months.[163] Both the D Block winning bidder and the Public Safety Broadband Licensee were required to negotiate in good faith, and were obligated to submit status reports during the negotiations period.[164] To ensure that the D Block winning bidder would not stall negotiations to avoid its obligations to public safety, we provided that the D Block license would not be issued until the parties filed an NSA that had been approved by the Commission and was subsequently executed by the parties.[165]

136. If the parties successfully negotiated an agreement on all terms within the six month period, they were required to submit the NSA to the Commission for review and approval. In the event the parties did not reach agreement on all terms at the end of the six month negotiation period, or if they were found to have reached an impasse at any time, we delegated authority jointly to the Chiefs of PSHSB and WTB (the Bureaus) to take a variety of actions to resolve the disputes, including but not limited to: (1) granting additional time for negotiation; (2) issuing a decision on the disputed issues and requiring the submission of a draft agreement consistent with their decision; (3) directing the parties to further brief the remaining issues in full for immediate Commission decision; and/or (4) immediate denial of the long-form application filed by the winning bidder for the D Block license, to be followed by either re-auction of the license or some other means of re-assignment.[166]

137. After the release of the *Second Report and Order*, the Chiefs of PSHSB and WTB issued a Public Notice that, among other things, clarified how the Bureaus would exercise their authority to resolve disputes that arise in the NSA negotiations.[167] They stated: "we will not exercise our authority for immediate denial of the long-form application filed by the winning bidder for the D Block license, as a result of any dispute over the negotiation of the terms of the NSA, until we take one of two steps: (1) issuing a decision on the disputed issues and requiring the submission of a draft agreement consistent with our decision; or (2) referring the issues to the Commission for an immediate decision and the

[162] *See Second Report and Order,* 22 FCC Rcd at 15463 ¶ 501, 15466 ¶ 512.

[163] *See id.* at 15464 ¶ 504.

[164] *See id.* at 15464-65 ¶¶ 505-506.

[165] *See id.* at 15463 ¶ 502.

[166] *See id.* at 15465 ¶ 508.

[167] *See* "Revised Procedure for Auctions 73 and 76: Additional Default Payment for D Block Set at Ten Percent of Winning Bid Amount; Disputed Issues in the Negotiation of Network Sharing Agreement," *Public Notice*, 22 FCC Rcd 19320 (2007) (*D Block Default Payments PN*).

Commission issues such a decision."[168] The Bureaus also noted that "failure to comply with a decision by the Commission or the Bureaus on the disputed issues . . . will be deemed a default."[169]

138. Discussion. We seek comment on whether and how to modify the rules governing the negotiation of the NSA, including dispute resolution, to provide bidders with greater certainty regarding their obligations while still protecting the interests and needs of public safety, and to ensure that both the D Block license winner and the Public Safety Broadband Licensee have incentives to engage in good faith negotiation and to reach terms that will reasonably protect the interests of both sides. In particular, we seek to provide a process that will give bidders confidence that the network the D Block licensee will be required to construct will be commercially viable, and provide assurance to state and local public safety entities that the resulting network will meet their needs for broadband wireless service.

139. To achieve these goals, we seek a process that provides incentives to both sides to make a maximum good faith effort to reach an agreement consistent with the important commercial and public safety interests at stake. As discussed elsewhere in this Second Further Notice, one way for the Commission to provide greater certainty regarding the terms of the NSA would be to further specify the requirements of the 700 MHz Public/Private Partnership in our rules. In this section, we seek comment on whether we should modify the NSA negotiation process itself.

140. Any party's incentives to make a maximum good faith effort in any negotiation process are framed by the consequences of failing to reach agreement. Below, we seek comment on whether we should maximize the incentives for a bidder winning the D Block license to reach agreement on an NSA with the Public Safety Broadband Licensee by providing that, if the parties do not reach agreement, we promptly will offer the license to the next highest bidder, in descending order. Alternatively, we seek comment on whether we should maximize the incentives for both parties to reach agreement on an NSA by providing that, if the parties do not reach agreement, we promptly will offer in a subsequent auction the license(s) for the D Block spectrum without the 700 MHz Public/Private Partnership conditions and subject to service rules more typical of commercial wireless services licenses. Would either of these alternatives offer an appropriate balance of incentives for the negotiating parties to reach an agreement?

141. We also seek comment in this section on other related issues. First, we seek comment on whether, if the NSA process fails to produce an agreement between the parties, there are any circumstances in which we should relieve a defaulting D Block license winning bidder of its obligation to make default payments. We discuss later the distinct question of what amounts a defaulting D Block license winning bidder should be required to pay, if any, under these or other circumstances. Second, in the following subsections, we seek further comment on whether to modify the mechanisms for resolving any disputes that may arise during the negotiations or otherwise modify the negotiation process.

142. *Action subsequent to failure to negotiate an NSA.* Pursuant to the Commission's competitive bidding rules, in the event of a default by a winning bidder, the Commission, at its discretion, may either offer the licenses to the next highest bidders (in descending order) at their final bids or auction new licenses for the spectrum.[170] If the winning bidder does not execute an NSA with the Public Safety Broadband Licensee, that winning bidder will be in default and its license application will be dismissed. We seek comment on whether, following such a default, we should offer the license to the party with the next highest bid, in descending order. The next highest bidder would then have the option of paying the

[168] *Id.* at 19322 ¶ 7.

[169] *See id.* at 19322 n.11.

[170] *See* 47 C.F.R. § 1.2109(b), (c); *see Second Report and Order*, 22 FCC Rcd at 15465 ¶ 508 (noting that, after failure of the parties to negotiate an NSA, the Commission may reassign the license to the next highest bidder, citing 47 C.F.R. § 1.2109).

amount of its final bid, filing a long-form application, and entering into a negotiation process with the Public Safety Broadband Licensee. If that next highest bidder declined to exercise that option, the Commission could offer the license to the party with the next highest bid, in descending order, and so on. Under such circumstances, should the Commission provide for a shorter time period for a second attempt to negotiate an NSA, in light of the first effort? Or should each D Block bidder be entitled to the same amount of time to attempt to negotiate the terms of the NSA?

143. In the event of a failure to negotiate the NSA, we also seek comment on whether, in lieu of offering the license to the next highest bidder, we promptly should auction alternative license(s) for the D Block spectrum without the 700 MHz Public/Private Partnership conditions and subject to different service rules. This option limits not only the winning bidder for the D Block license to one opportunity to negotiate an NSA but also limits the Public Safety Broadband Licensee to one opportunity. Does this limit create a better or worse set of incentives for the negotiators, given the public interest in producing a broadband network to serve the public safety users?

144. Under each of the foregoing alternatives, how should the Commission define a "failure" of the negotiation process? For instance, should we require adjudication of any dispute before deeming the negotiations a failure and the D Block winning bidder in default? Should such adjudication be binding? Or should we deem the negotiations a failure and the D Block winning bidder in default simply if negotiations are at an impasse after six months, or even sooner if the parties certify that an impasse exists? If the consequence of a failure of negotiations is the auction of the alternative D Block license(s), should we make additional provisions for resolving any impasse between the parties?

145. We further seek comment on whether there are any circumstances in connection with the failure to negotiate an NSA under which a winning bidder for the D Block license should be relieved from making default payments based on its winning bid. Commenters also should address the possibility that relieving the winning bidder from default obligations while offering the D Block license to the next highest bidder might create an incentive for the winning bidder to bargain with the next highest bidder and offer to default. Generally, if we do not adjudicate any impasse that arises in negotiation, should we automatically subject the D Block winning bidder to default payments when its license application is dismissed? Or should some finding of fault on the part of the winning bidder be a prerequisite of imposing a default payment? If so, how should such fault be determined? Should any other consequences, separate and apart from a default payment, be imposed on the defaulting D Block winning bidder under any of these circumstances?

146. Alternatively, if we provide for binding adjudication with respect to any negotiation impasse, should we subject the D Block license winning bidder to default payments if either party rejects the binding decision or only if it the D Block license winning bidder fails to comply? Should any other consequences, separate and apart from a default payment, be imposed on the defaulting D Block winning bidder under any of these circumstances?

147. Elsewhere in this Second Further Notice, we seek comment on the rules we should adopt for the D Block, as well as the Public Safety Broadband License, if we offer the license(s) for the D Block without the 700 MHz Public/Private Partnership conditions. If we decide that such licenses should be offered after a failure to negotiate an NSA, should that affect the rules we otherwise might adopt for such license(s)? We likewise seek comment on whether any of our Part 1 competitive bidding rules or other auction procedures would be inappropriate or should be modified for an auction of D Block license(s) without the 700 MHz Public/Private Partnership conditions that is held subsequent to negotiations between a winning bidder and the Public Safety Broadband Licensee that do not produce an NSA.

148. If we provide that a failure of negotiations to produce an NSA will result in a subsequent auction of D Block license(s) without the 700 MHz Public/Private Partnership conditions, a winning bidder might have an incentive for those negotiations to fail so that it can bid on license(s) without the 700 MHz Public/Private Partnership conditions in the subsequent auction. We seek comment on whether

this theoretical incentive is a practical concern and, if so, whether we should adopt either of two potential auction eligibility rules to mitigate any such concern.

149. First, we could prohibit a D Block license winning bidder and related parties from participating in any subsequent auction in which any licenses for the D Block are offered without the 700 MHz Public/Private Partnership conditions. We seek comment on this alternative, and on whether any such eligibility restriction should depend on whether the D Block license winning bidder is at fault for the failure of the 700 MHz Public/Private Partnership, *e.g.*, if the D Block license winning bidder refused to comply with a Commission adjudication of a negotiation dispute. Further, should any such eligibility restriction extend to the winning bidder's controlling interests or other related parties? If so, how should such parties be defined?

150. Alternatively, we might lift any auction eligibility restrictions that made other parties ineligible for the prior auction of the D Block license with the 700 MHz Public/Private Partnership conditions. We seek comment in a later section of this Second Further Notice regarding whether to restrict parties already possessing significant access to 700 MHz spectrum from participating in auctions of license(s) for the D Block. If such a restriction applied to an auction of the D Block license with the 700 MHz Public/Private Partnership conditions, we could lift the restriction in a subsequent auction of licenses without those conditions. Would doing so significantly alter the likelihood that the winning bidder in an initial auction could win the license again, and would this offset any potential incentive such a winning bidder might have for NSA negotiations to fail following the first auction?

151. *Potential modifications to dispute resolution mechanisms.* We also seek comment on whether we should eliminate the option of binding adjudication of disputed issues and provide that, in the event of an intractable dispute, so long as a D Block bidder has negotiated in good faith, the Commission will relieve the D Block winning bidder of its financial obligations in connection with the license. Although this option has been advanced by parties on reconsideration,[171] we are concerned that it would be difficult for the Commission to determine when a disagreement was the product of "bad faith" negotiations and that this option may not provide sufficient incentive to the D Block winning bidder to meet the needs of public safety. We therefore invite commenters that advocate this option to discuss these concerns and how they might be addressed. For example, should we establish a specific standard for what will constitute an act of bad faith, similar to the standard incorporated at Section 76.65(b) of our rules?[172]

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[171] *See, e.g.*, AT&T Petition for Reconsideration at 8; Cyren Call Petition for Reconsideration at 6, 7; Frontline Petition for Reconsideration at 23.

[172] *See* 47 C.F.R. § 76.65(b). Implementing the requirements of 47 U.S.C. § 325(b)(3)(C), this section provides that television broadcast stations and multi-channel video programming distributors must negotiate the terms and conditions of retransmission consent agreements in good faith. It establishes the following standard for determining whether a party has violated its duty to negotiate in good faith:

(1) Standards. The following actions or practices violate a broadcast television station's or multichannel video programming distributor's (the "Negotiating Entity") duty to negotiate retransmission consent agreements in good faith:
(i) Refusal by a Negotiating Entity to negotiate retransmission consent;
(ii) Refusal by a Negotiating Entity to designate a representative with authority to make binding representations on retransmission consent;
(iii) Refusal by a Negotiating Entity to meet and negotiate retransmission consent at reasonable times and locations, or acting in a manner that unreasonably delays retransmission consent negotiations;
(iv) Refusal by a Negotiating Entity to put forth more than a single, unilateral proposal;
(v) Failure of a Negotiating Entity to respond to a retransmission consent proposal of the other party, including the reasons for the rejection of any such proposal;

(continued....)

152. We further seek comment on whether, instead of eliminating binding adjudication, we should modify its application or scope. For example, should we limit the issues of adjudication to the requirements specified in our rules? If so, what rules should apply to disputes regarding other terms? Alternatively, should we adopt a specific measure, such as a presumption that a D Block bidder proposal that otherwise satisfies the Commission's stated requirements should be upheld in adjudication? If so, what demonstration should we require of the Public Safety Broadband Licensee to rebut the presumption? Should we provide that we will require the parties to the adjudication to each submit their best offer and that we will then choose one submission or the other? Would this encourage the parties to make proposals that address each other's needs?

153. *Other modifications to the process for establishing the NSA.* We also seek comment on whether to adopt other measures relating to the process for establishing the NSA. We seek comment on whether there are any concerns inherent in the adjudication of NSA disputes by the Commission. If so, we seek comment on how such concerns could be addressed, and whether there are alternatives to Commission adjudication that will still achieve a final agreement in the event of a dispute.

154. This Second Further Notice generally seeks comment on whether we should further clarify or revise requirements relating to the network as well as the D Block licensee's and Public Safety Broadband Licensee's respective responsibilities with regard to the 700 MHz Public/Private Partnership. One likely effect of such additional clarity would be to reduce the scope of and uncertainty relating to issues that need to be negotiated between the parties to the NSA. Accordingly, we seek comment on whether, if we adopt such clarifications, it would be appropriate to also reduce the length of the NSA negotiation process, and if so, what length would be reasonable. We also invite commenters to suggest other measures that we might adopt that would help to give potential bidders additional certainty regarding the outcome of the process, or otherwise reduce the risks of the process for the D Block winning bidder, or that would otherwise improve the process. In considering this issue, commenters should take into account the availability of the spectrum as of the DTV transition date, and the needs of both parties to access and utilize this spectrum in a timely manner.

3. Auction-Related Issues

a. Eligibility to Participate in the D Block Auction

155. Background. In the *Second Report and Order,* after considering whether open eligibility would pose a significant likelihood of substantial competitive harm in a specific market, we declined to restrict eligibility for 700 MHz Band licenses.[173] We determined that the appropriate market to assess when considering restrictions on eligibility to hold 700 MHz licenses is the broadband services market.[174] Recognizing the numerous actual and potential broadband service providers that exist, we concluded that the record did not demonstrate that open eligibility to hold 700 MHz band licenses was likely to result in

(Continued from previous page)

(vi) Execution by a Negotiating Entity of an agreement with any party, a term or condition of which, requires that such Negotiating Entity not enter into a retransmission consent agreement with any other television broadcast station or multichannel video programming distributor; and

(vii) Refusal by a Negotiating Entity to execute a written retransmission consent agreement that sets forth the full understanding of the television broadcast station and the multichannel video programming distributor.

(2) Totality of the circumstances. In addition to the standards set forth in § 76.65(b)(1), a Negotiating Entity may demonstrate, based on the totality of the circumstances of a particular retransmission consent negotiation, that a television broadcast station or multichannel video programming distributor breached its duty to negotiate in good faith as set forth in § 76.65(a).

[173] *Second Report and Order*, 22 FCC Rcd at 15383-84 ¶ 256.

[174] *Id.*

substantial competitive harm in the provision of broadband services.[175] Since our prior determination, Auction 73 has only increased the number of potential providers of broadband service.

156. Discussion. Although there is no significant likelihood of substantial competitive harm in the broadband services market that we need to address by restricting otherwise eligible parties from holding the D Block license, the D Block is intended for uses that extend beyond commercial broadband services. Indeed, the requirements of the D Block create a unique opportunity for a new type of nationwide network. Such an opportunity is unlikely to present itself again in the foreseeable future. It therefore may serve the public interest to limit eligibility for participation in the D Block auction in order to maximize the possibility that a party otherwise without significant access to spectrum potentially suitable for the provision of mobile wireless broadband services will have an opportunity to create a nationwide 700 MHz network using the D Block.[176]

157. The Commission has adopted auction eligibility restrictions in other circumstances, where limited opportunities in existing or emerging services presented potential competitive concerns but did not warrant restricting license ownership or spectrum access beyond the initial auction of the license.[177] Accordingly, we now seek comment on whether the public interest would be served by adopting an auction eligibility restriction with respect to the license(s) made available for the D Block.[178] More specifically, now that various parties have already obtained spectrum access as a result of Auction 73, we seek comment on whether the public interest would be served by limiting eligibility to bid on the license(s) for the D Block to parties that do not already have significant access to 700 MHz Band spectrum or other spectrum potentially suitable for the provision of mobile wireless broadband services. A restriction limited to eligibility to bid on the license(s) in a Commission auction would not restrict any parties' ability to acquire the license(s) or to access D Block spectrum in the secondary market - through leasing or wholesaling arrangements, which are otherwise permissible within our rules.[179] We also seek comment on whether any restriction that limits the ability of otherwise qualified parties to bid on the license(s) for D Block spectrum should apply only to the next auction of any license(s) for D Block spectrum, or to all future auctions of such license(s). Should whether the restriction applies depend in whole or in part on whether the license(s) are subject to the 700 MHz Public/Private Partnership conditions?

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[175] *Id.*

[176] As we determined in the *Second Report and Order*, we are not proposing to change our decision to prohibit geographic partitioning and spectrum disaggregation for the D Block licensee. The D Block licensee would continue to be permitted to assign or transfer its license subject to Commission review and prior approval. *See Second Report and Order*, 22 FCC Rcd at 15475 ¶ 542.

[177] *See* Service Rules for the 746-764 and 776-794 MHz Bands and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99-168, *Second Report and Order*, 15 FCC Rcd 5299, 5326 ¶ 62 (2000) (*700 MHz Guard Bands Second Report and Order*) (adopting auction eligibility restriction in new service by precluding one party from winning both licenses in a given area); Revision of Rules and Policies for the Direct Broadcast Satellite Service, IB Docket No. 95-168, *Report and Order*, 11 FCC Rcd 9712, 9736-37, ¶¶ 61-66 (1995) (imposing an auction eligibility restriction in Direct Broadcast Satellite ("DBS") service by prohibiting any party with an attributable interest in DBS channels at a full-CONUS orbital location from acquiring at auction an attributable interest in the full-CONUS channels offered at the 110° orbital location without divesting its prior interest in full-CONUS channels).

[178] As discussed elsewhere, we seek comment on whether the D Block should be comprised of regional licenses instead of one nationwide license.

[179] We would not, however, propose that such access would be permitted through partitioning or disaggregation of the D Block spectrum in light of the unique relationship contemplated and the D Block licensee's responsibilities under the 700 MHz Public/Private Partnership.

158. Generally, restrictions on the ability of parties to bid for new licenses based on their existing access to spectrum may favor new entrants. Should the auction rules favor new entrants? If so, how? We seek comment on how to structure an auction eligibility restriction to assure that a party not already able to offer nationwide or near-nationwide service using 700 MHz Band spectrum or other spectrum potentially suitable for the provision of mobile wireless broadband services will have the opportunity to win a D Block license. Should we preclude from applying for D Block license(s) parties in which any party holding a present or future interest already has sufficient spectrum access, however that access is defined? Should we preclude from applying for D Block license(s) any party with an agreement to provide future access to D Block spectrum, *e.g.*, a spectrum lease agreement, to any party that already has sufficient spectrum access, however that access is defined? Given that the restriction is intended solely to apply to auction eligibility, and not subsequent eligibility to hold the license, parties already having sufficient spectrum access might obtain an interest in winning bidders or access to their spectrum, but only after licensing.

159. With respect to the spectrum access parties already have, should the potential restriction be concerned with only particular spectrum blocks or bands, or should we consider any spectrum potentially suitable for the provision of mobile wireless broadband services? One party previously proposed a restriction that would have precluded the same party from winning in initial Commission auctions both licenses in the C Block and the D Block license.[180] Should we be concerned only with parties' access to the adjacent C Block or to all 700 MHz spectrum, including spectrum held in the C and D Blocks of the Lower 700 MHz Band? What extent of spectrum access should trigger any restriction? Should we restrict the auction eligibility only of those parties that have nationwide or near-nationwide 700 MHz spectrum access or include parties that have nationwide or near-nationwide access in other bands? Should the extent of access be measured by geographic or population coverage, or some combination of the two? Should bandwidth be a factor? What is the appropriate threshold at which to apply the restriction?

160. We also seek comment on the appropriate method of measuring a party's spectrum access for this purpose. Should it be measured solely by the party's control of current 700 MHz license holders and winning bidders? Or by the party's equity interest in current 700 MHz Band license holders and winning bidders? By existing leased access to 700 MHz Band spectrum capacity, i.e., leases with respect to already granted licenses? By existing leased rights to 700 MHz Band spectrum capacity, i.e., leases with parties that are winning bidders but not yet licensees? Should we include other bands potentially suitable to the provision of mobile wireless broadband services? If so, what method should we use to measure a party's access to such bands?

161. While we seek comment on the appropriate scope of an auction eligibility restriction, at the same time, we recognize that restricting eligibility may adversely impact the ability of public safety to gain access to an advanced broadband network as quickly as possible. In this respect, it may be desirable to have the broadest pool of bidders possible in order to maximize the likelihood of a successful partnership that will benefit both public safety and consumers. We seek comment on how this consideration should impact our decision on auction eligibility rules. We also seek comment on whether the Commission should apply its spectrum aggregation screen used for wireless transactions to the D Block.

b. Reserve Price

162. Background. In the *Second Report and Order,* we directed WTB to adopt and publicly disclose block-specific aggregate reserve prices, pursuant to its delegated authority and its regular pre-

[180] *See* PISC Petition for Reconsideration at 3.

auction process, consistent with our conclusions in the *Second Report and Order*.[181] Those conclusions in part directed WTB to establish the particular amounts of the block-specific aggregate reserves by taking into account a conservative estimate of market value based on auction results for AWS-1 spectrum licenses.[182] With respect to the specific circumstances of the D Block, we directed WTB to give substantial weight to the detailed rules regarding the D Block license, the D Block licensee's required construction of a network to be shared by public safety service users, and the resulting limitations on the flexibility of the D Block licensee, which together, we noted, might make it appropriate to expect a D Block licensee to pay only 75 to 80 percent of an amount based on AWS-1 auction results, or roughly $1.33 billion.[183] Pursuant to our direction, WTB issued the *700 MHz Auction Comment Public Notice*, in which, among other things, WTB proposed and sought comment on reserve prices for all blocks of 700 MHz licenses offered in Auction 73, including a $1.33 billion reserve price for the D Block.[184] After reviewing the record of comments submitted in response, WTB issued the *700 MHz Auction Procedures Public Notice*, which adopted and set forth procedures for Auction 73, including a $1.33 billion D Block reserve price.[185] In Auction 73 bidding, applicants placed bids for licenses in the A, B, C, and E Blocks that met, and in some cases significantly exceeded, the applicable reserve price adopted pursuant to the Commission's direction.[186] The single bid for the D Block did not meet its reserve price.[187]

163. Discussion. We now seek comment on whether we should direct WTB to adopt a different approach to establishing a reserve price in a new auction for the D Block license, pursuant to its delegated authority and its regular pre-auction process. This Second Further Notice generally considers revisions to the rules governing the D Block license in order to further the public interest by facilitating the creation of an interoperable broadband network that can meet public safety needs. In light of that public interest, as well as Auction 73's success in raising the revenue anticipated by Congress, we now seek comment on an appropriate reserve price, or whether we need a reserve price, other than a minimum opening bid, at all, for a new auction for the D Block license. We seek comment on the purpose that a reserve price should serve in the current context, and what level of reserve price would best serve that purpose. We seek comment later in this Second Further Notice regarding whether to offer regional licenses for the D Block in place of a single nationwide license. In an auction offering multiple licenses, the Commission could set either aggregate reserve price(s), as it did for licenses in the A, B, C, and E Blocks in the 700 MHz auction, or a license-specific reserve price. Commenters should address whether aggregate or license-specific reserve prices would best serve the purpose of any proposed reserve price. In the event that there is some uncertainty regarding the relative value of multiple licenses, an aggregate reserve price applicable to a set of licenses may allow some flexibility in relative license prices. With respect to aggregate reserve prices, commenters should address whether all the licenses offered should be subject to a single aggregate reserve price or whether subsets of the licenses offered should be subject to various aggregate reserve prices. We ask that commenters provide detailed support for any suggested reserve prices provided. Furthermore, would any of the rule revisions presently contemplated be likely to increase or decrease the appropriate reserve price?

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[181] *Second Report and Order*, 22 FCC Rcd at 15400-01 ¶ 304.

[182] *Id.*

[183] *Id.* at 15401 ¶ 305.

[184] *Auction 73/76 Procedures Public Notice*, 22 FCC Rcd at 18195 ¶ 199.

[185] *Id.*

[186] *See* "Auction of 700 MHz Band Licenses Closes," *Public Notice*, DA 08-595 (rel. Mar. 20, 2008) (*700 MHz Auction Closing Public Notice*).

[187] *Id.*