

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

In the Matter of	)	
	)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands	)	WT Docket No. 06-150
	)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band	)	PS Docket No. 06-229
	)	

To: The Commission

**COMMENTS OF RURAL CELLULAR ASSOCIATION**

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June 20, 2008

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**COMMENTS OF RURAL CELLULAR ASSOCIATION**

The Rural Cellular Association (“RCA”),<sup>1</sup> by its attorneys, hereby provides comments on the *Second Further Notice of Proposed Rulemaking* adopted by the Commission in the above-captioned proceedings.<sup>2</sup> As discussed in more detail *infra*, RCA supports the Commission’s initial proposal for the establishment of a mandatory public/private partnership in the upper portions of the 698-806 MHz band. The public/private partnership concept remains the best means to facilitate the construction and deployment of a much-needed public safety network. RCA believes that the establishment of a nationwide, interoperable broadband network for commercial and public safety network services will best serve the Commission’s stated principals and goals for the spectrum and that the public interest would best be served by limiting

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<sup>1</sup> RCA is an association representing the interests of more than 80 small and rural wireless licensees providing commercial services to subscribers throughout the nation. RCA’s wireless carriers operate in rural markets and in a few small metropolitan areas. No member has as many as one million customers, and all but two of RCA’s members serve fewer than 500,000 customers.

<sup>2</sup> *In the Matter of Service Rules for the 698-746, 747-762 and 777-792 MHz Bands; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band*, WT Docket No. 06-150, PS Docket No. 06-229, Second Further Notice of Proposed Rulemaking (rel. May 14, 2008) (“*Second FRPRM*”).

bidding eligibility on the license(s) for the D-Block to entities that do not already have nationwide or near-nationwide 700 MHz spectrum holdings.

**I. THE COMMISSION MUST ENSURE THAT THE D-BLOCK LICENSE REMAINS A NATIONWIDE LICENSE**

In the *700 MHz Second Report and Order*, the Commission determined that the D-Block license would be auctioned as a single, nationwide license to provide for commercial service in the D-Block to build and operate a joint broadband public safety and commercial network.<sup>3</sup> If one of the Commission’s goal in this proceeding remains making “a nationwide, interoperable broadband network available to state and local public safety users,”<sup>4</sup> then the Commission should avoid modifying the size of the geographic service area of the D-Block license.

Licensing of the D-Block on anything other than a non-nationwide basis would only serve to further complicate an already incredibly challenging proposed undertaking. As illustrated by the complex questions posed by the Commission, should the D-Block be split into regional licenses, the Commission would be faced with complex questions about how to ensure interoperability of communications between public safety users of different regional networks, how to ensure that interoperable communications capabilities are extended to first responders in every region in an equitable manner, and which requirements it should adopt to facilitate coordination between D-Block licensees in order to ensure that the regional networks function as a seamless, nationwide network for public safety users. The Commission would be wise to “stay the course” by following its

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<sup>3</sup> *In the Matter of Service Rules for the 698-746, 747-762, and 777-792 MHz Bands*, WT Docket No. 06-150, Second Report and Order, 22 FCC Rcd. 15289, 15315-16, ¶ 62 (2007) (“*Second Report and Order*”), *recon. pending*.

<sup>4</sup> *Second FNPRM*, ¶ 183 (emphasis added).

initial well-reasoned proposal to license the D-Block license on a nationwide basis. Grant of a nationwide D-Block license would simplify the Commission's oversight obligations that follow grant of the spectrum license and would allow the winning D-Block licensee and the Public Safety Spectrum Trust ("PSST") to focus their collective efforts on ensuring the timely completion of an advanced telecommunications network that serves the commercial interests of the D-Block licensee, as well as the nation's public safety and homeland security needs.

## **II. THE COMMISSION SHOULD PROHIBIT PARTICIPATION IN THE 700 MHz REAUCTION BY ENTITIES WITH NATIONWIDE OR NEAR-NATIONWIDE 700 MHz SPECTRUM HOLDINGS**

The Commission seeks 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.<sup>5</sup> RCA believes that it is imperative that the Commission limit participation in the D-Block re-auction to entities that do not already have nationwide or near-nationwide 700 MHz spectrum holdings.

In the recently concluded 700 MHz auction, Verizon Wireless and AT&T accounted for approximately 84% of the approximately \$19 billion in net winning bids. Verizon Wireless won a total of 109 licenses, including the six 22 MHz regional C-Block licenses covering the continental U.S. and Hawaii, and AT&T won 227 licenses in the B-Block, resulting in nationwide or near-nationwide networks for both companies. Considering 700 MHz spectrum purchases in Auction No. 73 and other spectrum holdings, both AT&T and Verizon Wireless will hold an estimated average of more than 90 MHz of spectrum in the nation's Top-10 Cellular Market Areas ("CMAs"), an

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<sup>5</sup> *Second FNPRM*, ¶ 157.

estimated average of more than 83 MHz in the nation's Top-50 CMAs, and an estimated average of more than 80 MHz in the nation's Top-100 CMAs.<sup>6</sup> These astonishing spectrum holdings beg the question: Does the Commission really want these two companies to acquire even more 700 MHz spectrum so as to increase the probability that they will be the only surviving, viable nationwide wireless licensees in the United States?

With AT&T and Verizon Wireless collectively accounting for approximately 53% of all wireless telephone subscribers in the U.S., sound spectrum policy dictates that the Commission ensure that this final allotment of nationwide 700 MHz spectrum be made available in the next spectrum auction only to entities other than Verizon Wireless and AT&T.<sup>7</sup> By doing so, the Commission will hold open the possibility that a third wireless carrier will seize the opportunity to develop a nationwide network on the spectrum most suitable for both urban and rural broadband wireless service. Not only would a third nationwide carrier on 700 MHz offer a needed choice for the public but it would increase from two to three the number of potential roaming partners for small and mid-sized rural wireless carriers that depend on roaming agreements to serve customers who travel outside of their regional rural wireless carrier networks. Moreover, to date, neither Verizon Wireless nor AT&T has demonstrated a commitment to the concept of a public/private wireless network as indicated by the absence of a single bid by either company on the D-Block license offered in Auction #73.

Because these two industry giants can outbid virtually any other likely potential bidder (as evidenced by the results of the 700 MHz auction), allowing these two entities

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<sup>6</sup> Stifel Nicolaus & Co., Inc., Washington Telecom, Media & Tech Issue Focus, *What 700 MHz Winners Can Do With Their Spectrum* (Apr. 15, 2008).

<sup>7</sup> *Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993*, WT Docket No. 07-71, FCC 08-28, Twelfth Report (rel. Feb. 4, 2008), ¶ 18, Chart 1: YE2006 Mobile Telephone Subscribers by Company.

to participate in the D-Block re-auction might actually discourage other prospective bidders from participating, thereby increasing the chances of another D-Block auction that, at close, fails to yield a winning bidder. Conversely, keeping these two already hugely successful and potentially dominating goliaths out of the next 700 MHz auction will likely spur interest in the spectrum, thereby increasing the chances that the minimum bid requirement is reached and the license is won by a new nationwide service provider. Since the nation's wireless marketplace is currently bordering on oligopsony, Commission action that increases the likelihood of the emergence of a new nationwide competitive entrant (*e.g.*, auction rules that prevent AT&T's and Verizon Wireless' participation in the 700 MHz re-auction) is clearly in the public interest.

### **III. CONCLUSION**

RCA believes that the establishment of a nationwide, interoperable broadband network for commercial and public safety network services will best serve the Commission's stated principals and goals for the spectrum and that the public interest would best be served by limiting bidding eligibility on a nationwide D-Block license to entities that do not already have nationwide or near-nationwide 700 MHz spectrum holdings.

Respectfully submitted,

**RURAL CELLULAR ASSOCIATION**

*[filed electronically]*

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