Smithville™

June 18, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: 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)

Dear Ms. Dortch:

Smithville Telephone Company, Inc. is a rural telecommunications carrier in Indiana. Our company has a demonstrated commitment to the provision of advanced telecommunications services in rural communities, and we respectfully offer the following comments in response to the *Second Further Notice of Proposed Rule Making* in WT Docket No. 06-150 and PS Docket No. 06-229.

As an initial matter, we applaud the Commission for its efforts in promoting the rapid construction and deployment of a nationwide, interoperable broadband public safety network that would serve public safety and homeland security needs. Fostering a partnership between the commercial D-Block licensee(s) and a Public Safety Broadband Licensee is a creative way to provide first responders with access to state-of-the-art technologies they need, while at the same time harnessing private sector resources to facilitate construction of the shared network. However, because of tremendous scope of such an undertaking, and the potential for the Commission's best intentions to go awry, the FCC should amend its rules for the Upper 700 MHz D-Block (758-763/788-793 MHz) ("D-Block") and Public/Private Partnership with the nationwide licensee of the public safety broadband spectrum (763-768/793-798 MHz) ("Public Safety Broadband Licensee") as discussed below.

Small and Rural Carriers Should Be Given Meaningful Opportunities to Participate in Buildout and Operation of the Shared Commercial/Public Safety Network

We believe that small businesses and rural telephone companies can and should play an integral role in helping the Commission to achieve its policy goals with respect to the D-Block and public safety broadband spectrum. To this end, the Commission's Rules should provide incentives for the D-Block licensee to partner with rural carriers with regard to network buildout and day-to-day management services in rural markets. Promoting the use of existing infrastructure in rural areas would be a time and cost-efficient way to build the shared network, and it will help rural carriers to spread the costs of constructing and maintaining their networks over a larger base of users.

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One possible avenue for rural carriers to work with the D Block licensee is via the Commission's partitioning mechanism. Under the present rules, the D Block licensee will hold a nationwide license with an extremely challenging 95 percent population coverage requirement. As a result, there will no doubt be numerous rural areas that will not be covered by the D Block licensee for many years, if ever. The Commission should facilitate a rural buildout program that allows the D Block licensee to partition such rural portions of its nationwide license to rural carriers (and other willing entities). Pursuant to such program:

- The D Block licensee would be able to reduce its buildout obligation through rural partitions.
- The rural carrier would agree to build a wireless system that is technically compatible with the public safety/private wireless system, so that public safety entities can utilize the partitionee's system as an extension of the public/private network if an emergency arises.
- The D Block licensee would be able to count toward its buildout any pops covered by the partitionee.
- The rural partitionee would not have to meet the 95 percent population coverage standard, which is unworkable in many rural areas. Instead, the partition application would present the Commission with a buildout plan that would represent a realistic and achievable coverage of the partitioned area, which the Commission would approve through its grant of the application. The partitionee would be allowed to make reasonable modifications to its proposed coverage, based on site acquisition and other issues.
- The Commission should adopt a reasonable definition of "rural areas" for purposes of the partitioning option, such as those counties (or equivalent) with a population density of 100 persons per square mile, or less, based upon the most recently available Census data. This would be consistent with the standard adopted in the Commission's Rural Spectrum Access *Report and Order*.

It is respectfully submitted that this proposal (or a variation of it) would help bring the public safety/private interoperability network to very rural areas much sooner that will otherwise happen, while helping the D Block licensee to meet its stringent buildout obligations.

Neither the Public Safety Broadband Licensee Nor any of Its Advisors/Agents Should be Allowed to Serve as a Mobile Virtual Network Operator

To the extent that the FCC proceeds with a public/private partnership for developing public safety broadband network in conjunction with the commercial 700 MHz D-Block, it should not permit the Public Safety Broadband Licensee or any of its advisors, agents or service providers to provide commercial services as a "mobile virtual network operator." Allowing a public safety entity to serve in this capacity would permit "for profit" incentives to influence the operations of the Public Safety Broadband Licensee. This could prove detrimental to the viability of smaller and rural wireless carriers.

Rural service providers and entrepreneurs have made significant investments in their spectrum licenses and in the construction of rural wireless networks. They should have a reasonable expectation that the FCC's rules will not permit a heavily subsidized competitor – one that did not have to pay for its spectrum or network construction, and that enjoys preferred regulatory status - to compete in the market for commercial wireless services. Such an arrangement would threaten the fragile economics that rural service providers face, and could even put some small carriers out of business.

If the Commission Should Decide to Lift Public/Private Partnership Conditions, it Should Adopt CMA Licensing for the Commercial D-Block

If for any reason the Commission decides not to retain the 700 MHz Public/Private Partnership condition on the D-Block, it should adopt rules for this spectrum that would facilitate licensing to small businesses and rural telephone companies, and that would promote the provision of services to rural and underserved areas. Unfortunately, many small and rural carriers were unsuccessful in meeting their spectrum needs by participation in the AWS-1 auction and recent 700 MHz auctions due to the limited number of CMA licenses available for bidding, and the deep pockets of regional and nationwide carriers. The results of bidding in these auctions demonstrate that there is significant unmet demand for spectrum at the CMA level.

In conclusion, our company supports many of the Commission's objectives in promoting a 700 MHz Public/Private Partnership. However, the FCC should create opportunities for small businesses and rural telephone companies to participate in rural network buildout and management, and it must avoid a situation where a nationwide public safety licensee is permitted to become a subsidized competitor to small and rural carriers. Without adequate protections, such an arrangement would upset the investment-backed expectations of rural service providers and threaten the viability of many small businesses.

Please include these comments in the record of the above-captioned proceedings.

Respectfully submitted,

Smithville Telephone Company, Inc.

Cullen H. McCarty
Executive Vice President