

**Before the
Federal Communications Commission
Washington, DC 20554**

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

To: The Commission

COMMENTS OF NTCH, INC.

NTCH, Inc.
PMB 813
703 Pier Ave. B
Hermosa Beach, CA 90254
301-798-7111

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SUMMARY

NTCH, Inc. proposes a modified Public Safety/Private partnership arrangement which will permit the Public Safety community and the D Block licensee to enjoy a mutually beneficial and fiscally sound relationship. Under NTCH's proposal, the D Block would be auctioned by BTAs in order to increase participation by smaller carriers who were excluded from the earlier 700 MHz auctions and maximize revenue for the treasury. The nationwide network would be composed of participating carriers who would function in a manner similar to franchisees of a national network standard setter. This entity would be selected as part of the process of bidding on the D Block. The nationwide network would be diverse, grassroots-oriented and organic, with hundreds of switches dispersed around the country and close cooperation with Public Safety officials on a local basis. This structural de-centralization serves to make the network far safer from attack or natural disaster and more responsive to local needs.

The winning bidders will construct both the D Block and the Public Safety network in their area with shared facilities. This will reduce the overall cost of construction and site acquisition and speed deployment of the network considerably. Under a mutual lease arrangement, the D Block licensees will have access to excess, unused capacity of the Public Safety (PS) licensee, while the latter will have priority access to the D Block spectrum in the event of an emergency. The approach guarantees that sufficient spectrum will be available for public safety purposes while also putting to productive use capacity that would otherwise be wasted. The D Block and Public Safety licensee will coordinate in determining site placement to ensure that needed coverage is provided, and the PS community will make its sites available for these cells. In addition, because of the need to deploy without undue delay, the Commission should adopt measures to streamline local site approval procedures for these 700 MHz sites. To further secure the PS system, equipment should be required to be sourced from domestic or North American sources so that critical components cannot be withheld in the event of international conflict or tensions. The nationwide network should be deployed on a schedule that incorporates the likely timetable for rolling out 4G technology in the next two to three years so that the network will be state-of-the-art at its inception.

The auction rules should be designed to preclude participation by commercial entities that already have 20 MHz or more of spectrum in any BTA. This will permit a crucial third national competitor to the current "Big Two" in 700 MHz. Pre-auction suspension of the collusion rules will also be necessary to allow development of national standards agreeable to large numbers of potential bidders to be vetted.

COMMENTS OF NTCH, INC.

NTCH, Inc. (“NTCH”), a provider of PCS service in numerous smaller markets across the United States and a leading tower site development company, respectfully offers these comments on how the Commission should structure the D Block. The regulatory issue presented is an interwoven combination of three elements: how the block is auctioned, what service requirements apply to the winning bidders, and what will be the on-going relationship with the adjacent public safety licensee? Each of these elements bears directly on the others, and the success of each element depends on the success of the others. It is therefore prudent for the Commission to resolve them all pursuant to a unified and consistent regulatory vision. NTCH’s comments are submitted here in that spirit.

We begin by noting that the failure of the original D Block auction may not have been entirely a bad thing. The Commission had, unfortunately, bought into a regulatory scheme tailored to the Frontline group’s business plan. The particular public-private partnership which Frontline had first floated was problematic from the beginning, but it then got out of hand when the uncertain and unquantifiable obligations to public safety which the rules imposed on the D Block licensee became more risky than any prudent investor was willing to assume. There are at least three lessons we can take away from the D Block fiasco: 1) the Commission should not tailor an auction to suit the business plan of any one auction bidder because that bidder may dry up and float away; 2) no matter how much the Commission

wants to serve the needs of the public safety community, the regulatory scheme will fail if it entails unknown and unquantifiable risks and imposes too great a financial burden on the private partner who is expected to fund the whole thing; and 3) spectrum blocks offered over huge geographic areas severely limit the number of potential participants, decrease overall auction revenues, and exclude local and regional carriers from the process who may have useful and long-standing relationships with their local public safety communities. NTCH applauds the Commission for being willing to go back to the drawing board and devise an entirely new plan which learns from the past and will hopefully be more workable and sustainable than the last one.

NTCH proposes a regulatory regime which will:

- Facilitate participation by the many local and regional carriers who were frozen out of the earlier 700 MHz auctions
- Enhances the security of the Public Safety network by requiring domestic supply of equipment and non-centralized, non-hierarchical network architecture
- Ensures that the Public Safety network operates at state-of-the-art commercial standards
- Calls for a deployment schedule which is speedy, feasible and tailored to the current development of 4G technology so that the Public Safety system will not be obsolete as soon as it is launched
- Uses a broad-based, market-oriented approach to set nationwide standards for the Public Safety-D Block network
- Sets a low, but sustainable level of contribution from Public Safety entities for use of the network
- Proposes an approach to siting issues which will expedite deployment of the Public Safety network
- Is likely to maximize the revenues garnered from the D Block auction

These features will be explained below.

I. Mutual Obligations and Rights of Public Safety and D Block Licensees

In broad terms, the structure envisioned by NTCH provides for a nationwide network in which many carriers will participate by having won the D Block auction in various BTAs. The network standards would be set by adoption by participating carriers of a system proposed by a network operator prior to the auction. The network-setting operator would also be the provider in any areas of the country where there were no bidders for their system. This will be explained in greater detail below. At the end of the auction, therefore, there will a group of carriers who have adopted a uniform national network structure that is commercially feasible and looks toward the deployment of 4G technology.

1. Network build-out. The D Block licensees will build out at their own expense a 700 MHz network encompassing both the D Block spectrum and the 20 MHz of Public Safety (PS) spectrum. Because the carriers will tend to be locally-based due to the BTA-sized blocks, the carriers will be able to work closely with local PS officials to ensure that the network layout in each BTA meets their needs, as well as the commercial needs of the carriers themselves. In the unique sharing arrangement of this public/private partnership, all the equipment and locations for both PS and D Block will be shared. The equipment will be owned by the private carriers, and mutual sharing of their respective spectrum will be authorized by a mutual lease arrangement between the carriers and the national PS licensee. This arrangement permits the entire PS network to be built out at no cost whatsoever to

the PS licensee but with direct input from local authorities on how the system in their area is designed and implemented.

2. Spectrum sharing arrangement between PS licensee and D Block licensees. The lease between the PS licensee and the D Block carriers will provide that local PS agencies who participate in the program will have primary rights to use of the PS spectrum block. The PS agencies will also be entitled to pre-emptive priority use of the D Block spectrum in emergency situations. This will allow PS both a full 20 MHz of spectrum for normal operations, plus an additional 10 MHz in emergencies – a huge quantum of spectrum that should be adequate to meet any emergency need. In return, the D Block licensees will have primary usage of the D Block spectrum during non-emergencies, plus fully preemptible use of any excess capacity on the PS block. This set up essentially optimizes the use of the PS block by permitting any excess capacity to be put to productive commercial use while ensuring that sufficient capacity is always available for PS needs. As originally envisioned by the Commission, this arrangement also serves as an inducement to private carriers to undertake the responsibility and cost of building out the PS network.

3. Single network standard. Because the physical network facilities are shared by the PS licensee and the D Block licensee, the system must be built to a single standard which we envision will be both state-of-the-art and commercially feasible. The unique method of arriving at a consensus standard is detailed below.

4. Cell site sharing, access and acquisition. Again because of the sharing feature, all cell sites will be shared by the PS licensee and the D Block licensee. This should have the effect of giving both entities broad coverage and access to sites that they might not otherwise have, to the benefit of both. In addition, because of the importance of ensuring seamless and ubiquitous coverage in each BTA and rapid deployment of this system, the Commission should take steps to streamline the siting approval process for PS sites. The process we envision would require that:

(a) Local PS agencies participating in the program would identify (in cooperation with the private carrier) sites that are needed to provide adequate coverage in their jurisdiction. These agencies would themselves be required to make their existing sites available for use in this network to the extent technically feasible at no charge to the constructing carrier. This will minimize the need for new construction and also enhance security of the sites when they are collocated with other fire and police facilities;

(b) Upon presentation of the proposed sites to local zoning officials, they would have three weeks to approve or disapprove the site. If the site is disapproved, the PS agencies and carrier could submit up to two more alternative sites to provide coverage to the critical area. The zoning officials would have to approve one of the proffered sites, provided the sites are all feasibly buildable and are proposed in good faith.

(c) As a further check on delay or abuse by local zoning officials, no fee could be charged for the approval process of these towers and any tower concealment costs imposed on the site builder could not exceed \$5,000. (Any amounts over that would be paid by the jurisdiction itself.)

We believe these measures are needed in order to ensure that the PS network is built out as the PS agencies require – otherwise the entire program of establishing a ubiquitous, seamless nationwide PS network could be thwarted by short-sighted local zoning officials. Zoning difficulties have too often created interminable delays in tower site placement, despite the clear intent of Congress that mobile tower siting should not be unreasonably hampered. The construction of this new PS network is too important to be held hostage to such concerns.

5. Payment for system usage. Any system of participation by local PS agencies in the nationwide network must include a means of efficiently economizing use. If service to PS agencies were simply “free,” the laws of economics dictate that usage would be wasteful and inefficient. The best method is to impose a relatively modest usage fee to the PS licensee. The receipts from these fees would be used to pay the ongoing costs of the PS licensee as well as system maintenance. We envision that the charge to public safety users for unlimited calling would be equivalent to similar charges to a private sector user for unlimited calling plans and data transfers over the network. This would represent a very significant discount from costs currently incurred by PS agencies and their jurisdictions to construct and operate conventional stand-alone communications networks, while at the same time

instilling a modicum of fiscal discipline into the usage and loading of the PS network.

II. Service Rules

Nationwide network. Rather than having the Commission adopt a specific technology for this service, NTCH envisions a unique process in which the technology to govern this network would be adopted by the participating carriers themselves, subject to input from the PS licensee. The process would work like this. Prior to the auction, the PS licensee would entertain proposals from different private entities to be the PS/D Block network manager. Different companies could proffer their plans and specifications for building out a network that would meet the needs of both the PS community and commercial carriers. There might well be several different plans and proponents, each of which would be workable from the standpoint of the PS licensee. The proposal would have to include the implementation of a 4G platform as well as system standards which would have to be met by all participating carriers. Of course, the proponents would have a strong incentive to set the standards for this network to the highest commercial standards since the new network would have to be competitive with the other existing and developing commercial networks. The proponent of such a network would be required to undertake to build out any portions of the country which did not receive a supporting bidder. Before the auction, therefore, there would be several competing proposals to lead and manage the nationwide network pursuant to a stated protocol, all of which had received the blessing of the PS licensee.

As part of the auction process, individual carriers bidding on individual BTAs would in effect vote for one of the competing systems by indicating what their bid would be for any particular market under a particular proponent's plan. For example, NTCH might bid a million dollars for a particular market under the plan proposed by nationwide proponent A but only \$500,000 for the same market under the plan proposed by nationwide proponent B, and nothing at all for that market under proponent C's plan. At the end of the auction, the Commission would tally up the total high bids nationwide under each proponent's plan and the proponent receiving the most "votes" by virtue of receiving the highest bids would become the nationwide network manager. If there were any markets where there were no bidders willing to participate in that proponent's plan, the proponent itself would become the licensee in that market. This ensures that a single nationwide system would be adopted that is both commercially feasible and has a participating commercial licensee in every market.

NTCH itself would plan to be a proponent of nationwide deployment program. NTCH has a demonstrated track record of building out high quality systems and constructing towers at price levels which are less than half the industry average. This is possible because it is a lean operation with low overhead, hands-on management, and strong incentives to bring projects in at the lowest cost. This business model permits NTCH to offer service to niche markets at rates that cannot be matched by the "high-priced" carriers with huge overheads and bloated management structures. NTCH's experience demonstrates that there is a place in

the mobile communications industry for smaller players who are inventive, agile and offer consumers a real choice to the dominant players. By serving as a nationwide manager and setting system criteria based on its own successful experience, NTCH can disseminate its methods to participating independent local and regional operators. The resulting efficiencies, scaled up to a nationwide level, will result in very significant cost savings for the entire network and resulting lower prices to consumers.

Deployment schedule. NTCH believes that the Commission should require a deployment schedule that recognizes both the urgent need for interoperable PS spectrum and the current and prospective state of technology. Most industry prognosticators predict a 2010 timeline for the widespread deployment of 4G technology. Verizon has already publicly announced that timeframe for LTE deployment. Clearwire/Sprint have announced that they are moving toward deployment of a WiMax broadband network in the next few years, and other major carriers both here and abroad are expected to follow suit. Given this time frame and a likely late 2008 or early 2009 completion of the D Block auction, the Commission should require that implementation of a 4G network on the PS spectrum/D Block must begin no later than the fourth quarter of 2010 and be completed no later than the end of 2012. This is a relatively aggressive timeframe, but we believe it is doable in an environment where existing tower site facilities are being used as much as possible and tower siting in “greenfield” areas is simplified by the measures discussed above. We also believe that licensing the D Block on a

BTA basis will likely result in more local and regional licensees and will avoid the problem of a single mammoth licensee being stretched too thin to construct an entire network over a three year period. A Chinese proverb goes “many hands make light work,” and that proverb applies also to network build-outs. The Commission’s experience with cellular and PCS should establish conclusively that the independent efforts of hundreds of different licensees undertaking the construction of hundreds of individual BTAs simultaneously is more conducive to rapid and wide-spread deployment than a centralized build-out which typically works its way slowly from the biggest markets to the smallest.

Prior to the 4G deployment, the spectrum would not lie fallow. Carriers could install and offer voice and light data using current 2.5 or 3G technologies, establish nationwide roaming protocols, test and perfect the means of ensuring PS priority access to the network, and optimize network security features. In other words, the pre-4G layout would set the stage for full-scale use of the long-term 4G network when that technology becomes practically available in late 2010. This period could also be used to test and perfect interactivity of devices across the GSM/CDMA/IDEN divide. Indeed, it might make sense in this regard for the Commission to mandate the manufacture of devices that can be operated with all major protocols, leaving a sufficient lead time for manufacturers to overcome the issues such an approach would entail.

The required deployment timeline would therefore look like this:

Year 1 – No service required.

Year 2 – Current technology (voice and light data) provided to extent of existing commercial coverage in each BTA

Year 3 – Expansion of coverage into greenfield areas designated by PS agencies/partial upgrade of network to 4G

Year 4 – Expansion of coverage in rural markets so as to provide coverage of at least 75% of the population or area of each BTA/completion of 4G implementation in urban areas

Year 5 – Completion of 4G implementation in all covered areas.

Domestic sourcing of network equipment. One issue which the Commission has so far failed to address is the increasing reliance of US carriers on foreign manufactures of equipment. It is a fact that foreign suppliers have a very heavy involvement in the US telecommunications market. This is normally a good thing since it spurs competitive pressures all around, and NTCH has successfully bought major systems from foreign vendors. For the PS/D Block network, however, it behooves the Commission to consider the security ramifications of foreign supply. Just as the Department of Defense would be extremely leery of being dependent on a foreign supplier of critical defense equipment, Public Safety should be concerned about having this network – which we envision has becoming an essential component of public safety operations – be controlled by foreign governments. Even countries such as China with whom we presently enjoy friendly trading relations could one day be hostile and could restrict or cut off deliveries of equipment that would be essential to the continued maintenance of the Public Safety network.

While we would certainly not recommend or suggest such a step for the deployment of purely commercial operations, we believe it is only prudent for the Commission to require that all critical components of the PS network be sourced from domestic U.S. or North American vendors. System software should also be sourced accordingly. While handset devices are not as critical or subject to strangleholds from abroad, it might also make sense to require that at least some percentage of handsets used by Public Safety be sourced from North American vendors.

Network security. The multiple carrier licensing approach discussed above has salutary effects on the security of the network. It is a truism of network security that an organism with many hearts is hard to kill; an organism with a centralized nervous system and one heart can be killed by a single strategically placed blow. By setting up a licensing scheme in which scores of independent entities participate, the Commission establishes a structure which necessarily has many hearts. Instead of a hierarchical system with centralized and integrated switching functions that are interdependent, the multi-carrier network would naturally be composed of hundreds of switches, each independent from an attack on, or failure of the other. While there is, to be sure, a certain inefficiency in having numerous independent switches, this is more than compensated for by the security and redundancy that such a system entails. If one part of the network is destroyed, whether by terrorist attack or natural disaster, the rest of the network survives and continues to operate. And if a locally owned and run system does happen to

succumb to an attack or disaster, it can be repaired much more quickly by personnel who are the spot. To accomplish this, each BTA should be required to have a stand-alone switch and a locally-based maintenance staff available to deal with critical repairs.

The other major benefit of smaller service areas and locally based carriers is that coordination between carriers and PS officials is likely to be closer. In many cases, local carriers have long-standing relationships with Public Safety agencies which can be leveraged to ensure close cooperation in the event of true emergencies. A further byproduct of non-centralized ownership and control is that the Congressional objective of fostering diverse small business ownership of licensed facilities will be served. A major critique of auction 72 was that it was so thoroughly dominated by the country's largest carriers, that even some of the larger regional carriers were squeezed out, not to mention small Tier IIIs.

III. Auction Rules

In order to implement the foregoing visions of a national system composed of independent operating carriers, the following auction rules should be adopted:

(a) No single company should be permitted to hold more than 20 MHz of 700 MHz spectrum in any market, unless it already has such spectrum. We recognize that this will exclude Verizon and AT&T from many markets, but in our view that is a good thing. The D Block is essentially one of the last chances the Commission has to launch an enterprise that can be truly competitive with the two

giant megaliths who now dominate, in an unhealthy way, the landscape of American telecommunications.

(b) Licenses will be offered on a BTA by BTA basis. This too will permit involvement by a multitude of smaller carriers. In a few instances, such as the Los Angeles BTA, even the BTA is so huge that it should be divided into smaller sub-BTAs which focus on specific defined markets (such as metropolitan Los Angeles).

(c) For this auction only, the anti-collusion rules should be eased to allow the full development of the competing nationwide managers prior to the auction. That process will necessarily entail coordination between prospective managers, prospective bidders, the Public Safety licensee, and the Commission, all of which would be hampered by strict application of the anti-collusion rules. The prospective managers could explain their respective visions of the network to companies who had registered to bid. Once the auction actually begins, of course, the anti-collusion rules would apply as usual.

IV. Conclusion

NTCH urges the Commission to be open to the concepts outlined above, some of which are novel. We believe that the long-term viability and success of the 700 MHz Public Safety network can be achieved by the measures we have proposed.

Respectfully submitted,

NTCH, Inc.

By _____/s/_____

Glenn W Ishihara
President

June 20, 2008