

**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
	)	

**COMMENTS OF CELLULAR SOUTH, INC.**

**Eric B. Graham  
Cellular South, Inc.  
1018 Highland Colony Parkway  
Suite 300  
Ridgeland, Mississippi 39157**

**June 20, 2008**

**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
	)	

**COMMENTS OF CELLULAR SOUTH, INC.**

Cellular South, Inc. (“Cellular South”)<sup>1</sup> takes this opportunity to provide Comments to the Federal Communications Commission (“Commission” or “FCC”) on the Second Further Notice of Proposed Rulemaking adopted by the Commission in the above-captioned proceedings.<sup>2</sup> Cellular South was a successful participant in the 700 MHz auction conducted earlier this year and remains very interested in the fate of the D Block. In these Comments, Cellular South addresses the broad issues of preserving a public-private partnership approach, the need to restrict participation in the re-auction, and the value in requiring the D Block licensee to offer wholesale and/or roaming access. Without this underlying framework, Cellular South believes that the D Block auction will merely perpetuate the status quo.

The initial 700 MHz auction was a tremendous success financially in that it raised just under \$19.6 billion – a figure that far surpassed Congress’ estimate of \$10.2 billion. Because the initial auction yielded so much revenue, the Commission now has flexibility with the rules for

---

<sup>1</sup> Cellular South is one of the largest privately-held wireless companies in the nation and serves Mississippi along with portions of Alabama, Tennessee, Florida, and Arkansas.

<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 FNPRM*”).

the D Block re-auction that was not available when setting the original auction rules. In establishing rules for the D Block re-auction, the Commission should de-emphasize (though still maintain) the goal of raising revenue, and instead design auction rules that will promote additional legitimate public policy goals.

**I. THE COMMISSION HAS A UNIQUE OPPORTUNITY TO PROVIDE FOR PUBLIC SAFETY AND PROMOTE COMPETITION IN THE WIRELESS MARKETPLACE**

The 700 MHz D Block and Public Safety spectrum is the last and best opportunity to establish a nationwide interoperable public safety network for America's first responders to use in times of emergency. The Commission itself has stated that this is a "unique opportunity" that is "unlikely to present itself again in the foreseeable future."<sup>3</sup> In addition to public safety, the D Block offers a final opportunity for an alternative nationwide commercial wireless network. As the Commission considers revisions to the rules for the 700 MHz D Block, it should make an effort to advance the worthy policy goal of creating a nationwide interoperable public safety network that would also offer nationwide access on a commercial basis to wireless carriers, either through wholesale access or roaming access.

The need for an interoperable network for our first responders is obvious. Mid-way through 2008, our first responders are no better equipped for interoperable communications during a national disaster than they were during the terrorist attacks of September 2001 or the devastating hurricanes of August 2005. There is a very real need for an interoperable public safety network, and the D Block offers the best opportunity for creating it. However, public safety alone cannot build out the national network that is required.

---

<sup>3</sup> *Second FNPRM*, ¶ 156.

## **II. THE BEST WAY TO BUILD OUT A NATIONWIDE INTEROPERABLE PUBLIC SAFETY NETWORK IS THROUGH A PUBLIC/PRIVATE PARTNERSHIP**

The Commission asks “whether it remains in the public interest to require a public/private partnership . . . for the purpose of creating a nationwide, interoperable broadband network for both commercial and public safety network services.”<sup>4</sup> Cellular South believes that it does remain in the public interest and that a public/private partnership offers the best opportunity for public safety to have access to a new, nationwide network that meets the unique needs of first responders.

With this arrangement public safety can utilize the physical network built by the D Block licensee as well as that licensee’s D Block spectrum during emergencies, while the D Block licensee would be able to access public safety spectrum when it is not needed by first responders. Because public safety cannot finance a nationwide network build out on its own, and because a public safety network will often have excess capacity which could be put to use by a commercial operator (except in those limited circumstances in which emergency situations demand full capacity), it is reasonable for the Commission to continue to pursue this approach.

## **III. THE COMMISSION MUST LIMIT PARTICIPANTS’ ELIGIBILITY IN ORDER TO PROMOTE COMPETITION AND DISCOURAGE FURTHER CONCENTRATION OF SPECTRUM**

The Commission asks for comment on whether the public interest would be served by limiting participation in the D Block auction, specifically by limiting those parties who “have significant access to 700 MHz Band spectrum.”<sup>5</sup> Cellular South strongly encourages the Commission to limit participants based on such a measure. The 700 MHz Band spectrum is a

---

<sup>4</sup> *Second FNPRM*, ¶ 54.

<sup>5</sup> *Id.* at ¶ 157.

finite public resource with very desirable propagation characteristics. Cellular South contends that the public interest would not be served by allowing the concentration of this resource in the hands of just a few parties.

The Commission asks whether the spectrum screen for wireless transactions should be considered for the D Block.<sup>6</sup> It is Cellular South's position that this answer is an emphatic "yes." At the conclusion of the initial 700 MHz auction, some auction participants held provisionally winning bids on licenses that would push their spectrum holdings in a number of markets well beyond the FCC's "spectrum screen" for mergers. When AWS spectrum and pending acquisitions are considered, the number of markets and the margins by which some auction participants exceed the screen is dramatically increased. Allowing those parties to acquire D Block spectrum would further concentrate scarce low-band spectrum in the hands of a few. The Commission should restrict participation in the D Block re-auction in order to prevent concentration of the most desirable spectrum and to promote competition in the market.

#### **IV. THE COMMISSION SHOULD REQUIRE THE "D BLOCK" LICENSEE TO OFFER WHOLESALE ACCESS AND/OR ROAMING ACCESS**

The Commission additionally asks whether it should include a mandatory wholesale obligation on the D Block licensee.<sup>7</sup> Cellular South strongly favors such a requirement as a means by which the Commission can ensure that small carriers and new entrants have access to a national broadband network.

Small carriers and new entrants face exceedingly difficult obstacles – and often outright impossibilities – when seeking access to large carriers' networks. Given the extent of spectrum concentration in the market (as discussed above) it is not possible for small carriers and new

---

<sup>6</sup> *Id.* at ¶ 161.

<sup>7</sup> *Id.* at ¶ 205.

entrants to simply build their own national networks. The Commission should ensure that customers of these small carriers and new entrants have access to a nationwide network by requiring the D Block licensee to offer wholesale and/or roaming access on its network as a condition of the license grant.

## **V. CONCLUSION**

The Commission had great success in the initial 700 MHz auction based on the amount of revenue it generated. Accordingly, the Commission should not feel compelled to base its decisions on the eventual D Block re-auction solely on the potential for additional revenue. Instead, the Commission should pursue the twin goals of a nationwide interoperable broadband network for public safety, and access to a nationwide network for small wireless carriers and new entrants.

A public/private partnership is critical to the build out of the nationwide public safety network. Additionally, the Commission should discourage the concentration of spectrum in a few hands by applying its spectrum screen – including AWS spectrum and spectrum that would be acquired in pending mergers – and then limiting participation to those parties that would not exceed the screen upon acquiring the D Block spectrum. Finally, the Commission should promote competition by requiring the D Block licensee to offer wholesale and/or roaming access to small carriers and new entrants.

Respectfully submitted,

CELLULAR SOUTH, INC.

---

Eric B. Graham  
Director, Government Relations

Cellular South, Inc.  
1018 Highland Colony Parkway  
Suite 300  
Ridgeland, Mississippi 39157

June 20, 2008