

**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 THE
INTERNATIONAL MUNICIPAL SIGNAL ASSOCIATION,
INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, INC.,
CONGRESSIONAL FIRE SERVICES INSTITUTE, AND
FORESTRY CONSERVATION COMMUNICATIONS ASSOCIATION**

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Dated: June 20, 2008

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EXECUTIVE SUMMARY

The 700 MHz Public/Private partnership adopted less than one year ago remains the most well-conceived, prudent and likely-to-succeed approach for deploying a network capable of meeting the mobile wireless broadband communications requirements of the Nation's Public Safety community. The Commission thoughtfully and comprehensively addressed a broad array of spectrum management and licensing considerations in its Second Report and Order. The unanticipated outcome in Auction 73 with respect to D-Block license does not, in and of itself, undermine the value of the 700 MHz Public/Private partnership. There are no changed circumstances, intervening developments or sufficient passage of time to warrant the wholesale review of the Commission's Second Report and Order, as contemplated by the 2nd Further Notice.

Rather than reassess every premise and element of the 700 MHz Public/Private partnership, the Commission should make the more targeted and pragmatic adjustment of substantially reducing or eliminating the minimum reserve price for the D-Block license. The financial results of Auction 73 far exceeded Congress' revenue expectations. By addressing this threshold financial hurdle, more qualified bidders—including the principal commercial wireless carriers, individually or as participants in bidding consortia, will have a heightened interest in securing the D-Block license and meeting the requirements for an interoperable Public Safety mobile wireless broadband network.

The Commission should forego the vast preponderance of proposed revisions set out in the 2nd Further Notice. The common technical platform that is the centerpiece of the 700 MHz Public/Private partnership cannot be achieved by requiring Public Safety to rely upon existing or planned commercial wireless broadband networks because commercial wireless providers are

neither obligated to nor plan to deploy next generation wireless broadband networks based on a common wireless broadband technology. The financial, operational and coverage parameters and objectives of the commercial wireless networks are not geared to meeting the mobile wireless broadband communications requirements of the Nation's Public Safety community.

The Joint Parties strongly recommend that the Commission not revisit the designation of the Public Safety Spectrum Trust ("PSST") as the Public Safety Broadband Licensee or the composition of the Board of Directors of PSST—which the Commission thoughtfully reviewed shortly after adoption of the Second Report and Order—or impose additional corporate governance requirements on the PSST. The PSST is widely acknowledged as fully representative of the Public Safety community, and its Board of Directors, both the designated organizations and their respective representatives serving on the Board, are experienced and familiar with both the wireless communications requirements and the emergency response obligations of the diverse elements of the Public Safety community.

A possible fine-tuning of the Second Report and Order relates to the ten-year buildout standard of coverage reaching 99.3% of the country's population. The Joint Parties understand that a very modest reduction in this buildout requirement—to 98% of the country's population—may provide substantial cost savings. The Joint Parties support such a relaxation of the population coverage standard for fixed infrastructure, provided this modification is coupled with the obligation to implement a deployable wireless infrastructure component for emergency response in rural areas. The Commission must not compromise nor limit the benefits of the Shared Wireless Broadband Network in meeting the need for mobile wireless broadband communications in connection with emergency response incidents that arise in rural areas, including forest fires or the recent floods in the Midwest and along the Mississippi River. More

particularly, the Network Sharing Agreement should include a substantial deployable wireless broadband infrastructure component, and specify a cache of deployable network-compatible equipment that would be rapidly transported to major response incidents in rural or remote areas. This deployable infrastructure should, at a minimum, have a satellite backhaul capability to allow immediate operations anywhere in the country without establishing microwave links or securing wireline facilities that may take weeks to deploy.

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To: The Commission

**Comments
of the
International Municipal Signal Association,
International Association of Fire Chiefs, Inc.,
Congressional Fire Services Institute, and
Forestry Conservation Communications Association**

Pursuant to the Second Further Notice of Proposed Rulemaking adopted in the above-captioned proceeding (“2nd Further Notice”),¹ the International Municipal Signal Association (“IMSA”), the International Association of Fire Chiefs, Inc. (“IAFC”), the Congressional Fire Services Institute (“CFSI”), and the Forestry Conservation Communications Association (“FCCA”) (collectively referred to as “the Joint Parties”), by their attorneys, respectfully submit these Comments in response to the multiple questions raised regarding the 700 MHz Public Safety Broadband allocation and the designated Public Safety Broadband Licensee.

¹ 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 and PS Docket No. 06-229, *Second Further Notice of Proposed Rulemaking*, FCC 08-128 Rel. May 14, 2008 [hereinafter *2nd Further Notice*].

I. PRELIMINARY STATEMENT

IMSA is a non-profit organization dedicated to the development and use of electric signaling and communication systems in furtherance of public safety. IMSA's 11,000 members include representatives of federal, state, county, city, township and borough governmental bodies, and representatives of governmental bodies from foreign nations. Organized in 1896, IMSA is the oldest organization in the world dedicated to the activities pertaining to electrical engineering focusing on public applications and requirements, including the public safety use of radio technology. It offers educational and certification programs in a variety of public safety disciplines including Public Safety Telecommunications, Traffic Control, Work Zone Safety and Fire Detection and Reporting Systems.

IAFC is a voluntary, professional membership society. Its membership, comprised of approximately 13,000 senior Fire Service officials, is dedicated to the protection of life and property throughout the United States and abroad. IAFC, founded in 1873, is the major national professional association representing the interests of senior management in the Fire Service. The Fire Service is the largest provider of emergency response medical services in the United States.

CFSI is a nonprofit, non-partisan policy institute designed to educate members of Congress on the needs and challenges of our nation's fire and emergency services. The strength of CFSI lies in its National Advisory Committee (NAC), composed of over 40 trade groups, issue organizations, and professional associations, including the leading fire service organizations in the country. The NAC convenes semi-annually in Washington, DC to discuss federal issues that impact the interest of all first responders. The issues supported by the NAC form the agenda of the CFSI in its mission of educating Congress. Funding for the United States Fire Administration, reallocation of spectrum for first responders, and greater involvement of

first responders in disaster mitigation are examples of the types of issues the NAC has supported at recent meetings.

FCCA is a non-profit national organization that has, for over six decades, coordinated the use of frequency assignments within the Forestry Conservation spectrum, and is one of the recognized frequency coordinators for the Public Safety Pool frequency assignments. It also provides a full range of communications services to all Public Safety entities in addition to forestry conservation applicants.

IMSA and IAFC are jointly recognized as one of the four public safety frequency coordinating committees and have responsibility to coordinate the frequencies assigned exclusively to the Fire Radio Service and Emergency Medical Service, as well as the Public Safety Pool channels. IMSA manages the frequency coordination function for itself and for IAFC. FCCA is responsible for coordinating frequencies designated in Section 90.20 of the FCC's rules for which coordination by the Forestry-Conservation coordinator is required and is also authorized to coordinate the Public Safety Pool channels.

IMSA, IAFC and FCCA are members of the National Public Safety Telecommunications Council ("NPSTC") and of the Board of Directors of the Public Safety Spectrum Trust ("PSST") designated by the Commission as the Public Safety Broadband Licensee ("PBSL"). NPSTC and PSST have been instrumental in advancing the goals of achieving a nationwide, interoperable Public Safety wireless broadband network.²

² IMSA, IAFC and FCCA have been involved in the preparation of Comments being filed by NPSTC and PSST, respectively, in this proceeding. The purpose of the Joint Parties' Comments is to focus on issues raised in the 2nd Further Notice that go to core elements of "the 700 MHz Public/Private Partnership" that the Joint Parties believe is essential to the realization of a nationwide, interoperable wireless mobile broadband network that meets the needs of the Public Safety community.

II. COMMENTS

A. **The 700 MHz Public/Private Partnership May Require Fine Tuning—Principally a Substantial Reduction or Elimination of the D-Block License Minimum Reserve Price, Not a Wholesale Review and Reassessment**

Under the Second Report and Order,³ the winner of the broadband D-Block license will enter into a Network Services Agreement (“NSA”) with the Public Safety Broadband Licensee to build out a nationwide, interoperable broadband network designed and operated to provide highly reliable wireless mobile broadband communications principally for Public Safety agencies, critical infrastructure industry (“CII”) users and other users based upon clearly defined priority access principles and rules and the requirement that Public Safety agencies have priority access to the D-Block spectrum during emergencies.⁴ The 2nd Further Notice aptly describes Commission’s overall strategy for meeting the mobile wireless broadband needs of the country’s Public Safety community:

Specifically, we required that the winning bidder of the commercial license in the Upper 700 MHz D Block (758-763/788-793 MHz) (“D Block”) enter into the 700 MHz Public/Private Partnership with the nationwide licensee of the public safety broadband spectrum (763-768/793-798 MHz) (“Public Safety Broadband Licensee”) to enable construction of this interoperable broadband network, which would span both the commercial D Block and public safety spectrum. As essential components of this partnership, the D Block licensee would be chiefly responsible

³ 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, Declaratory Ruling on Reporting Requirement under Commission’s Part 1 Anti-Collusion Rule, WT Docket No. 07-166, *Second Report and Order*, 22 FCC Rcd 15289 (2007), ¶ 3 [hereinafter *Second Report and Order*] recon. pending.

⁴ *Second Report and Order*, at ¶ 428 (“We emphasize that this priority access to D Block license spectrum is intended to ensure that public safety entities have sufficient bandwidth for their emergency communication needs. Under emergency conditions, all public safety entities in the affected area will have real-time access, as needed, to all D Block license spectrum on a priority basis over commercial traffic and will preempt ongoing commercial traffic to the extent necessary.”).

for the construction and operation of a state-of-the-art shared wireless broadband network that would be used by public safety users as well as commercial users. In exchange for taking on these responsibilities, the D Block licensee would gain access to the public safety broadband spectrum for use by its commercial customers on a secondary pre-emptible basis. In turn, public safety users, through the Public Safety Broadband Licensee, would benefit from obtaining access to a state-of-the-art broadband network on their 700 MHz spectrum that would incorporate their unique requirements, which would not otherwise be possible given the limited availability of public funding.⁵

Even though the minimum reserve price for the D-Block license was not met in Auction 73, the Joint Parties firmly believe the approach adopted in the Second Report and Order is well-conceived, sound and provides the best vehicle for achieving an interoperable wireless broadband network geared to meeting the wireless mobile broadband requirements of the Public Safety community. This community encompasses the state and local public safety agencies located in urban and rural areas of the United States, federal government emergency response and law enforcement agencies, and CII entities that are often called upon and directly involved in response activities associated with natural disasters, such as Hurricane Katrina or the flooding in the Midwest, acts of terrorism, or incidents and emergencies to which local and statewide fire, emergency medical service and law enforcement agencies respond.

The 2nd Further Notice and the detailed questions therein appear to have been triggered, in principal measure, by the fact that the D-Block license did not elicit a bid equal to or in excess of the minimum reserve price established in the recently concluded Auction No. 73. While this outcome was not anticipated, the 700 MHz Public/Private Partnership remains the prudent, reasonable and most-likely-to-succeed approach. Rather than reassessing every component,

⁵ 2nd Further Notice, at ¶ 1 (internal citation omitted).

aspect, and element of the Second Report and Order, the Joint Parties believe a more direct, appropriate and calibrated adjustment would be for the Commission to substantially reduce or eliminate the minimum reserve price for the D-Block license. Potential bidders would then be in a position to develop a business plan consistent with the requirements and objectives of the Public Safety community, rather than developing a business plan focused on generating revenues to recover the auction payment that is linked to a minimum reserve price that, in turn, is based on a reflexive, market-based valuation of spectrum.

The Commission has substantial flexibility to reduce substantially or eliminate the D-Block license minimum reserve price. The aggregate bids tendered in Auction 73 far exceeded Congress's expectation of \$10 billion.⁶ A substantial reduction to or elimination of the minimum reserve bid is consistent with the longstanding Commission policy of ensuring sufficient spectrum, unencumbered from potential interference and incompatible users and applications, is made available for Public Safety wireless communications requirements.⁷

⁶ Kevin J. Martin, Chairman, FCC, Speech at CTIA Wireless 2008 in Las Vegas, NV (Apr. 1, 2008), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-281259A1.pdf (last visited June 20, 2008, p. 2) ("Most recently, the Commission auctioned spectrum in the 700 MHz band.... The Auction was the largest in FCC history and raised a record \$19.592 billion in total bids. Even in a difficult economic climate, revenues raised in this auction easily exceeded congressional estimates of about \$10 billion – nearly doubling the amount Congress had anticipated would be raised.") [hereinafter *Chairman's CTIA Speech*].

⁷ See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 (2004) (800 MHz *Report and Order*); *Supplemental Order and Order on Reconsideration*, 19 FCC Rcd 25120 (2004) (800 MHz *Supplemental Order*); *Memorandum Opinion and Order*, 20 FCC Rcd 16015 (2005); *Second Memorandum Opinion and Order*, 22 FCC Rcd 10467 (2007); *Third Memorandum Opinion and Order*, 22 FCC Rcd 17209 (2007) (800 MHz *3rd MO&O*), aff'd *Sprint Nextel Corporation v. FCC*, 524 F.3d 253 (D.C. Cir. 2008) (Commission's comprehensive plan for reconfiguring 800 MHz band to ensure 800 MHz Public Safety systems are not subject to harmful interference from cellularized commercial wireless networks).

B. Significant Departures from the 700 MHz Public/Private Partnership Would Undermine the Objectives of 700 MHz Shared Wireless Broadband Network

As the Commission observed in the Second Report and Order, existing commercial wireless broadband networks have not and are not expected to reasonably meet the mobile broadband requirements of Public Safety.⁸ Operationally, the distinct attributes of the Shared Wireless Broadband Network (“SWBN”) are priority access by Public Safety users so as to ensure that spectrum is available for Public Safety requirements at all times and assured interoperability among and between Public Safety agencies—local, state and federal—and essential CII entities such as local utilities. These core requirements would be compromised were the Commission to depart from the 700 MHz Public/Private Partnership and direct the PBSL to enter into “multiple contracts with commercial providers.”⁹

The FCC has not and may never impose a standard wireless broadband technology or standard interface obligation upon commercial wireless providers.¹⁰ Moreover, these carriers are pursuing divergent technologies for next generation wireless broadband services. AT&T Wireless and Verizon Wireless have apparently embraced Long Term Evolution (“LTE”) technology. On the other hand, Sprint has embarked on a partnership with Clearwire, Google and several major cable operators to deploy the IEEE-standards-based WiMAX technology for

⁸ See, e.g., *Second Report and Order*, at ¶ 397 (“We are not persuaded that alternatives to a public/private partnership suggested by some commenters, would achieve the same benefits. For example, if we merely provided incentives for carriers voluntarily to enter into equivalent partnerships, we could not be confident that any carrier would actually agree to such an arrangement on a nationwide basis.”) and ¶ 452 (“We emphasize that the entity winning the D Block license is accepting a critical public responsibility, providing 700 MHz broadband network service to the nation’s local and state public safety entities. Therefore, when negotiating fees, we expect that the D Block licensee will provide public safety with the terms that will best serve the public interest goals established in this Second Report and Order regarding the public/private partnership.”) (internal citation omitted).

⁹ *2nd Further Notice*, at ¶ 209.

¹⁰ The Commission is unwilling to restrict the prerogatives of the major commercial wireless carriers in regard to basic technology decisions. See generally, *Chairman’s CTIA Speech*, at 3. (“Thus, today I will circulate to my fellow commissioners an order dismissing a petition for declaratory ruling filed by Skype that would apply Cartefone requirements to existing wireless networks.”).

its next generation wireless broadband offering. Thus, the requirement for assured interoperability for the SWBN would be irreparably compromised were the Commission to mandate “multiple contracts with commercial providers.”¹¹ This would gut the network management principle adopted in the Second Report and Order requiring a specified “broadband technology platform” for the SWBN.¹²

Other core attributes that likely would be compromised through reliance on commercial operators’ networks are a pricing structure that recognizes the budgetary constraints of Public Safety agencies and the extensive geographic coverage obligation for the SWBN that is not required of commercial wireless providers. All of these core Public Safety broadband communications requirements are best accommodated under the 700 MHz Public/Private partnership envisioned in the Second Report and Order.¹³

Public Safety users also would be subject to the “one-size-fits-all” use restrictions adopted by the wireless carriers. An important attribute of the NSA between the PBSL and the D-Block winner is that the parties will develop their own network management practices. As the Commission is aware, commercial broadband services providers have competing interests with applications providers accessing their network and may restrict users’ access to certain bandwidth intensive applications. The 700 MHz Public/Private partnership, through the NSA, will provide a vehicle for avoiding these fundamental areas of disagreement between the service provider and the Public Safety users. In addition, the Nation’s commercial wireless broadband networks are geared to Internet access and browsing applications. These applications are not central to Public Safety broadband communications requirements.

¹¹ *Supra* note 10.

¹² *Second Report and Order*, at ¶ 405.

¹³ *Supra* note 7.

C. The Commission Should Neither Revisit nor Substantially Revise the PSBL's Roles and Responsibilities or the Composition of the PSST Board of Directors

The Commission is respectfully requested not to revisit the PSBL's roles and responsibilities, the relationship of the PSBL and the D-Block winner, or the composition of the PSST Board of Directors.¹⁴ The Second Report and Order addressed these matters in a comprehensive fashion. The Commission has gone to great lengths to ensure the representativeness of the PSST Board of Directors.¹⁵ Again, the reassessment of the 700 MHz Public/Private partnership contemplated by the 2nd Further Notice is neither warranted nor supported by either the passage of time, new developments or other intervening circumstances following the Second Report and Order.

The suggestion that the PSBL might be relegated to the status of a Regional Planning Committee is fundamentally flawed.¹⁶ This change in status would effectively cede all operational and legal control over the SWBN to the D-Block winner. The PSBL is a Commission licensee that will enter into the NSA with the D-Block winner that will set forth detailed operational rules and build out plans consistent with the objectives established after due consideration in the Second Report and Order for the 700 MHz Public/Private Partnership. The PSBL must be accorded the same stature and rights as other wireless broadband licensees, at a minimum, in order to perform its functions. Relegation to regional planning committee status would eliminate the checks and balances to ensure not only that the basic structure and operating principles of the 700 MHz Public/Private Partnership are incorporated in the NSA, but that the D-Block winner is, in fact, performing its obligations consistent with NSA. This is an ongoing management function.

¹⁴ 2nd Further Notice, at ¶¶ 48-53.

¹⁵ Second Report and Order, at ¶¶ 367-82.

¹⁶ *Id.* at ¶¶ 122-123.

Further, the PSBL, through procedures agreed to the NSA, must be in a position to engage in incident management and ensure on a real time basis that the D-Block winner is implementing priority of service principles in emergency response. The D-Block winner is not expected to have operational expertise associated with national, regional or local emergency response management and oversight, including associated management of wireless services supporting the incident response.

In terms of management and oversight, the Commission should endorse and reaffirm the right of PSST to assign and determine priority access rights for CII entities. The local utility or gas company is invariably involved in or contacted by first responders in connection with most fire incidents. Operators of refineries, chemical facilities and pipelines are subject to countless emergency preparedness, release response and notification obligations under Federal and state laws. In incidents involving these facilities, first responders must acquire essential information and data about the facilities and coordinate and communicate with operators of these facilities in order to respond effectively in the case of these incidents. Shared access to facility blueprints, process control diagrams and pipeline maps are essential to effective, safe emergency response and are among the fundamental drivers for wireless broadband requirements among Public Safety agencies. Narrow interpretations of the Commission's broad authority under Section 337 with respect to eligible entities are not supported by the substantial forbearance/waiver authority Congress vested in the Commission under Section 337(a) (1). The same is true with respect to emergency response and law enforcement agencies of the Federal government. A view of statutory authority that does not take into account the critical need for interoperability among entities historically engaged in a supporting role with state and local Public Safety officials in

emergency response actions will undermine the ability of state and local agencies to fulfill their fundamental incident response missions and responsibilities.

The Commission is also urged not to revisit its designation of PSST as the PBSL or micromanage the affairs of PSST by adopting additional rules on voting majorities or reassessing the composition of PSST's Board of Directors. The Commission has vetted the Board of Directors extensively, thoughtfully including all recognized Public Safety frequency coordinating bodies on the Board, including IMSA, IAFC and FCCA.¹⁷ As presently constituted, the PSST Board of Directors first and foremost are experienced in Public Safety communications, not only in the applications and use of wireless communications, but in the underlying requirements and diverse objectives wireless Public Safety communications systems must meet. The Directors are not titular or ceremonial figureheads. The individuals representing their organizations on the Board of Directors are deeply involved in all aspects of Public Safety wireless communications, including emergency response and management. The imposition of a blizzard of new rules governing voting majorities or super majorities for various decisions is counterintuitive and not based on agency expertise or management. Sufficient internal management and voting principles were established in the Second Report and Order. There is no basis, reason or cause to revisit these requirements. The FCC does not micromanage the activities of the major wireless carriers nor the operations of Public Safety wireless licensees in such manner. There is no rational basis for singling out the PSBL for such disparate treatment.

¹⁷ See generally *In the Matter of 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 No. 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, *Order on Reconsideration*, 22 FCC Rcd 17935 (2007).

D. A Nationwide License for the Combined 700 MHz Public Safety Broadband Allocation and the D-Block License Remains the only Viable Solution, Although the 99.3% Coverage Obligation Could and Should be Tempered Coupled with the Obligation to Establish Deployable Wireless Broadband Infrastructure

In terms of the combined SWBN and D-Block wireless mobile broadband network, the Commission is respectfully requested to maintain the principle of a single, nationwide license. Regional or local area licenses will enhance the likelihood of incompatible networks, undermine interoperability objectives that the Commission squarely recognized in the Second Report and Order and could lead to potential economic issues going to pricing—such as roaming rates—and cost recovery.¹⁸ A nationwide SWBN with a rational buildout schedule and realistic coverage obligation will best meet the needs of the entire Public Safety community. On the other hand, the Joint Parties do not oppose the formation of bidding consortia composed of multiple carriers that would bid for the D-Block license. There must be, however, a single D-Block licensee. This will ensure that there is a common technology platform and a single point of contact and network operating center through which the PBSL will always be in a position to monitor and ensure priority access for Public Safety users. Consistent with these objectives, the Joint Parties urge the Commission to maintain the prohibitions against partitioning and disaggregation of either the D-Block license or the Public Safety Broadband License as adopted in the Second Report and Order.¹⁹

The Joint Parties believe that a modest relaxation of the 99.3% population coverage standard coupled with an obligation to maintain deployable wireless broadband facilities to respond to emergency events in rural areas may provide a far more cost-effective, yet responsive solution. The Joint Parties appreciate fully the decision of the Commission in the Second Report

¹⁸ *Second Report and Order*, at ¶¶ 450-51.

¹⁹ *Id.* at ¶¶ 539-40.

and Order to adopt a build out schedule that calls for coverage of 99.3 % of the Nation's population in ten years.²⁰ As with the balance of the steps taken in the Second Report and Order, the build out requirement is responsive to the diverse needs and interests of the Nation's Public Safety community. It recognizes that Public Safety's requirements extend far beyond the urban cores and major metropolitan areas of the United States. FCCA represents rural Public Safety interests that are responsible for emergency response in the most remote locations of the United States. In terms of the number of local fire departments, voluntary and paid, 75% of all local fire departments are located in suburban and rural areas.²¹

The Joint Parties support a relaxation of the population coverage standard equal to coverage of 98% of the Nation's population for fixed SWBN infrastructure, coupled with the obligation to implement a deployable wireless infrastructure component. Based on discussions within the Public Safety community, the Joint Parties understand that the relatively modest reduction in coverage for the deployment of fixed infrastructure—from 99.3% to approximately 98%—provides a substantial improvement in the economics for the SWBN. Assuming the record in this proceeding supports this modification, the Commission must not compromise or limit the benefits of the SWBN in meeting the needs for mobile wireless broadband communications in the event of emergency response incidents in rural areas, including forest fires or the recent floods in the Midwest and along the Mississippi River. The virtue of wireless broadband technology is that it is readily deployable. It is not tied to the central-office based hierarchical infrastructure of the public switched telephone network and the associated telephone numbering plan. Wireless broadband technology is not location-centric.

²⁰ *Second Report and Order*, at ¶ 437.

²¹ *Id.*

More particularly, the NSA should include provisions calling for a substantial deployable wireless broadband infrastructure component, outlining the instances when the obligation to deploy this infrastructure arise, a regional deployment plan for this infrastructure—including terrestrial and satellite backhaul infrastructure—and subscriber units. For example, the NSA could require a cache of deployable network compatible equipment that would be rapidly deployed to critical events anywhere in the country. The equipment should, at a minimum, have a satellite backhaul capability to allow immediate operations anywhere in the country without the need to establish microwave links upon initial setup. Essentially, the mandate for the deployable infrastructure—"haul it out, set it up, start using it"—must be embedded in the NSA to meet the broadband communications requirements for rural incident emergency response.

E. No Auction-Specific Limitations or Restrictions Should be Imposed on Prospective Bidder Eligibility for the D-Block License

The Commission is urged not to limit participants in the D-Block auction. The Joint Parties firmly believe all wireless services providers, including the Nation's largest commercial wireless services providers, should be allowed to participate in this auction. These carriers have established networks and infrastructure throughout the United States, and associated network operating centers and billing systems. Though still requiring substantial outlays capital, the ability of these carriers to leverage their existing infrastructures to establish the SWBN would approach levels of incremental investment, as opposed to the substantial, new upfront investment that other auction winners may be required to secure deploy the SWBN established in the Second Report and Order, subject to the modest modifications proposed herein. To exclude these entities, either on a standalone basis or as members of bidding consortia would be an unfortunate mistake. The Joint Parties believe that the Commission's auction rules are reasonably effective in preventing persons from simply "bidding up" the price and walking away. The upfront

payment and the very real possibility that an excessive bid will result in the obligation of having to acquire the D-Block license at an artificially inflated price reasonably mitigate the potential for abuse.

F. The Commission Should Not Adopt a Definition for “Emergency” for Either the SWBN or any Wireless Public Safety Communications Spectrum

The Joint Parties urge the Commission to forego any effort to define the term “emergency.” This is an impossible and unrealistic task that ignores the realities of emergency notification and response. Public Safety agencies cannot and do not observe all commercial and industrial activities on a real time basis. In the United States, law enforcement agencies do not routinely monitor the activities of our citizens. Public Safety agencies necessarily rely upon 911 reports, media reports and observations by first responders to determine whether and to what extent an emergency response is warranted.

In addition to constituting a misguided expenditure of time and resources of the Commission, the PSST and members of the Public safety community, an *a priori* concept of emergency for purpose of determining eligible broadband communications is neither workable nor prudent. It would place members of the public in jeopardy and undermine the ability of first responders to perform their functions. Based on data from several years ago, there are approximately 23 million 911 calls (inclusive of E-911 calls) every year. The individuals making the calls and the 911 centers often do not know and cannot confirm whether a true “emergency” exists. Further investigation by first responders is often required. This is an essential function of emergency response. Thus, attempting to define the concept of “emergency” for purposes of triggering or controlling the invocation of priority access for Public Safety responders is equally impractical and unworkable.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Communications Commission is respectfully urged to retain the core concepts and many of the particulars adopted in the Second Report and Order with respect to the 700 MHz Public/Private partnership. There are no changed circumstances, intervening developments or sufficient passage of time to warrant the wholesale review contemplated in the 2nd Further Notice. Rather the principal changes should be limited to the modifications proposed by the Joint Parties to enhance the commercial viability of the SWBN, principally through a substantial reduction in or elimination of the minimum reserve price for the D-Block license and a modest reduction in the 10 year build out obligation. The latter is conditioned upon the Commission's adoption of a requirement that the NSA include a deployable wireless broadband infrastructure plan as outlined herein. In all other respects, the Joint Parties recommend the Commission not adopt either significant modifications or a series of incremental changes to the 700 MHz Public/Private partnership so recently adopted in the Second Report and Order.

Respectfully submitted,

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Dated: June 20, 2008