

**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

REPLY COMMENTS OF APCO

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”) hereby submits the following reply to comments filed in response to the Commission’s *Second Further Notice of Proposed Rulemaking*, FCC 08-128 (released May 14, 2008) (“*2d FNPRM*”) in the above-captioned proceedings.

The initial comments reflect a wide range of interests and positions regarding the D Block auction and the formation of a national public safety broadband network. The prevailing view, however, appears to agree with APCO’s position that the most viable means of deploying a national public safety broadband network is through a conditioned auction of the D block and a network sharing agreement (NSA) with a national public safety broadband licensee (PSBL).

APCO’s initial comments and those of other parties provide adequate discussion of most of the issues in the *2d FNPRM*. The following will address two matters that may require further comment: (a) the argument that, instead of conditioning the D Block license, the FCC should simply allow the PSBL to seek a commercial partner through a request for proposal (RFP) approach; and (b) the suggestion that the public safety broadband spectrum be sub-divided or

otherwise assigned on a local or regional basis. APCO also provides some further suggestions below regarding a process for adding greater diversity and expertise to the PSBL board of directors, as recommended in APCO's initial comments.

A. The RFP Approach

Verizon and AT&T recommend once again that the Commission allow the D Block to be auctioned without any conditions related to public safety, and that the PSBL instead seek a commercial partner to build the national broadband network. Under this approach, the PSBL would issue a RFP setting forth its network requirements, just as state and local governments today issue RFPs for other goods or services. The fatal flaw in this approach continues to be that, unlike a state or local government, PSBL has no funds to pay for the goods and services being requested in the RFP.

Verizon and AT&T suggest again that the federal government provide the necessary funding to permit the PSBL to enter into network contracts with commercial entities. APCO would be thrilled to see such federal funding made available. However, any casual observer of Congress and the federal budget would have to acknowledge that there is little potential for such federal funding anytime soon. Of course, it would have been wise for Congress to have devoted most of the \$19 billion received from the rest of the 700 MHz auction for a national public safety broadband network. But that did not occur, and the revenue for the yet-to-be-auctioned D block will be far too little. Some have suggested that revenue from other spectrum blocks (*e.g.*, UHF “white space”) be tapped for public safety broadband network deployment. But that too would require legislation and difficult federal budgetary decisions. While APCO would certainly

welcome such funding, the Commission cannot make policy decisions based on a “hope and prayer” that Congress will act.

B. The Localism Dilemma

Several local governments filed comments urging various approaches that would provide greater autonomy, or at least greater flexibility, for local and regional broadband deployments.¹ Their concerns reflects the FCC’s unprecedented move from local to national licensing in a portion of the 700 MHz band. Not surprisingly, this is a difficult concept for many local governments to accept, and one that APCO (most of the members of which are employed by state and local governments) and other national public safety organizations embraced only after careful consideration, and not without significant trepidation. Thus, APCO understands and sympathizes with many of the underlying concerns expressed by some local government comments at various stages of this proceeding. However, APCO continues to believe that a national public safety broadband license is the most expedient approach to provide for effective and comprehensive broadband public safety communications capability. While some accommodation for certain local deployments in the context of a national license is necessary,² the Commission must avoid creating yet another situation consisting of multiple islands of robust, but incompatible, public safety networks, with vast unserved areas in-between.

The reality is that most public safety agencies do not have the ability or resources necessary to deploy a state-of-the-art broadband system. Yet, the public would clearly benefit

¹ Comments of New York City Police Department, City of Philadelphia, City and County of San Francisco, and District of Columbia.

² APCO continues to support allowing local deployments in areas where the national network is unlikely to be built in the near future, conditioned on eventual integration into the national network. We also support accommodations for the District of Columbia and others that may have begun 700 MHz deployments under the prior rules.

from ensuring that all public safety agencies have reasonable access to a national, interoperable broadband network.

APCO opposes replacing the PSBL with regional broadband licenses. A regional approach would quickly become entangled in a patchwork of localized interpretation and implementation policies. In addition the D Block winner(s) would be subjected to a myriad of contractual, operational, maintenance, order processing and service provisioning issues in a never-ending stream of problems. The ability of the Commission or anyone else to mitigate any of these problems and issues in the absence of uniform policies, guidelines, and standards would be next to impossible.

There are, as some commenters note, variations in the needs and limitations facing public safety agencies in various communities and regions across the nation. However, as APCO explained in its initial comments, defined flexibility in the NSA and ongoing cooperation between the PSBL, the D Block licensee, and local users can lead to accommodation of those local variances without sacrificing the goal of a national, interoperable network.³

The successful D Block licensee, in cooperation with the PSBL, will need to start with the best existing or near-term standard in the marketplace today and then develop a long-term strategy to get to the best future standard for tomorrow. Trying to perform that work with multiple carriers and multiple regions, states, counties, and cities in the absence of a structured organization would be an even more daunting process. As an American National Standards Institute (ANSI) Standards Development Organization (SDO), APCO also recognizes that the creation of any new standards will be a long and complex process and require a very high level of consensus among all those who have the time and economic resources to participate.

³ APCO Comments at 30-34.

APCO does not believe that the Commission should allow agencies to “opt out” of the network and take control of portions of the public safety broadband spectrum. We believe that the process must be managed by the PSBL to prevent an extremely negative impact on both the public/private partnership and the ability of that partnership to meet its collective long-term goals and objectives. APCO is keenly aware that some agencies and regions may have needs that transcend the timelines that might be reasonable for the public/private partnership, but we also recognize that in the end the public safety component of the public/private partnership will be dependent on some of these regional systems or their future replacements. Further, while we cannot speak for the eventual D Block licensee, we are also concerned that these islands of service could have a negative impact on it as well. This is particularly true if these systems are given unlimited access to part of the 700 MHz spectrum in isolation of supporting the PSBL’s long-term objectives and providing the D Block’s licensee the ability to use the public safety spectrum block on a secondary basis for its commercial services.

C. PSST Board Modifications

APCO indicated in its initial comments that there needs to be modifications to the PSBL board of directors to add greater diversity and expertise.⁴ We suggested that some board seats should be held by organizations, and some held by individuals who would add critical knowledge and experience. In that regard, we now suggest that the Commission move quickly to solicit “nominations” for organizations and individuals who would be appropriate to serve on the PSBL board.

⁴ APCO Comments at 21-25. As stated therein, the FCC should either require modification of the PSST governing documents to reflect revisions to the Board and other necessary changes, or rescind and reissue the license.

The Commission should set forth the basic qualifications for board members and emphasize a desire to avoid duplication of areas of interest and representation on the board. We suggest that the FCC specifically seek nominations for (a) non-profit organizations that represent significant subsets of public safety agencies that are most likely to make substantial use of the broadband network, (b) non-profit organizations that represent state or local governments, and (c) non-profit organizations with substantial expertise in public safety communications. Respondents should be asked to justify their organizations' participation on the PSBL board and demonstrate a substantial interest in and willingness to contribute to the PSBL decision-making process.

The Commission should also solicit nominations for individuals who could add specific areas of expertise to the PSBL board that may or may not be offered by the organizational representatives. Specifically, the Commission should seek nominations for individuals who have substantial experience in (a) the design, deployment and management of large public safety communications networks, (b) governmental leadership, (c) telecommunications technology and policy, (d) public and commercial finance, or (e) the wireless telecommunications industry.

CONCLUSION

APCO urges the Commission to move forward to adopt new rules for the D Block auction and the national public safety broadband license consistent with the comments set forth above and in APCO's initial comments in response to the *2d FNPRM*.

Respectfully submitted,

/s/

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