

**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
)	

To: The Commission

**Reply 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 Reply Comments in connection with the 2nd Further Notice.

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*].

DISCUSSION

A. The Comments Submitted in Response to the 2nd Further Notice Overwhelmingly Support the Commission's 700 MHz Public/Private Partnership

The Comments filed in this proceeding confirm that the Public Safety community, equipment vendors, many potential bidding entities, technology companies and Congressional leaders support the Commission's 700 MHz Public/Private partnership approach for meeting the wireless mobile broadband requirements of the Public Safety community.² In light of the informed policy decisions embedded in the Second Report and Order,³ this is not surprising. The fact that the D-Block license did not elicit a bid in excess of the minimum reserve price does not warrant, justify or support a wholesale review of the 700 MHz Public/Private partnership or the make-up, structure and discretion of the PSBL. In fact, many parties agreed with the Joint

² Comments of Sprint Nextel Corporation at 1, *see also* Comments of Northrop Grumman Information Technology, Inc. at 2-3, Comments of American Hospital Association at 1, Comments of American Association of State Highway and Transportation Officials (AASHTO) at 1, 7), Comments of the state of California at 7-8, Comments of the Western Fire Chiefs Association, Comments of Alcatel-Lucent at 1-2, Comments of QUALCOMM at 1, 7-8, Comments of Cellular South at 2, Comments of the Public Safety Spectrum Trust Corporation at 4, Comments of Tyco Electronics M/A-COM at 3-4, Comments of AT&T at I, 1-3, Comments of Google, Inc. at 2-3, Comments of the Association of Public Safety Communications Officials International (APCO) at 3 & 6, Comments of Ericsson, Inc. at 3, Comments of the National Association of Emergency Medical Technicians at 1-2, Comments of Motorola, Inc. at 7, Comments of Region 33 (Ohio) 700 MHz Regional Planning Committee at 8, Joint Comments of the National Association of Telecommunications Officers and Advisors (NATOA), National Association of Counties, National League of Cities and US Conference of Mayors at 7, Comments of Virginia Fire Chiefs Association at 3, Letter of the Honorable Daniel K. Inouye, Chairman, Committee on Commerce, Science and Transportation, U.S. Senate and the Honorable Kay Bailey Hutchison (May 13, 2008).

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*.

Parties that substantially reducing or eliminating the minimum reserve price is the appropriate course of action for the Commission to pursue, as opposed to a wholesale review the Second Report and Order.⁴

The 700 MHz Public/Private partnership properly recognizes the importance of a national, interoperable network for mobile wireless public safety broadband requirements, the fiscal realities for private participation in the funding, build-out and day-to-day management of this wireless broadband network, the need for priority access principles, and the import of a realistic approach to rates and recoupment of essential investment in light of the fiscal constraints under which state and local governments operate.⁵ The approach is consistent with longstanding Commission policy that adequate spectrum resources must be made available to meet the wireless requirements of the Public Safety community, free from competing users of spectrum whose underlying applications, business objectives and operating requirements diverge from those of the Public Safety community.

⁴ See generally, Comments of APCO, at 6-9, Comments of Ericsson, at 33, Comments of Northrup Grumman, Information Technology, Inc., at 9, and Western Fire Chiefs Association.

⁵ See generally, Comments of National Association of Telecommunications Officers and Advisors, National Association of Counties, National League of Cities and US Conference of Mayors at 8, (“One of the most important reasons for preserving the public/private partnership plan is that the combined use of the commercial and public safety spectrum enables the more efficient use of the spectrum and other technical resources. For example, as explained more fully in the attached Technical Report 16, operating a single network in the combined D Block and public safety spectrum enables sharing of the core infrastructure (antennas, radios, towers, and backhaul systems) rather than duplicative construction of separate commercial and public safety networks. Building two networks would require approximately twice the infrastructure.

The greater efficiency from a single nationwide network where public and private spectrum are combined results in significant benefits, including: (1) reduces the burden on local jurisdictions that lack infrastructure or access to it; (2) increases build-out feasibility in rural, expensive-to-serve areas; (3) lessens the impact on public rights-of-way; (4) increases flexibility to provide spectrum in border areas where spectrum use is limited because of the need to share spectrum with our neighbors in Canada and Mexico; and (5) maximizes use of spectrum because no guard band between the public safety and commercial allocation would be required. As an added benefit, *commercial* D Block customers will receive services from a public safety grade network that is superior to general carrier grade networks.”)

This approach is fundamentally challenged only by a handful of parties, largely by AT&T and Verizon, both of which prefer the traditional approach to telecommunications procurements which, in turn, would require the Public Safety community to look principally to the carriers' commercial networks for the provision of wireless broadband services.⁶ Under the carriers' approach, the PSBL would be confronted with the impossible task of trying to manage or influence the business plans of these carriers. The Public Safety community would be at substantial risk of having an extremely limited role in the design, deployment, network management and basic operating principles of the Shared Wireless Broadband Network ("SWBN"), contrary to the core principles adopted by the Commission in the Second Report and Order and as broadly supported by the Public Safety community.

Verizon Wireless strains credibility in calling for a comprehensive reassessment of the wireless broadband requirements of the Public Safety community and the approach embedded in the Second Report and Order.⁷ In support, Verizon discusses a variety of studies that focus on levels of interoperability that can be achieved between and among various Public Safety wireless voice networks operating on diverse frequency bands.⁸ There are historic, economic and operational considerations for this diversity. In fact, this is the operating environment that the Public Safety community wants to avoid in establishing a nationwide mobile wireless broadband network. Establishing the SWBN on unencumbered 700 MHz spectrum and adopting a uniform network architecture will maximize interoperability and minimize the need for integration of diverse wireless broadband networks and technologies. This approach also enhances

⁶ AT&T Comments at 5-7 and Verizon Wireless Comments at 19-21.

⁷ Verizon Wireless Comments, at 12-18.

⁸ *Ibid.*

survivability and restoration capabilities of the SWBN in emergencies by limiting its dependence on the public switched telephone network (PSTN).

Moreover, Verizon Wireless misses a fundamental point of the Public Safety community's interest in wireless broadband interoperability: a mobile wireless broadband subscriber unit must be able to interoperate with the local wireless broadband fixed infrastructure in the event of a natural or man-made disaster. How does a hardened PDA or laptop used by emergency responders equipped with a Verizon EV-DO card or LTE wireless broadband architecture communicate with a Sprint EV-DO wireless fixed transmitter or a Clearwire fixed transmitter based on WiMAX technology? Today, commercial carriers are not working toward interoperable wireless broadband networks at this fundamental level. Before suggesting a wholesale reassessment of public safety's wireless needs, the CMRS provider should appreciate fully Public Safety's objective of wireless broadband interoperability.

On the other hand, the Joint Parties agree with Verizon Wireless and AT&T that a major CMRS provider could very well be the best partner for the SWBN.⁹ The 700 MHz Public/Private partnership approach with the Public Safety Broadband Licensee and the D-Block licensee operating jointly consistent with Public Safety's prerogatives, authority and interests, as set out in the Second Report and Order, best ensures that the fundamental requirements of the Public Safety community will be met.¹⁰ The Joint Parties also agree with Verizon Wireless on the need

⁹ See Joint Parties' Comments, at 14-15 and Verizon Wireless' Comments at 22-24.

¹⁰ See generally, Comments of SprintNextel, at 10-11. See also *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."); at ¶ 397 ("We are not persuaded that alternatives to a public/private partnership suggested by some commenters, would achieve the same benefits."); and at ¶ 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.") (internal citation omitted)

for and importance of consensus standards for the nationwide network that will operate on the Public Safety broadband allocation and the D-Block license.¹¹ This is the principal virtue of the 700 MHz Public/Private partnership. The D-Block licensee and the PSBL will determine the consensus standard that best meets the needs of the Public Safety community. There is no conflict between the 700 MHz Public/Private partnership and the value and import of agreement on a consensus wireless broadband standard. In fact, the former maximizes the likelihood of the latter. This partnership combined with an unrestricted D-Block license re-auction having a more rational minimum reserve price has the greatest chance of achieving this result.

B. A Nationwide License is Central to the Goal of an Interoperable Shared Wireless Broadband Network

The Joint Parties strongly support the concept of a nationwide license for the Public Safety interoperable shared wireless broadband network that includes a deployable satellite-based network component to be used to respond to man-made and natural disasters occurring in rural areas.¹² Several parties question the concept of a nationwide license. One is a “network of networks” approach suggested by a CMRS provider.¹³ Another view is that local governments should exercise substantial discretion and control over the SWBN with respect to their local requirements.¹⁴ Both approaches are seriously flawed. Apart from carriers’ having divergent business interests and objectives from that of the Public Safety community, a “network of networks” approach contemplates multiple licensees. This creates the risk of inconsistent principles on priority access, geographic coverage and service pricing, disagreement on the extent of discretion belonging to an individual operator generally, and divergent views on basic

¹¹ Verizon Wireless Comments, at 26-28.

¹² Comments of the Joint Parties, at 12-14.

¹³ Verizon Wireless Comments, at 29-32.

¹⁴ Comments of the City and County of San Francisco, at 2-3.

technology and technology refresh decisions. Local government control over the SWBN raises the same risks and undermines the purpose of a nationwide interoperable network. The 700 MHz Public/Private partnership minimizes risks of balkanization of wireless broadband networks and achieves a level of interoperability that will provide substantial improvements in terms of emergency response capabilities, capacity, timely deployment and cost effectiveness.

C. The Composition of the Board of Directors, Prerogatives and Operating Procedures of the PSBL Should Not Be Revisited

An unfortunate aspect of the 2nd Further Notice is that it revisits, again, the structure, procedures and governance rules applicable to the Public Safety Spectrum Trust (“PSST”). As noted in the Joint Parties’ Comments, the Commission took steps to address the representativeness of the PSST’s Board of Directors shortly after the Second Report and Order went into effect.¹⁵ There have not been any changes in circumstances, intervening events or even a reasonable passage of time. Accordingly, the Commission is urged to put to rest the repetitive criticisms regarding the relationship between PSST and CyrenCall.¹⁶ The subject has been thoroughly vetted. The FCC’s Inspector General has found no impropriety or unethical conduct.¹⁷ By moving forward with the policies adopted in the Second Report and Order, the Commission will discourage parties from raising these spurious issues having little to do with interoperable Public Safety wireless broadband requirements.

¹⁵ Comments of Joint Parties, at 11.

¹⁶ *See generally*, the Comments of Verizon Wireless, at 32-39, and Comments of the Public Interest Spectrum Coalition, pp. 2-7.

¹⁷ 2nd Further Notice, at ¶19.

The Joint Parties are deeply troubled that APCO has seized upon the 2nd Further Notice to advocate limiting the discretion, structure and management prerogatives of the PSBL, despite APCO's agreement with the core concepts of the 700 MHz Public/Private partnership.¹⁸ The Commission should not entertain disagreements on PSST governance issues, as these are matters best left to the PSST. The Commission delegated substantial responsibilities to the PSBL. Consensus-building among the Directors of the PSST Board is central to effective governance, operations and achieving core public interest objectives. The Commission should not intervene simply because one director apparently has issues with the balance of the members of the PSST Board of Directors. No director of PSST should be encouraged to attempt "end-runs" around the PSST governance structures and widely-accepted, consensus-based decision making. The PSST is not flawed. It deserves a chance to complete the mission with which it was tasked.

¹⁸ APCO's substantive positions on priority access, coverage and system reliability for the SWBN dovetail with the core concepts of the 700 MHz Public/Private partnership approach. APCO Comments, at 26-34. APCO's views on the roles and responsibilities of the PSBL and the D Block licensee match those of the Joint Parties and the balance of the Public Safety community. *Id.*, at 34-38. APCO also agrees with the Joint Parties on the core issues of not limiting participation in the D-Block re-auction and substantial reductions in the minimum reserve price. *Id.* at 38-39

WHEREFORE, THE PREMISES CONSIDERED, the Federal Communications Commission is respectfully urged to retain the core concepts adopted in the Second Report and Order with respect to the 700 MHz Public/Private partnership. The overwhelming majority of the parties filing Comments in this proceeding clearly prefer that the Commission stay the course and not substantially revise or revisit the actions taken in the Second Report and Order. Substantial record support has been offered in support of maintaining these existing rules and policies.

Respectfully submitted,

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

By:  _____

C. Douglas Jarrett
Keller and Heckman LLP
1001 G Street, NW
Washington, D.C. 20001

Their Attorneys

Dated: July 7, 2008