

**Before the
Federal Communications Commission
Washington, D.C. 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)	

REPLY COMMENTS OF NEXTWAVE WIRELESS INC.

Executive Summary

NextWave commends the Commission for its efforts to afford the public safety community with much needed access to public safety grade, interoperable wireless broadband networks. To be sure, the Public Private Partnership adopted by the Commission is a forward looking and creative way to bring about this access at no cost to the public safety community. As the great weight of initial comments in this cycle of the proceeding highlight, however, this approach has numerous difficulties. Whatever the reason, a nationwide D Block winner will face an enormous undertaking for which the business case may be difficult to make. Meanwhile, the lack of real public safety and homeland security interoperability capabilities and broadband solutions remains a pressing issue almost seven years after September 11th. NextWave, with its experience in supplying the technology for the nation's largest public safety wireless broadband system in New York City, offers the following reply comments it believes will help make the D Block more attractive to potential bidders and simultaneously address the near-term broadband needs of public safety and homeland security.

The public safety community would be better served were the Commission to facilitate immediate build-out of networks at 700 MHz and/or in other frequency bands on a regional or local basis so long as the Public Safety Spectrum Trust, as the nationwide Public Safety Broadband Licensee, assumes a strong governance role in the process of achieving interoperability among these networks. This approach can be accomplished whether or not the Commission elects to retain the Public Private Partnership between the 700 MHz Public Safety Broadband Licensee and D Block licensee. Either way, regional and local public safety entities can address their particular broadband needs and timelines using commercial technologies and both 700 MHz and commercial frequency allocations without jeopardizing progress towards

nationwide interoperability. Interoperability of regional networks, whether built in the 700 MHz public safety band or other commercial bands, can be assured by charging the Public Safety Spectrum Trust with development and implementation of an Interoperability Plan that includes use of internationally recognized wireless broadband standards to achieve global economies of scale, multi-band, multi-mode devices to facilitate radio frequency integration and roaming, and IP-compatible equipment to ensure end-to-end interoperability. It is also critical that the Public Safety Spectrum Trust understand the regional needs of communities around the country and that the Statewide Communications Interoperability Plans that have been provided to the U.S. Department of Homeland Security be integrated into this process. States and urban areas (under Urban Area Security Initiatives) have been providing emergency communications interoperability plans to the Department of Homeland Security for several years. The Public Safety Spectrum Trust should incorporate these concepts in its Interoperability Plan in order to make more efficient use of the planning and implementation of the 700 MHz broadband spectrum.

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NextWave Wireless Inc. (“NextWave”) submits these reply comments in response to the *Second Further Notice of Proposed Rulemaking* released by Federal Communications Commission (“FCC” or “Commission”) in WT Docket No. 06-150 and PS Docket No. 06-229.¹ NextWave believes a regional build-out approach that allows immediate public safety access to the 700 MHz public safety broadband spectrum and promotes build-out of networks in other commercial bands provides the public safety community with the greatest likelihood of achieving nationwide broadband interoperability within a reasonable timeframe. In conjunction with the specific role and responsibilities for the Public Safety Spectrum Trust (“PSST”) described below, NextWave urges the Commission to adopt rules that will facilitate this approach.

¹ 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, *Second Further Notice of Proposed Rulemaking*, 23 FCC Rcd 8047 (May 14, 2008) (“*Second Further Notice*”).

NextWave has significant experience in meeting the immediate wireless broadband needs of the public safety community – NextWave’s products are currently deployed in the largest public safety broadband network in the United States,² and discussions are ongoing with other communities regarding the deployment of wireless broadband networks using NextWave products to meet their public safety and homeland security needs. The organic growth of these types of networks to meet the immediate needs of public safety should be encouraged by the Commission and will not jeopardize the goal of achieving nationwide interoperable broadband access for public safety. NextWave’s 3GPP TD-CDMA technology, as used in New York, can and will exist alongside and integrate with future 700 MHz networks through the use of multi-band, multi-mode devices, incorporating 700 MHz radio units at the base stations and employing IP-enabled compatibility in the core network infrastructure. Moreover, NextWave’s base station products are software-defined radios, offering several options for migrating to new technologies and standards, such as 3GPP Long Term Evolution (LTE) and WiMAX, as they become commercially available.

NextWave therefore believes that the Commission should create rules that facilitate the near-term build-out of networks at the regional and local levels as an efficient means to achieving interoperable broadband access for public safety nationwide, while still ensuring that such regional networks do not result in stove-pipe operations. These plans should also be consistent with the approach taken by state and local communities in the state and local Interoperability Plans that have been provided to the U.S. Department of Homeland Security (“DHS”). With advances in wireless chipset technology, it is now feasible for multi-mode/multi-

² See NextWave UMTS TD-CDMA technology to power New York City’s new Public Safety Wireless Network, http://198.65.116.126/WS_TDCDMA_CP (last visited Jul. 3, 2008).

band public safety user devices to support interoperability across multiple technologies and frequency bands.

I. The Commission should Facilitate Regional and Local Build-out of Wireless Broadband Networks for Public Safety

The Commission seeks comment on whether regional build-out of public safety networks will jeopardize the goal of providing public safety with access to interoperable communications networks nationwide.³ To the contrary, NextWave believes a regional approach is the most efficient and time-sensitive way to achieve nationwide interoperability for public safety. For the reasons discussed below, NextWave urges the Commission to adopt rule changes that will facilitate build-out of wireless broadband networks by regional entities,⁴ and believes this approach to be appropriate whether or not the D Block license is auctioned with a public safety obligation.

Whether for reasons of geography, population density, propensity for natural disaster, risk of terrorist attack or others, our country defies one-size-fits-all approaches to nearly any public safety need. This diversity can affect the specific performance needs of public safety, network design characteristics, and timing for network build-out in those areas. In some cases, these differences can even affect the choice of spectrum upon which the network operates. For example, where public safety agencies in rural areas may have the need for the larger cells typical of the 700 MHz propagation characteristics, urban areas with the need for more user capacity may prefer the smaller cells typical of higher frequency bands. The particular regional needs of public safety should not, and need not, be discounted in the name of interoperability.

³ *Second Further Notice* ¶ 184.

⁴ Reference to a “region” or “regional approach” should not be read to exclude build-out by states, counties, localities or other government subdivisions, but should be inclusive of any geographic area that seeking to build or currently building or using a network for its public safety community.

Any interoperability issues arising out of the diverse regional and local public safety needs can be addressed by regional build-out under the guidance of the PSST if it is tasked with this responsibility.

Moreover, a regional build-out approach may help make the D Block license more attractive to bidders. For example, under the current Public Private Partnership, a nationwide D Block licensee could be allowed to retain control of the national license while entering into leases with regional carriers who could build out according to the needs of the regional public safety community. In that case, the regional carriers' provision of service could count towards the D Block licensee's coverage obligations. This affords potential nationwide license bidders flexibility in achieving their business plans. The regional approach also works in the event the Public Private Partnership is abandoned by the Commission, whether because of a failed re-auction or for other reasons. In that case, the D Block can be de-linked from the public safety spectrum, and public safety entities could build their own regional networks to standards approved by the PSST.

The regional build-out approach can be equally effective whether or not the Commission chooses to retain the Public Private Partnership and will, if the governance role of the PSST is properly defined, afford the public safety community with a competitive vendor environment and the economies of scale of the international market without sacrificing nationwide interoperability.

II. The Public Safety Broadband Licensee Must Take on the Much Needed Governance Role With Respect to Build-out and Operation of the 700 MHz Public Safety Broadband Spectrum

The *Second Further Notice* seeks comment on the role of the nationwide Public Safety Broadband Licensee ("PBSL") both generally and, in the event that the D Block is auctioned

without a public safety obligation,⁵ on how to ensure interoperability among users from different regional networks.⁶ NextWave believes that in either event, maintaining a national PSBL in a governance role with direction from the Commission to develop and administer a plan for achieving interoperability that includes the specific parameters described below is essential to addressing the public safety interoperability needs nationwide.

A. A Nationwide Public Safety Broadband Licensee must be Retained; that Licensee should be the Public Safety Spectrum Trust

The public safety interoperability needs are the crux of this proceeding. Those needs must be clearly and vigorously represented by a single entity in order to address them over the short and long terms and provide continuity across the country. NextWave believes a nationwide PSBL should provide that representation, and, that for at least two reasons, the licensee should remain the PSST.

First, maintaining the current licensee will expedite the resolution of this proceeding and the dependent availability of the 700 MHz frequencies to public safety. The PSST has already established leadership that is representative of the public safety community,⁷ prepared a list of requirements for public safety grade networks,⁸ and can begin its work with little delay. Second,

⁵ *Second Further Notice* ¶¶ 121, 211.

⁶ *Second Further Notice* ¶ 184.

⁷ The PSST Board of Directors is comprised of representatives from fifteen public safety disciplines including: the American Association of State Highway and Transportation Officials (AASHTO); the Association of Public-Safety Communications Officials-International (APCO); the Forestry Conservation Communications Association (FCCA); the International Association of Chiefs of Police (IACP); the International Association of Fire Chiefs (IAFC); the International City/County Management Association (ICMA); the International Municipal Signal Association (IMSA); the National Association of State Emergency Medical Services Officials (NASEMSO); the National Emergency Number Association (NENA); the National Governors Association (NGA); the National Sheriffs' Association (NSA); the American Hospital Association (AHA); the National Fraternal Order of Police (NFOP); the National Association of State 9-1-1 Administrators (NASNA); and the National Emergency Management Association (NEMA). *See* Public Safety And Homeland Security Bureau and Wireless Telecommunications Bureau Announce the Four At-Large Members of the Public Safety Broadband Licensee's Board of Directors, *Public Notice*, 22 FCC Rcd 19475, 19476 (Nov. 11, 2007).

⁸ *See e.g.*, Public Safety Spectrum Trust Public Private/Partnership Bidder Information Document v2.0 (Nov. 30, 2007) available at http://www.psst.org/documents/BID2_0.pdf (last visited Jul. 3, 2008). The PSST has since

and of equal import, the PSST provides a centralized governance structure for coordinating build-out and interoperability solutions across various jurisdictions and agencies. Given the immediate needs of the public safety and homeland security community, and the likelihood that rescinding and reissuing the public safety license and establishing another body representative of the public safety community will extend the delay already facing them, NextWave believes maintaining the PSST as the nationwide PSBL is the swiftest and most efficient way to bring about nationwide broadband interoperability for the public safety community.

While the PSST appears to be the entity most qualified to represent the public safety community in this endeavor, NextWave urges the Commission to refocus the PSST's role in the manner described below in order to address some of the most important aspects of achieving nationwide broadband interoperability for the public safety community.

B. The PSST Must Take on the Strong Governance Role that is Essential to Achieving Nationwide Interoperability

“The interoperability problem is 90 percent coordination and 10 percent technology.”
– Chris Essid⁹

Coordination is the most important single factor in achieving the important goal of nationwide public safety broadband interoperability.¹⁰ Governance entails building and formalizing cooperation to achieve “a community of individuals working toward a common

updated some of network requirements in its initial comments filed in this proceeding. *See Second Further Notice, Comments of the Public Safety Spectrum Trust Corporation at iii and Attachment C* (filed Jun. 20, 2008).

⁹ *See* Chris Essid, *Commonality in the Commonwealth*, Homeland Security Today at 2 (Oct. 2007) available at http://www.interoperability.virginia.gov/pdfs/HST_0710_Commonwealth_HR.pdf (last visited Jul. 3, 2007). Mr. Essid is the Director of the Office of Emergency Communications at the Department of Homeland Security (“DHS”). He was Virginia’s first Commonwealth Interoperability Coordinator, and created Virginia’s Statewide Strategic Plan for Interoperable Communications – a process recognized by DHS as a national best practices model for interoperable communications planning. *See Interoperability in Virginia*, <http://www.interoperability.virginia.gov/> (last visited Jul. 6, 2008).

¹⁰ *See Commonality in the Commonwealth* at 2.

vision.”¹¹ Governance is the first step in the DHS’s Interoperability Continuum,¹² and interoperability has, in its absence, remained elusive. By contrast, where mature governance structures are in place, regional public safety entities have “advanced further in implementing shared systems/solutions that facilitate regional communications.”¹³ Where regional governance has been an important factor in facilitating regional interoperability, a well-defined national governance structure has been notably absent. Creating a national governance structure must therefore be at the forefront of any approach to advancing the implementation of nationwide interoperability.

For many years, the public safety community has struggled with an inability to coordinate its communications activities – the lack of a central coordinating body of stakeholders to whom community members could go for advice and assistance in making decisions relating to their communications networks. The result has been the building of diverse, proprietary networks, whose lack of interoperability were highlighted by events like September 11th and Hurricanes Katrina and Rita.

The Commission has before it a chance to remedy the fragmented approach to communications that has left members of the public safety community from diverse jurisdictions and services unable to communicate. Should it decide to facilitate the timely build-out of interoperable networks nationwide through the suggested regional approach, the Commission faces a somewhat fortuitous situation: it has granted the public safety broadband license to a representative of “emergency response organizations across all levels of government...and from

¹¹ *Id.*

¹² See Department of Homeland Security, Interoperability Continuum: A tool for improving emergency response communications and interoperability at 1, available at http://www.safecomprogram.gov/NR/rdonlyres/54F0C2DE-FA70-48DD-A56E-3A72A8F35066/0/Interoperability_Continuum_Brochure_2.pdf (“*Interoperability Continuum*”).

¹³ See U.S. Department of Homeland Security, *Tactical Interoperable Communications Scorecards: Summary Report and Findings* at iii (Jan. 2007), available at <http://www.dhs.gov/xlibrary/assets/grants-scorecard-report-010207.pdf>.

all pertinent emergency response disciplines.”¹⁴ The PSST can provide a venue for exchanging information, coordinating build-out, making standards decisions, provide a unified voice for public safety broadband communications and ensure interoperability across all regions. The Commission would be remiss were it to miss the opportunity to provide public safety with the common governing structure it needs to achieve nationwide interoperability – and it should require that role should be filled by the PSST.

C. The Commission should give Specific Guidance to the Public Safety Spectrum Trust in Carrying out its Governance Role

The Commission seeks comment on whether it should clarify the specific responsibilities of the PSBL and the division of responsibilities among the D Block licensee and the PSBL.¹⁵ NextWave believes the FCC should make several clarifications to the responsibilities of the PSST for use in carrying out its governance role, that, whether or not the Public Private Partnership is retained, will ensure nationwide interoperability across regional wireless public safety broadband networks.

1. The PSST should be Responsible for Creating a Plan that will Ensure Nationwide Interoperability

In its governance role, the PSST should be tasked with organizing, prioritizing, and addressing accordingly the varying broadband needs of the diverse public safety community it serves. Accordingly, NextWave recommends that the FCC leave to the local and regional jurisdictions decisions with respect to standards-based technologies to suit their specific needs, but direct the PSST to provide guidance on coordination of spectrum usage, minimum network performance requirements, permissible standards-based technologies with which the networks

¹⁴ See *Interoperability Continuum* at 1.

¹⁵ *Second Further Notice* at ¶ 121.

must be built to comply, and end-to-end interoperability. Specifically, NextWave recommends the FCC require the PSST, as licensee of the public safety broadband spectrum, to create and provide an Interoperability Plan to public safety entities for their reference in building regional networks, and to include in this Plan the recommendations below to ensure regional public safety broadband networks are interoperable at the radio frequency interface as well as at the core network, and to provide for seamless transition to and evolution of new networks as they come online. The PSST should reference the Statewide Interoperability Plans (SCIP's) that state and local communities have already provided to DHS in order to avoid duplication and to ensure consistency with plans and efforts that have been underway since September 11th.

a. Regional Networks should be Built to Internationally Recognized Wireless Broadband Standards to Ensure Interoperability at the Radio Frequency Interface

The *Second Further Notice* seeks comment on whether the Commission should establish certain baseline performance requirements for broadband system architecture, interoperability, build-out of national coverage and other issues relating to the public safety broadband spectrum.¹⁶ NextWave believes those decisions, with certain limitations,¹⁷ rest with the licensee and with the regional and local entities.

In general, NextWave believes that the Commission should approach licensing requirements from a technology and frequency neutral perspective. This naturally leads to the opinion that the identification of acceptable standards and other important decisions relating to the public safety broadband spectrum, including creating roaming and network sharing

¹⁶ *Second Further Notice* ¶ 209.

¹⁷ The Commission seeks comment on whether it should limit the authority of the PSST. *Second Further Notice* ¶ 124. While NextWave generally favors decisions relating to technology be left to the licensee, it would favor here a limitation on the PSST's ability to choose a proprietary standard for use on the public safety broadband spectrum. This limitation could also be expressed, as indicated below, as a requirement upon the PSST to choose internationally recognized wireless broadband standards for use in the 700 MHz public safety band.

agreements with commercial entities, should rest with the PSST. NextWave therefore urges the Commission not to make any decisions relating to the technical characteristics of the public safety broadband spectrum. Instead, the Commission should direct the PSST to make those decisions on acceptable standards, ensuring only that public safety broadband networks be built to a subset of internationally recognized standards, and that interoperability be facilitated at both the radio frequency interface and the core network. The PSST should take a forward-looking approach toward technology selection to prevent the public safety broadband spectrum from being used to offload technologies that are becoming obsolete in the commercial space. However, the final decision of which standards-based technologies are selected should rest with the local or regional public safety jurisdiction.

Members of the PSST, as representatives of the public safety community, have all of the incentive necessary to develop network requirements that are public safety grade, are inclusive of as many preexisting networks as possible, and afford public safety the most opportunity to take advantage of the economies of the international market. Given the mandate to ensure use of internationally recognized standards in building regional networks, the PSST will be in the position to prevent the proliferation of proprietary systems and afford the public safety community with the economies of scale of international markets.

b. Multiple Band, Multiple Mode User Devices will Facilitate Transition and Provide Redundancy to 700 MHz Networks

In keeping with NextWave's technology and frequency band neutral ideal, and in order to best serve the public safety community as it transitions to interoperable wireless broadband networks nationwide, NextWave urges the Commission to require the PSST to create an Interoperability Plan that includes a strategy for coexistence with existing networks and

transition to new technologies through negotiation of roaming plans, and/or plans to migrate toward a single standard, with a particular emphasis on use of multi-band and multi-mode devices.¹⁸

Multi-band / multi-mode devices have been successfully employed in the commercial context,¹⁹ and can provide similar benefits to public safety. These capabilities allow for backward compatibility, legacy coexistence, seamless integration and system evolution.²⁰ For example, when commercial cellular carriers transitioned from analog to next generation digital networks, dual-mode devices – those that worked in both analog and digital mode – allowed carriers a chance to perform incremental rollout of their new enhanced digital networks without loss of basic analog service in areas where the new service did not yet exist. Similarly, the Commission has recognized the important role dual-mode devices can play in supporting a transition from one technology to another in the context of the Digital Television (DTV) transition.²¹ In both the cellular and the DTV cases, legacy equipment gets the benefit of living out its useful life, and dual-mode equipment can take early advantage of enhanced network capabilities where they are available without sacrificing basic services where they are not.

The benefit of multi-band user equipment has likewise not gone unrecognized. Not only are many commercial wireless devices currently able to operate on several bands, but the concept is also being embraced by DHS in a pilot project for voice interoperability across all of the major

¹⁸ Multi-band, multi-mode equipment can also help facilitate the PSST's negotiation of spectrum leases, partnerships, and infrastructure sharing agreements with commercial service providers as contemplated by the Commission. *Second Further Notice* ¶¶ 207-08. Likewise, these devices can provide an avenue for additional user and throughput capacity in those areas where 10 MHz may prove to be insufficient. *See id.* ¶ 208.

¹⁹ As an example, NextWave is currently providing an end-user device to customers in Europe that supports TD-CDMA in the 800 and 2500 MHz bands, as well as GSM/EDGE in the 800, 900, 1800 and 1900 bands.

²⁰ One device capable of working on new frequencies as well as the old, and using a new technology as well as the old, is also an effective way to accomplish network upgrades without jeopardizing the current ability to communicate.

²¹ *See* 47 CFR 15.117(b); (i)(i),(iii),(iv) (requiring any device manufactured after March 1, 2007 and containing an analog tuner include a digital tuner as well so that more recently manufactured equipment will be able to work both before and after the digital television transition).

public safety bands.²² The pilot radios will operate on the 5 major public safety bands and will facilitate RF access to the network in Phoenix by users from any jurisdiction that operates on any of those frequency bands using their own radios.

The same can be accomplished in the broadband context. In coordinating the build-out of interoperable public safety broadband networks, the PSST will face issues similar to those faced in the commercial and other contexts described above. The success of multi-band, multi-mode equipment in making seamless network transitions and facilitating interoperability in the commercial context should thus not be overlooked for public safety. The PSST should therefore be directed to include in its Plan for creating and maintaining public safety broadband interoperability the requirement that devices be capable of operating in multiple bands and multiple modes.

c. Internet Protocol (IP) Compatibility will Ensure End-to-End Interoperability through the Core Network Infrastructure

Of course, the above recommendation: employing internationally recognized wireless broadband standards and multi-band, multi-mode devices to achieve nationwide broadband interoperability of regional networks in a system of systems approach, addresses only the radio frequency interface aspect of interoperability. Interoperable end-to-end communication relies, however, not only on interoperability at the radio interface – over the air – but also at the higher network layers that connect a mobile user with the communicating peer. While commercial radio technologies are diverse and perhaps growing more so, the core infrastructure networks

²² See Department of Homeland Security, Multi-band Radio Project – Fact Sheet, <http://www.safecomprogram.gov/NR/rdonlyres/F8329141-4FD5-4053-97C1-6DD3E2B413ED/0/MBRFactSheet1.pdf> (Jun. 2, 2008); Mickey Carter, *Multi-Band Radios to Provide Public Safety Interoperability*, Homeland Security Today, <http://hstoday.us/content/view/3641/149> (Jun. 4, 2008).

supporting these radios at a higher level have generally converged to a single network: Internet Protocol (IP).

For many of the new radio systems, IP is the fundamental network over which the terminals communicate with the infrastructure. While many of the legacy radio networks are not IP-based, most of them have developed the supporting overlays. This provides interconnectivity for a host of IP-based applications, including VoIP, email, web pages, video, etc. IP connectivity is therefore an essential element in attaining end-to-end interoperable emergency communications, and should thus be part of the PSST's plan for attaining nationwide broadband interoperability for the public safety community.

NextWave believes the PSST can facilitate regional build-out of interoperable wireless public safety broadband networks in a timeframe that is more reasonable than would be accomplished by one single network builder. In its critical governance role, the PSST should be required to create an Interoperability Plan that includes utilizing internationally recognized wireless broadband standards, multiple band, multiple mode devices, and IP connectivity to ensure an end-to-end communications interoperability solution.

III. In the Event the Partnership Approach is Abandoned, the D Block Proceeds Should be Dedicated to Build Interoperable Broadband Networks for Public Safety

The Commission seeks comment on rules it should adopt in the event it decides not to auction the D Block with a public safety partnership obligation,²³ and how a shortfall between the auction proceeds and the “cost of building a dedicated, nationwide, interoperable broadband network for public safety” should be addressed.²⁴ In this event, NextWave urges the

²³ *Second Further Notice* at ¶ 191.

²⁴ *Second Further Notice* at ¶ 191.

Commission to de-link the D Block from the Public Safety spectrum and auction the D Block for unrestricted commercial services.

A. Cost to Build the Public Safety Grade Nationwide Interoperable Wireless Broadband Network

Estimates for build-out of public safety grade interoperable wireless broadband networks nationwide are in the neighborhood of \$15-20 billion.²⁵ NextWave believes that given the economic success of Auction 73, the D Block is likely to raise a significant portion of the funding necessary to build interoperable public safety networks nationwide. Where this is not possible, or where a shortfall remains, the U.S. Congress should identify additional sources of funding to support this venture.

B. Federal Funding Possibilities

1. D Block Proceeds

The funds raised in an auction of the D Block with no public safety obligation are an obvious choice for funding the build-out of interoperable public safety broadband networks nationwide. Predicted revenue for such an auction has been estimated at \$3 to \$5 billion.²⁶ Add that to the over \$8 billion²⁷ more than expected in the initial 700 MHz auction, for a total unexpected windfall of up to \$13 billion. It is critical that these funds be maintained to provide for the necessary infrastructure needed to build-out a nationwide public safety broadband interoperable system, and the FCC should urge the U.S. Congress to reallocate those funds for

²⁵ See MRT Urgent Communications: Service, Safety, Security, *D Block Auction Picture Gets Murkier*, http://mrtmag.com/mag/radio_block_auction_picture (Feb. 1, 2008).

²⁶ See *Second Further Notice*, Comments of Coleman Bazelon at 2 (filed Jun. 20, 2008).

²⁷ See *Oversight of the Federal Communications Commission: the 700 MHz Auction Before the Subcommittee. on Telecommunications. and the Internet of the House Committee. on Energy and Commerce*, 110th Cong. 2 (2008) (statement of the Hon. Kevin J. Martin, Chairman, Federal Communications Commission).

that purpose. The lack of true interoperability as demonstrated on September 11th and again in Hurricanes Katrina and Rita makes this funding an imperative by the Congress and the FCC.

2. Existing Grant Programs Are Not Sufficient to Cover Build-Out Costs

While there are some existing grant programs that provide support for emergency communications and interoperability, such as those run by the U.S. Departments of Homeland Security, Commerce and Justice, these grant programs have been used to provide state and local communities with funds to upgrade their equipment, training and address governance issues as well as to meet other priorities as set by DHS. While grants like the Interoperable Emergency Communications Grants Program, Emergency Management Performance Grants, State Homeland Security Program Grants, Law Enforcement Terrorism Prevention Program Grants and Urban Area Security Initiative Grants, to name but a few,²⁸ provide critical funding, it is not feasible to think that these programs can also be stretched to build out the nationwide network. As such, the FCC and the Congress should ensure that the proceeds of the D Block auction be dedicated to the build out of the nationwide system.

IV. Conclusion

The nationwide one-size-fits-all approach to attaining public safety broadband interoperability nationwide may not be the best one for the most important interest in this proceeding – the public safety community and our nation’s homeland security needs. Whether or not the Public Private Partnership is retained, the PSST-overseen regional approach to public

²⁸ Some other grant programs that can be used to help fund regional interoperable public safety broadband network build-out include: Office of Emergency Communications Funding, Commercial Equipment Direct Assistance Program Grants (CEDAP), SAFECOM, Tech Solutions, Public Safety Interoperable Communications Grant Program, Technologies Opportunity Program (TOP) Tactical Law Enforcement Wireless Communications Program, Community Oriented Policing Services (COPS), the Edward Byrne Memorial Justice Assistance Grant Program and Local Law Enforcement Block Grant (LLEBG) Program.

safety network build-out described above will afford the opportunity for public safety to address nationwide interoperability along with the unique and specific needs of their diverse communities right away, and will thus best serve the public interest.

Respectfully submitted,

/s/_____

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July 7, 2008