(3) The Public Safety Broadband Licensee must be as broadly representative of the public safety radio user community as possible.

(4) The Public Safety Broadband Licensee must be in receipt of written certifications from no less than ten geographically diverse state and local governmental entities (the authorizing entities), with at least one certification from a state government entity and one from a local government entity, verifying that:

(i) They have authorized the Public Safety Broadband Licensee to use spectrum at 763-768 MHz and 793-798 MHz to provide the authorizing entities with public safety services; and

(ii) The authorizing entities' primary mission is the provision of public safety services.

(5) The sole or principal purpose of the services provided under the Public Safety Broadband Licensee's authorization must be to protect the safety of life, health, or property. These services must comply with the terms of the Network Sharing Agreement(s) and must not be made commercially available to the public.

18. Section 90.528 is amended by revising paragraph (d) and adding new paragraphs (h) and (i) to read as follows:

§ 90.528 Public Safety Broadband License.

* * * * *

(d) The term of the Public Safety Broadband License shall not exceed fifteen years from the date upon which the first D Block license is granted. The Public Safety Broadband Licensee is entitled to a renewal expectancy barring violations of law, rules or policy warranting denial of renewal.

* * * * *

(h) Annual Budgeting Process. The Public Safety Broadband Licensee shall establish an audited annual budgeting process, conducted by an external, independent auditor. Such audited budget shall be submitted to the Commission and presented at an open meeting of the Board of Directors. The Chief, Public Safety and Homeland Security Bureau, may request an audit of the Public Safety Broadband Licensee's expenses at any time.

(i) Proposed Annual Budget. As part of its annual budgeting process, the Public Safety Broadband Licensee shall submit for approval to the Chief, Public Safety and Homeland Security Bureau, and Chief, Wireless Telecommunications Bureau its proposed budget for each such upcoming fiscal year.

19. Section 90.1403 is amended by revising paragraphs (a) and (b) to read as follows:

§ 90.1403 Public Safety Broadband License conditions.

(a) The Public Safety Broadband Licensee shall comply with all of the applicable requirements set forth in this subpart and shall comply with the terms of the Network Sharing Agreement(s) and such other agreements as the Commission may require or allow.

(b) The responsibilities of the Public Safety Broadband Licensee shall include the following:

(1) Negotiation of the NSA and such other agreements as the Commission may require or allow with the winning bidder at auction for a Upper 700 MHz Band D Block license, pursuant to the requirements set

forth in § 90.1410.

(2) General administration of access to the 763-768 MHz and 793-798 MHz bands by individual public safety entities, as facilitated through the establishment of priority access, service levels and related requirements within the NSA process, approving public safety applications and end user devices, and related frequency coordination duties.

(3) Regular interaction with and promotion of the needs of the public safety entities with respect to access and use of the 763-768 MHz and 793-798 MHz bands, within the technical and operational confines of the governing NSA.

(4) Dealings with equipment vendors on its own or in partnership with the Upper 700 MHz D Block licensee, as appropriate, to achieve and pass on the benefits of economies of scale concerning network and subscriber equipment and applications.

(5) Sole authority, which cannot be waived in the NSA(s), to approve, in consultation with the Upper 700 MHz D Block licensee, equipment and applications for use by public safety entities on the public safety broadband network. State or local entities may seek review of a decision by the Public Safety Broadband Licensee not to permit certain equipment or applications, or particular specifications for equipment or applications, from the Chief, Public Safety and Homeland Security Bureau.

* * * * *

(8) Exercise of sole discretion, pursuant to § 2.103 of this chapter, whether to permit Federal public safety agency use of the public safety broadband spectrum, with any such use subject to the terms and conditions of the governing NSA.

(9) Review of requests for early construction and operation of local public safety broadband networks on the 700 MHz public safety broadband spectrum in areas with and without a preexisting build-out commitment in the applicable NSA, pursuant to the procedures and requirements outlined for such waivers as described in § 90.1430.

(10) Review of requests for waiver submitted by public safety entities to conduct wideband operations pursuant to the procedures and restrictions in connection with such waivers as described in § 90.1432.

20. Section 90.1405 is revised to read as follows:

§ 90.1405 Shared wireless broadband network.

The Shared Wireless Broadband Network developed by the 700 MHz Public/Private Partnership must be designed to meet requirements associated with an interoperable, nationwide public safety broadband network as specified in this section. All specified mandatory requirements as defined in this section must be incorporated in the Network Sharing Agreement, and shall be used in the determination of compliance under §27.14(p) of this chapter. The Public Safety Broadband Licensee and the Upper 700 MHz D Block licensee may add any capabilities or features beyond those in these rules based on mutually agreeable terms under the Network Sharing Agreement. The Shared Wireless Broadband Network shall incorporate the following:

(a) A design for public safety operations over a broadband IP-based technology platform that (i) utilizes standardized commercial technology, (ii) provides fixed and mobile voice, video, and data capability that is interoperable across public safety local and state agencies, jurisdictions, and geographic areas, and (iii)

includes current and evolving state-of-the-art technologies reasonably made available in the commercial marketplace with features beneficial to the public safety community.

(1) Such a design shall provide a nationwide common radio access network air interface to enable the Shared Wireless Broadband Network to support nationwide level interoperability. The common air interface shall allow migration to future technology upgrades. In the case of regional Upper 700 MHz D Block licensees, the common radio access network air interface will be determined via the auction process and each regional Upper 700 MHz D Block licensee will be required to enter into arrangements both with other regional Upper 700 MHz D Block licensees and with the Public Safety Broadband Licensee as necessary to ensure interoperability between their networks. Such arrangements must provide, at a minimum, that each regional Upper 700 MHz D Block licensee will provide the ability to roam on its network to public safety users of all other Shared Wireless Broadband Networks. Regional Upper 700 MHz D Block licensees are not permitted to assess special roaming charges (over and above service fees charged for in-region use) in cases where public safety users require roaming for mutual aid or emergencies.

(2) The technology selected for the Shared Wireless Broadband Network shall be permitted to evolve based on commercial wireless upgrade timeframes, except that future upgrades shall include user equipment backward compatibility, as supported by commercial product availability and specified in the technology standards, to allow for commercially reasonable transition periods for public safety entities' user equipment. The notification and impact management processes relating to technology upgrades, and migration to such upgrades, shall be defined and agreed to in the Network Sharing Agreement.

(3) To promote interoperability between the Shared Wireless Broadband Network and voice-based public safety networks in other frequency bands, the Upper 700 MHz D Block licensee will publish IP-based specifications describing how such other public safety networks may access the Upper 700 MHz D Block licensee's Shared Wireless Broadband Network via bridges and/or gateways. The Upper 700 MHz D Block licensee shall charge these other public safety networks for such access no more than the relevant fee established or approved by the Commission. Public safety users shall bear the costs of the bridges and gateways, including installation and maintenance costs.

(4) The Shared Wireless Broadband Network shall support a Voice over Internet Protocol (VoIP) capability to complement existing public safety mission critical voice communication systems. The VoIP capability shall allow interconnection with the Public Switched Telephone Network as well as with other public safety VoIP users on the network. VoIP features will include but not be limited to Push-To-Talk.

(b) Availability, robustness, and hardening requirements as follows:

(1) The Shared Wireless Broadband Network shall provide 99.6 percent network availability for all terrestrial elements of operation in the coverage areas certified pursuant to §27.14(o)(1) of this chapter, calculated over each license area annually, starting four years after license issuance. The Upper 700 MHz D Block licensee shall use commercially reasonable efforts to provide network availability above this requirement, with the target of 99.9 percent network availability.

(2) The method for measuring availability shall be defined in the Network Sharing Agreement, which shall (i) be a measure of infrastructure availability as measured from the cell site radio antenna through and across the core network; (ii) exclude radio signal coverage and scheduled maintenance downtime with prior notice to the Public Safety Broadband Licensee; (iii) exclude outages caused by actions or events outside the reasonable control of the Upper 700 MHz D Block licensee; and (iv) exclude outages only affecting limited applications.

(3) The Shared Wireless Broadband Network design specifications shall include commercial best practices, such as Network Reliability and Interoperability Council best practices, that take into consideration local influencing factors such as weather, geology, and building codes on network attributes such as hardening of transmission facilities and antenna towers, extended backup power, seismic safety standards, and accommodations for wind, ice, and other natural phenomenon.

(4) The Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee, in consultation with the relevant community, shall jointly designate "critical" sites. The designation of sites as "critical" shall not be required to cover more than 35 percent of the Shared Wireless Broadband Network sites for the Upper 700 MHz D Block license; however, the Upper 700 MHz D Block licensee shall use commercially reasonable efforts to designate as "critical" additional sites requested by the Public Safety Broadband Licensee, up to 50 percent of all the licensee's sites. Sites designated as "critical" shall have battery backup power of 8 hours, and shall have generators with a fuel supply sufficient to operate the generators for at least 48 hours. The Upper 700 MHz D Block licensee shall make commercially reasonable efforts to provide a fuel supply at "critical" sites above this requirement sufficient for a minimum of 5 days. The Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee, in consultation with the relevant community, shall jointly determine the sites that will require redundant backhaul in order to comply with the network availability requirements in this section.

(5) The Upper 700 MHz D Block Licensee and the Public Safety Broadband Licensee may agree on other methods to improve network resiliency in lieu of designating "critical" cell sites as described in paragraph (4) of this subsection. These may include deployment of mobile assets or the use of satellite facilities.

(c) A capability incorporated into the Shared Wireless Broadband Network infrastructure to provide monthly usage reports covering network capacity and priority access so that the Public Safety Broadband Licensee can monitor usage and provide appropriate feedback to the Upper 700 MHz D Block licensee on operational elements of the network.

(d) Security and encryption consistent with commercial best practices. For purposes of complying with this paragraph, the Upper 700 MHz D Block licensee shall:

(1) Comply with U.S. government standards, guidelines, and models that are commercial best practices for wireless broadband networks.

(2) Implement controls to ensure that public safety priority and secure network access are limited to authorized public safety users and devices, and utilize an open standard protocol for authentication.

(3) Allow for public safety network authentication, authorization, automatic logoff, transmission secrecy and integrity, audit control capabilities, and other unique attributes.

(e) A mechanism to ensure Quality of Service (QoS) for public safety and to establish various levels of priority for public safety communications. The Upper 700 MHz D Block licensee shall not be obligated to implement this provision before appropriate standards are developed and appropriate hardware and software are available on commercially reasonable terms. The Upper 700 MHz D Block Licensee and the Public Safety Broadband Licensee shall use reasonable efforts to work with applicable standards organizations, network equipment manufacturers, and other suppliers to accelerate the commercially reasonable availability of these features for the Shared Wireless Broadband Network. The Public Safety Broadband Licensee shall have authority to establish access priority and service levels, and authenticate and authorize public safety users. In addition, the following provisions for QoS shall be incorporated into the operational capabilities of the Shared Wireless Broadband Network.

(1) Priority shall be defined as Public Safety Broadband Licensee-approved user or class of users, network, application, and services priorities that, via user or class of users or device identification, or both, offer the highest assignable levels of priority for network access and use of network resources, services, and applications.

(2) The Shared Wireless Broadband Network shall provide emergency priority access pursuant to §90.1407(e).

(3) The Shared Wireless Broadband Network shall provide an appropriate priority to 9-1-1 calls.

(4) QoS resource reservation and session control mechanisms shall be incorporated into the operational capabilities of the Shared Wireless Broadband Network.

(5) QoS shall be considered to be the full class of mechanisms that are found at multiple IP layers in the network (both radio access network and core), and that provision and apply priority for IP packet based traffic.

(6) The assignment of network resources shall enable user or service priority, or both, in addition to the QoS requirements of the application.

(7) The Shared Wireless Broadband Network shall support multiple IP data services and application session flows between a user device and network, where each flow may have a different QoS requirement and priority level.

(8) If network resources are not available to meet a resource reservation request, the Shared Wireless Broadband Network shall have the ability to provide a new QoS consistent with the limited network resources.

(f) Operational capabilities to support public safety systems as specified below:

(1) The Shared Wireless Broadband Network shall provide access for all applications and services, hosted applications and services, and third party public safety applications and services specified in the Network Sharing Agreement. The Public Safety Broadband Licensee shall give consideration of particular applications to the overall impact on overall system performance.

(2) The Shared Wireless Broadband Network shall provide for the application data rates shown in Table 1.

(3) The Shared Wireless Broadband Network shall be designed to provide edge of cell data rates shown in Table 2. Typical data rates should be designed for at least 1 Mbs downlink and 600 kbps uplink. The data link speeds for public safety users must be at least as fast as the best data speeds provided to commercial users of the Shared Wireless Broadband Network.

(4) The Shared Wireless Broadband Network must provide indoor coverage for VoIP consistent with the propagation parameters shown in Table 3.

(5) For purposes of these Tables 2 and 3, the following definitions apply in terms of population per square mile: dense urban: 15,000 people or greater; urban 2,500 – 14,999; suburban 200-2499; and rural 0 – 199.

(6) The data rates in this section are design objectives and are not to be applied for a particular device, time or location.

(7) Signal coverage, propagation, and capacity parameters in Table 2 and 3 shall be reviewed by the Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee no less than every four years to assess the impact of benefits from technology evolution and general improvement in network coverage consistent with paragraph (a)(2).

Table 1 to § 90.1405 — Applications and Services QoS Attributes

Application/Service	Description	Data Rate
File transfer	FTP and general data upload / download	Greater than 256kb/s
Email	Both Web based and Entity Hosted E-Mail Service	Less than 16kb/s
Web browsing	Intranet, extranet, and internet	Greater than 32kb/s
Mobile voice	Equivalent to current commercial mobile voice	Minimum 15 kb/s
Push to talk (PTT) voice	Commercial grade PTT / PoC offerings with group call, alerting, and monitoring capability.	4-25 kb/s
Indoor video	Video that is transmitted from inside a building	20-384 kb/sF
Outdoor video	Video that is transmitted from the street	32-384 kb/s
Location services	All location based services	Less than 16kb/s
Database transactions	Remote databases access both under the entities' direct control as well as databases that are local	Less than 32kb/s
Messaging	Instant messaging, SMS, and Push to X services	Less than 16kb/s
Network Operations data	Network operational and maintenance data including over the air programming and remote client management	Less than 32kb/s
Dispatch data	Data as it relates to computer aided dispatching.	Less than 64kb/s
Generic traffic	General category for traffic that does not fall within any of the categories described above, and that generates less than 64kb of data per second	Less than 64kb/s
Telemetry	Remote measurement and reporting of information for radio devices, vehicles, and sensor data	70-120 kb/s
Virtual Private Networking	Secure remote access to entity LAN and WAN environments	64 – 256 kb/s

Table 2 to § 90.1405
Data Propagation and Capacity Parameters

Morphology	Cell Coverage Area Reliability	Sector Loading Factor	Forward Link Throughput On-Street Single user Average Cell-edge	Reverse Link Throughput On-Street Single user Average Cell-edge
Dense Urban	95%	70%	256 kbps	256 kbps
Urban	95%	70%	256 kbps	256 kbps
Suburban	95%	70%	128 kbps	128 kbps
Rural	95%	70%	128 kbps	128 kbps
Highway	95%	70%	64 kbps	64 kbps

Table 3 to § 90.1405
Voice Propagation and Capacity Parameters

Morphology	In-Building Penetration Margin	Cell Coverage Area Reliability	Sector Loading Factor
Dense Urban	22 dB	95%	70%
Urban	19 dB	95%	70%
Suburban	13 dB	95%	70%
Rural	6 dB	95%	70%
Highway	6 dB	95%	70%

Section 90.1407 is amended by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 90.1407 Spectrum use in the network.

* * * * *

(d) The Upper 700 MHz D Block licensee may construct and operate the Shared Wireless Broadband Network using both the 758-763 MHz and 788-793 MHz bands as well as the 763-768 MHz and 793-798 MHz bands as a combined resource. If the Upper 700 MHz D Block licensee chooses to operate the spectrum as a combined resource, however, 50 percent of the capacity available from the combined 20 megahertz of spectrum must be assigned to public safety users and the other 50 percent must be assigned to the commercial users, consistent with the respective capacity and priority rights of the Upper 700 MHz D Block license and the Public Safety Broadband License and with rules in this Part.

(e) Emergency Priority Access.

(1) The Upper 700 MHz D Block licensee must provide public safety users priority access to, but not preemptive use of, up to 40 percent of the commercial spectrum capacity (two megahertz in each of the

uplink and downlink blocks), assuming the full public safety broadband block spectrum capacity is being used, for an aggregate total of 14 megahertz of overall network capacity in the following circumstances:

(i) The President or a state governor declares a state of emergency.

(ii) The President or a state governor issues an evacuation order impacting areas of significant scope.

(iii) The national or airline sector threat level is set to red.

(2) The D Block licensee must provide priority access to, but not preemptive use of, up to 20 percent of the commercial spectrum capacity (one megahertz in each of the uplink and downlink blocks) in the following circumstances:

(i) The National Weather Service issues a hurricane or flood warning likely to impact a significant area.

(ii) The occurrence of other major natural disasters, such as tornado strikes, tsunamis, earthquakes, or pandemics.

(iii) The occurrence of manmade disasters or acts of terrorism of a substantial nature.

(iv) The occurrence of power outages of significant duration and scope.

(v) The national threat level is set to orange.

(3) The Upper 700 MHz D Block licensee must assign the next available channel to the requesting public safety user over a commercial user—i.e., the public safety user would be placed at the top of the queue—and should not preempt a commercial call in progress. Emergency priority access is limited to the time and geographic scope of the emergency.

(4) To trigger emergency priority access, the Public Safety Broadband Licensee must request, on behalf of the impacted public safety agencies, that the Upper 700 MHz D Block licensee provide such access. Emergency priority access requests initiated by the Public Safety Broadband Licensee will cover a 24-hour time period, and must be reinitiated by the Public Safety Broadband Licensee for each 24-hour time period thereafter that the priority access is required.

(5) In the event that the Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee do not agree that an emergency has taken place, the Public Safety Broadband Licensee may request the Defense Commissioner to resolve the dispute.

21. Section 90.1410 is amended by revising paragraphs (c), (d), (f), (g), and (j), and adding paragraphs (k) through (n), to read as follows:

§ 90.1410 Network sharing agreement.

* * * * *

(c) The definition of "emergency" for purposes of emergency priority access, as described in Section 90.1407(e).

(d) All service fees to be imposed for services to public safety, including fees for normal network service,

interconnected service, and fees for priority access to the D Block spectrum in an emergency.

* * * * *

(f) The right of the Public Safety Broadband Licensee to determine and approve the specifications of public safety equipment used on the network and the right to purchase its own subscriber equipment from any vendor it chooses, to the extent such specifications and equipment are consistent with reasonable network management requirements.

(g) The terms, conditions, and timeframes pursuant to which the Upper 700 MHz D Block licensee must make available at least one handset suitable for public safety use that includes an integrated satellite solution.

* * * * *

(j) To the extent that interoperability arrangements between the Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee are required under §90.1405(a)(1), the terms and conditions of the arrangement, including the terms and conditions under which roaming will be provided to public safety users of other Shared Wireless Broadband Networks.

(k) The terms of a standard agreement under which public safety networks operating in other frequency bands may connect to the Shared Wireless Broadband Network pursuant to and in accordance with §90.1405(a)(1).

(l) Terms regarding the establishment of access priorities, service levels and related requirements, and approval of public safety applications and end user devices, by the Public Safety Broadband Licensee.

(m) A process for forecasting demand for public safety usage.

(n) A contract term, not to exceed a 15 year period that coincides with the terms of the Upper 700 MHz D Block license and the Public Safety Broadband License.

22. Section 90.1415 is amended by revising paragraphs (a), (b), (c), (f)(4), and (g) to read as follows:

§ 90.1415 Establishment, execution, and application of the network sharing agreement.

* * * * *

(a) Approval of NSA as pre-condition for granting the Upper 700 MHz D Block License. The Commission shall not grant an Upper 700 MHz D Block license until the winning bidder for the subject Upper 700 MHz D Block license has negotiated an NSA and such other agreements as the Commission may require or allow with the Public Safety Broadband Licensee, and the NSA and related agreements, or documents have been approved by the Commission and executed by the required parties. Parties to the NSA must also include the Upper 700 MHz D Block licensee, a Network Assets Holder, and an Operating Company, as these entities are defined in § 27.4.

(b) Requirement of negotiation. Negotiation of an NSA between a winning bidder for an Upper 700 MHz D Block license and the Public Safety Broadband Licensee must commence by the date the winning bidder files its long form application or the date on which the Commission designates the Public Safety Broadband Licensee, whichever is later, and must conclude within six months of that date. Parties to this negotiation are required to negotiate in good faith. Two members of the Commission staff, one from the Wireless Telecommunications Bureau and one from the Public Safety and Homeland Security Bureau,

shall be present at all stages of the negotiation as neutral observers.

(c) Reporting requirements. A winning bidder for the Upper 700 MHz D Block license must file a report with the Commission within 10 business days of the commencement of the negotiation period certifying that active and good faith negotiations have begun, providing the date on which they commenced, and providing a schedule of the initial dates on which the parties intend to meet for active negotiations, covering at a minimum the first 30-day period. Beginning three months from the triggering of the six-month negotiation period, the winning bidder for a Upper 700 MHz D Block license and the Public Safety Broadband Licensee must jointly provide detailed reports, on a monthly basis and subject to a request for confidential treatment, on the progress of the negotiations throughout the remainder of the negotiations. These reports must include descriptions of all material issues that the parties have yet to resolve.

* * * * *

(f) * * *

(4) Determining that no resolution of the disputed issues can be made consistent with the public interest.

(g) Lack of a Commission-approved NSA and such other agreements as the Commission may require or allow. If a winning bidder chooses not to execute a Commission-approved NSA or such other agreements as the Commission may require or allow within 10 business days of Commission approval, the winning bidder's long-form application will be dismissed, the winning bidder will be deemed to have defaulted under § 1.2109(c) of this chapter, and the winning bidder will be liable for the default payment specified in § 1.2104(g)(2) of this chapter and §27.501(b)(3) of this chapter. In all other circumstances in which the parties do not submit executed copies of a Commission-approved NSA and such other agreements within the time permitted by this section, the winning bidder's long-form application will be dismissed and any payments made toward the winning bid will be returned to the payor(s) of record.

23. Section 90.1430 is amended by revising paragraph (b) to read as follows:

§ 90.1430 Local public safety build-out and operation.

* * * * *

(b) Rights to early build-out in areas with a build-out commitment. In an area where the Upper 700 MHz D Block licensee has committed, in the NSA, to build out by a certain date, a public safety entity may, with the pre-approval of the Public Safety Broadband Licensee and the Upper 700 MHz D Block licensee, and subject to the requirements set forth herein, construct a broadband network in that area at its own expense so long as the network is capable of operating on the Shared Wireless Broadband Network and meets all the requirements and specifications of the network required under the NSA.

* * * * *

(4) Attribution of early build-out to applicable construction benchmarks. Upon completion of construction, transfer of ownership to the Upper 700 MHz D Block licensee, and compensation as required herein, if applicable, the Upper 700 MHz D Block licensee may include the network constructed pursuant to the early build-out provisions herein for purposes of determining whether it has met its build-out benchmarks and the build-out requirements of the NSA.

* * * * *

24. Section 90.1440 is revised by adding paragraph (c) as follows:

§ 90.1440 Reporting obligations.

* * * * *

(c) The Upper 700 MHz D Block licensee must provide regular monthly reports on network usage to the Public Safety Broadband Licensee.

APPENDIX D

Relocation Costs By 700 MHz RPC Region

REGION	AMOUNT
Region 3 (Arizona)	1,610,100.00
Region 4 (Arkansas)	1,124,900.00
Region 7 (Colorado)	2,276,800.00
Region 11 (Hawaii)	53,000.00
Region 12 (Idaho)	723,200.00
Region 13 (Illinois)[981]	2,885,800.00
Region 17 (Kentucky)	2,472,600.00
Region 18 (Louisiana)	3,979,700.00
Region 19 (New England)[982]	414,400.00
Region 22 (Minnesota)	186,000.00
Region 23 (Mississippi)	401,000.00
Region 24 (Missouri)	244,100.00
Region 26 (Nebraska)	366,400.00
Region 27 (Nevada)	783,000.00
Region 30 (New York-Albany)[983]	78,100.00
Region 31 (North Carolina)	826,200.00
Region 33 (Ohio)	3,893,000.00
Region 35 (Oregon)	7,200.00
Region 39 (Tennessee)	231,100.00
Region 41 (Utah)	204,100.00
Region 42 (Virginia)[984]	2,614,800.00
Region 43 (Washington)	209,700.00
Region 49 (Texas-Austin)	63,800.00
Region 51 (Texas-Houston)	1,034,600.00
TOTAL RELOCATION COSTS:	**$26,683,600.00**

[981] Illinois' narrowband certification for Region 13 also includes narrowband facilities in Region 54 (Chicago Metro area).

[982] Region 19 (New England) includes six states: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

[983] New York's narrowband certification for Region 30 also includes narrowband facilities in Region 55 (New York – Buffalo) and Region 8 (New York City Metro area).

[984] Virginia's narrowband certification for Region 42 also includes narrowband facilities in Region 20 (Northern Virginia/DC Metro).

APPENDIX E

NSA Term Sheet

Draft Network Sharing Agreement (NSA) Term Sheet
Public/Private Partnership

The following terms are to be incorporated into all Network Sharing Agreements between each D Block licensee and the Public Safety Broadband Licensee, to effectuate the 700 MHz public/private partnership.

Term of Agreement

- The term of the Network Sharing Agreement is 15 years. Extension of the term of the NSA or amendments to any of the major terms must be submitted to the Federal Communications Commission for approval.

Spectrum Use

The D Block licensee(s) must provide public safety users with primary access to 10 megahertz of spectrum capacity at all times.

During Emergencies

- The D Block licensee must provide public safety users emergency access to the D Block commercial capacity only in the event of an "emergency," which is defined as follows:
    - The declaration of a state of emergency by the President or a state governor.
    - The issuance of an evacuation order by the President or a state governor impacting areas of significant scope.
    - The issuance by the National Weather Service of a hurricane or flood warning likely to impact a significant area.
    - The occurrence of other major natural disasters, such as tornado strikes, tsunamis, earthquakes, or pandemics.
    - The occurrence of manmade disasters or acts of terrorism of a substantial nature.
    - The occurrence of power outages of significant duration and scope.
    - The elevation of the national threat level to either orange or red for any portion of the United States, or the elevation of the threat level in the airline sector or any portion thereof, to red.
- The D Block licensee(s) must provide public safety users priority access to, but not preemptive use of, up to 40 percent of the commercial D Block spectrum capacity (*i.e.*, 2 megahertz in each of the uplink and downlink blocks), assuming the full public safety broadband block spectrum capacity is being used, for an aggregate total of 14 megahertz of overall network capacity in the following circumstances: the President or a state governor declares a state of emergency; the President or a state governor issues an evacuation order impacting areas of significant scope; or the national or airline sector threat is set to red. In these circumstances, the D Block licensee(s) must assign the next available channel to the requesting public safety user over a commercial user—*i.e.*, the public safety user would be placed at the top of the queue—and would not preempt a commercial call in progress. The right to priority access must be limited to the time and geographic scope of the emergency.
- The D Block licensee(s) must provide priority access to, but not preemptive use of, up to 20 percent of the commercial spectrum capacity (*i.e.*, 1 megahertz in each of the uplink and

downlink blocks) in the following circumstances: the issuance by the National Weather Service of a hurricane or flood warning likely to impact a significant area; the occurrence of other major natural disasters, such as tornado strikes, tsunamis, earthquakes, or pandemics; the occurrence of manmade disasters or acts of terrorism of a substantial nature; the occurrence of power outages of significant duration and scope; or the elevation of the national threat level to orange for any portion of the United States. The right to priority access must be limited to the time and geographic scope of the emergency.

- To trigger priority access, the PSBL must request, on behalf of the impacted public safety agencies, that the D Block licensee provide such access. Priority access requests initiated by the PSBL will cover a 24-hour time period, and must be reinitiated by the PSBL for each 24-hour time period thereafter that the priority access is required.
- In the event that the D Block licensee and the PSBL do not agree that an emergency has taken place, the PSBL may ask the Defense Commissioner to resolve the dispute.

Performance Requirements

- D Block licensee(s) are required to provide signal coverage and offer service to at least 40 percent of the population in each PSR by the end of the fourth year, and 75 percent by the end of the tenth year. D Block licensee(s) will be required to meet the following final benchmarks 15 years after the issuance of their license(s):
    - PSRs with a population density less than 100 people per square mile, the licensee(s) will be required to provide signal coverage and offer service to at least 90 percent of the population by the end of the fifteenth year;
    - PSRs with a population density equal to or greater than 100 people per square mile and less than 500 people per square mile, the licensee(s) will be required to provide signal coverage and offer service to at least 94 percent of the population by the end of the fifteenth year; and
    - PSRs with a population density equal to or greater than 500 people per square mile, the licensee(s) will be required to provide signal coverage and offer service to at least 98 percent of the population by the end of the fifteenth year.

- These population coverage requirements must be met on a PSR basis, and licensees will have to use the most recently available U.S. Census data at the time of measurement to meet the requirements.

- To the extent that the D Block licensee chooses to provide terrestrial commercial services to population levels in excess of the relevant benchmarks, the D Block licensee must make the same level of coverage and service available to public safety entities.

- In addition to the required population benchmarks, D Block licensee(s) must provide service to major highways, interstates, and incorporated communities with populations greater than 3,000 no later than the end of the D Block license term. To the extent that coverage of major highways, interstates and incorporated communities with populations in excess of 3,000 requires the D Block licensee to extend coverage beyond what is required to meet its population benchmarks, coverage can be provided through non-terrestrial means, such as MSS or other such technologies.

- The D Block licensee and the Public Safety Broadband Licensee must reach agreement on a detailed build-out schedule that is consistent with the performance benchmarks. The build-out schedule must identify the specific areas of the country that will be built out and the extent to which interstates within the D Block licensee's service area will be covered by each of the performance deadlines. The D Block licensee may determine, in consultation with the Public

Safety Broadband Licensee, which particular areas of the country will be built out by each deadline.

- The D Block licensee may modify its population-based construction benchmarks where the D Block licensee and the Public Safety Broadband Licensee reach agreement and the Commission gives its prior approval for a modification. No increase in the performance requirements will be permitted unless it is acceptable to the D Block licensee.

- For the D Block licensee for the Gulf of Mexico, the population-based benchmarks shall be inapplicable, and the D Block licensee for the Gulf of Mexico and the Public Safety Broadband Licensee may flexibly negotiate a coverage and service plan for public safety use for that region as needed.

Role and Responsibilities of the D Block Licensee

- The D Block licensee has exclusive responsibility for all traditional network service provider operations, including customer acquisition, network monitoring and management, operational support and billing systems, and customer care, in connection with services provided to public safety users.

- The D Block licensee is subject to monthly network usage reporting requirements that will enable monitoring of its operations by the Commission and the PSBL.

- The D Block Licensee will allow the Public Safety Broadband Licensee to determine and approve the specifications of public safety equipment used on the network. The public safety subscribers will have right to purchase their own subscriber equipments and applications from any vendor they choose, to the extent such specifications, equipments, and applications are consistent with reasonable network management requirements and compatible with the network.

- If the D Block licensee chooses to adopt a wholesale-only model with respect to the D Block spectrum, it must ensure, though arrangements such as the creation of a subsidiary or by contracting with a third party, that retail service will be provided to public safety entities that complies with the Commission's regulatory requirements. This arrangement to provide service to public safety should be made part of the NSA.

Role and Responsibilities of the Public Safety Broadband Licensee

The Public Safety Broadband Licensee's assigned duties will be as follows:

- General administration of access to the 763-768 MHz and 793-798 MHz bands by individual public safety entities, as facilitated through the establishment of priority access, service levels and related requirements negotiated into the NSA, approving public safety applications and end user devices, and related frequency coordination duties.

- Regular interaction with and promotion of the needs of the public safety entities with respect to accessing and use of the national public safety broadband network, within the technical and operational confines of the NSA.

- Interfacing with equipment vendors on its own or in partnership with the D Block licensee, as appropriate, to achieve and pass on the benefits of economies of scale concerning network and subscriber equipment and applications.

- Sole authority, which cannot be waived in the NSA, to approve, in consultation with the D Block licensee, equipment and applications for use by public safety entities on the public safety broadband network.

- Responsibility to establish a means to authorize and authenticate public safety users. The Public Safety Broadband Licensee may accomplish this by establishing its own system that would accomplish these functions or defining parameters that are compatible with commercial technology and can be easily implemented by the D Block Licensee.

- Responsibility to facilitate negotiations between the D Block license winner and local and state entities to build out local and state-owned lands.

- Coordination of stations operating on 700 MHz public safety broadband spectrum with 700 MHz public safety narrowband stations, including management of the internal public safety guard band.

- Oversight and implementation of the relocation of narrowband public safety operations in channels 63 and 68, and the upper 1 megahertz of channels 64 and 69.

- Exercise of sole discretion, pursuant to Section 2.103 of the Commission's rules, whether to permit Federal public safety agency use of the public safety broadband spectrum, with any such use subject to the terms and conditions of the NSA.

- Responsibility for reviewing and approving requests for early construction and operation of local public safety broadband networks on the 700 MHz public safety broadband spectrum in areas with and without a preexisting build-out commitment in the NSA, pursuant to the procedures and requirements outlined for such waivers as described in 47 C.F.R. § 90.1430.

- Responsibility for reviewing and approving requests for waiver submitted by public safety entities to conduct wideband operations pursuant to the procedures and restrictions in connection with such waivers as described in 47 C.F.R. § 90.1432.

Public Safety Network Service Fees.

- The NSA must include a schedule of fees for public safety access to broadband network services.
- Public safety users of the D Block public safety spectrum will be charged a base rate of $[--.--] per user per month.
- The initial fixed rates in the NSA will sunset at the end of the fourth year of the D Block licensee's license term. After the sunset, applicable rates will be negotiated based on fee schedules developed by the General Services Administration for government users of the commercial spectrum.

Roaming Arrangement

- Each regional D Block licensee must public safety users of all other 700 MHz public safety regional networks with the ability to roam on its network.

- The NSA should further specify the relevant terms and conditions under which roaming will be provided.

Dispute Resolution Process.

- The Commission may resolve any impasse between the parties to the NSA, including, should the Commission find it in the public interest, requiring the parties to accept specified terms resolving the dispute. The Commission's resolution will be final.

- In resolving any disputes between a winning D Block bidder and the PSBL with respect to the terms of the NSA, the Commission will use its discretion to determine how best to take into account the winning D Block bidder's business plan, as well as the requirements of public safety users, when mandating a resolution.

Safeguards for Protection of Public Safety Service

- The D Block licensee must provide to the Public Safety Broadband Licensee monthly network usage statistics.
- The D Block licensee may not discontinue service to public safety entities without the Commission approval.
- The parties must jointly file quarterly reports with the Commission. These reports must include detailed information on the areas where broadband service has been deployed, how the specific requirements of public safety are being met, audited financial statements, which public safety entities (*e.g.*, police, fire departments) are using the broadband network in each area of operation; what types of applications (*e.g.*, voice, data, video) are in use in each area of operation to the extent known; and the number of declared emergencies in each area of operation.

Funding of the PSBL Through the D Block Licensee

- The Public Safety Broadband Licensee must annually create and submit for FCC approval a budget for its administrative and operational expenses. The Public Safety Broadband Licensee also must have an annual audit conducted by an external, independent auditor. The proposed annual budget to be submitted by the Public Safety Broadband Licensee will provide the Commission with an ability to ensure that the Public Safety Broadband Licensee is acting in a fiscally responsible manner and not engaging in activities that exceed the scope of its prescribed roles and responsibilities.
- The Public Safety Broadband Licensee must submit a full financial accounting on a quarterly basis.
- The D Block licensee must make an annual payment to the Public Safety Broadband Licensee of, the sum total of $5 million per year in the aggregate in consideration for the D Block licensee's leased access on a secondary basis to the public safety broadband spectrum.
    - In the event that the D Block is licensed on a regional basis, the Commission will specify after the close of the auction the annual payments required for each license won at auction, such that the total $5 million in annual payments to the Public Safety Broadband Licensee is apportioned on a per region basis, based upon total pops per region.
- The annual payment funds will be placed into an escrow account managed by an unaffiliated third party, such as a major commercial financial institution, for the benefit of the Public Safety Broadband Licensee. The Public Safety Broadband Licensee must seek approval of its selected escrow account manager from the Chief, PSHSB. The Public Safety Broadband Licensee can draw funds on this account to cover its annual operating and administrative expenses in a manner

consistent with its submitted annual budget for that fiscal year. The entirety of the Public Safety Broadband Licensee's annual operating budget shall be based on these annual payments.

- To the extent that the Public Safety Broadband Licensee's actual operating expenses for a given fiscal year turn out to be less than its proposed budget, such that there are excess funds left over at the end of that fiscal year from the annual payment(s) made by the D Block licensee(s) at the beginning of that year, those excess funds may be applied towards the Public Safety Broadband Licensee's funding of administrative or operational expenses for the following fiscal year, or to fund secondary activities, such as the purchase of equipment for the benefit of individual public safety agencies.
- The Public Safety Broadband Licensee is not permitted to: charge a separate lease fee to the D Block licensee(s) for their use of the public safety broadband spectrum or obtain loans or financing from any other sources.

Technical Requirements

- **Interoperability:**
  - The network or networks are required to use the same air interface and provide voice, video, and data capabilities that are interoperable across agencies, jurisdictions, and geographic areas. Interoperable means that the technology, equipment, applications, and frequencies employed will allow all participating public safety entities, whether on the same network or different regional 700 MHz public safety broadband networks, to communicate with one another.
  - All networks are required to support roaming of public safety users from other networks.
- **Satellite Support:** D Block licensees must also ensure the availability to public safety users in their area at least one handset with an integrated satellite solution.
- **Greater Technical Requirements Can Be Purchased:** If a particular public safety agency wishes, for example, greater capabilities than required by the Commission's rules or this NSA, the Public Safety Broadband Licensee may negotiate on its behalf for such improvements, provided the public safety agency provides the requisite financing.

APPENDIX F

Proposed Minimum Opening Bids

Nationwide License

Area	Population		MHz		Minimum Opening Bid
Nationwide	285,620,445		10		$750,000,000

Regional Licenses

PSR		Population	Population Density/ Square Mile	Density Category*	MHz	MHz*pops	$/ MHz*pop	Minimum Opening Bid**
8	New York - Metropolitan	19,092,214	1,940.1	A	10	190,922,140	0.45	$86,335,000
5	California - South	20,637,512	365.2	B	10	206,375,120	0.30	$62,215,000
54	Chicago - Metropolitan	12,685,330	741.8	A	10	126,853,300	0.45	$57,363,000
9	Florida	15,982,378	296.4	B	10	159,823,780	0.30	$48,182,000
19	Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut	13,922,517	221.7	B	10	139,225,170	0.30	$41,972,000
6	California - North	13,234,136	133.1	B	10	132,341,360	0.30	$39,896,000
20	Maryland; Washington, DC; Virginia - Northern	7,831,327	648.8	A	10	78,313,270	0.45	$35,413,000
33	Ohio	11,353,140	277.3	B	10	113,531,400	0.30	$34,226,000
28	New Jersey, Pennsylvania, Delaware	10,526,480	463.1	B	10	105,264,800	0.30	$31,734,000
21	Michigan	9,938,444	175.0	B	10	99,384,440	0.30	$29,961,000
10	Georgia	8,186,453	141.4	B	10	81,864,530	0.30	$24,679,000
31	North Carolina	8,049,313	165.2	B	10	80,493,130	0.30	$24,266,000
40	Texas - Dallas	6,503,125	212.6	B	10	65,031,250	0.30	$19,605,000
39	Tennessee	5,689,283	138.0	B	10	56,892,830	0.30	$17,151,000
51	Texas - Houston	5,618,958	223.3	B	10	56,189,580	0.30	$16,939,000
42	Virginia	5,115,733	136.9	B	10	51,157,330	0.30	$15,422,000
36	Pennsylvania	4,801,690	173.5	B	10	48,016,900	0.30	$14,475,000
14	Indiana	4,763,619	152.3	B	10	47,636,190	0.30	$14,361,000
18	Louisiana	4,468,976	102.6	B	10	44,689,760	0.30	$13,472,000
17	Kentucky	4,041,769	101.7	B	10	40,417,690	0.30	$12,185,000
37	South Carolina	4,012,012	133.2	B	10	40,120,120	0.30	$12,095,000
30	New York - Albany	3,182,726	108.3	B	10	31,827,260	0.30	$9,595,000
55	New York - Buffalo	2,852,351	242.1	B	10	28,523,510	0.30	$8,599,000

PSR		Population	Population Density/ Square Mile	Density Category*	MHz	MHz*pops	$/ MHz*pop	Minimum Opening Bid**
43	Washington	5,894,121	88.6	C	10	58,941,210	0.10	$5,923,000
24	Missouri	5,595,211	81.2	C	10	55,952,110	0.10	$5,623,000
3	Arizona	5,130,632	45.2	C	10	51,306,320	0.10	$5,156,000
22	Minnesota	4,919,479	61.8	C	10	49,194,790	0.10	$4,944,000
1	Alabama	4,447,100	87.6	C	10	44,471,000	0.10	$4,469,000
7	Colorado	4,301,261	41.5	C	10	43,012,610	0.10	$4,322,000
53	Texas - San Antonio	3,916,309	73.1	C	10	39,163,090	0.10	$3,935,000
13	Illinois	3,722,488	75.9	C	10	37,224,880	0.10	$3,741,000
11	Hawaii	1,211,537	188.6	B	10	12,115,370	0.30	$3,652,000
34	Oklahoma	3,450,654	50.3	C	10	34,506,540	0.10	$3,468,000
35	Oregon	3,421,399	35.6	C	10	34,213,990	0.10	$3,438,000
15	Iowa	2,926,324	52.4	C	10	29,263,240	0.10	$2,941,000
23	Mississippi	2,844,658	60.6	C	10	28,446,580	0.10	$2,859,000
45	Wisconsin	2,692,016	55.7	C	10	26,920,160	0.10	$2,705,000
16	Kansas	2,688,418	32.9	C	10	26,884,180	0.10	$2,702,000
4	Arkansas	2,673,400	51.3	C	10	26,734,000	0.10	$2,686,000
49	Texas - Austin	2,254,226	92.9	C	10	22,542,260	0.10	$2,265,000
41	Utah	2,233,169	27.2	C	10	22,331,690	0.10	$2,244,000
27	Nevada	1,998,257	18.2	C	10	19,982,570	0.10	$2,008,000
29	New Mexico	1,819,046	15.0	C	10	18,190,460	0.10	$1,828,000
44	West Virginia	1,808,344	75.1	C	10	18,083,440	0.10	$1,817,000
26	Nebraska	1,711,263	22.3	C	10	17,112,630	0.10	$1,720,000
50	Texas - El Paso	1,472,545	20.3	C	10	14,725,450	0.10	$1,480,000
12	Idaho	1,293,953	15.6	C	10	12,939,530	0.10	$1,300,000
52	Texas - Lubbock	1,086,657	19.5	C	10	10,866,570	0.10	$1,092,000
47	Puerto Rico	3,808,610	1,112.1	D	10	38,086,100	0.02	$765,000
25	Montana	902,195	6.2	D	10	9,021,950	0.02	$181,000
38	South Dakota	754,844	9.9	D	10	7,548,440	0.02	$152,000
32	North Dakota	642,200	9.3	D	10	6,422,000	0.02	$129,000
2	Alaska	626,932	1.1	D	10	6,269,320	0.02	$126,000
46	Wyoming	493,782	5.1	D	10	4,937,820	0.02	$99,000
56	Guam and the Northern Mariana Islands	224,026	575.9	D	10	2,240,260	0.02	$45,000
48	U.S. Virgin Islands	108,612	810.5	D	10	1,086,120	0.02	$22,000
57	American Samoa	57,291	744.0	D	10	572,910	0.02	$12,000
58	Gulf of Mexico	-	N/A	N/A	10	0	N/A	$10,000
		285,620,445						$750,000,000

Density Categories*		$/MHz*pop
A	density ≥ 500	$0.45
B	100 ≤ density < 500	$0.30
C	10 ≤ density < 100	$0.10
D	density < 10	$0.02

* Density Category D also includes PSRs 47, 48, 56, and 57 regardless of population density.

** The proposed minimum opening bids for the regional licenses were calculated using the $/MHz*pop for the corresponding density category, except as noted above. The resulting amounts totaled nearly $750 million. These amounts were then adjusted and rounded so that the total of the minimum opening bids for a set of regional licenses equals the proposed minimum opening bid for the nationwide license.

APPENDIX G

Comments and Reply Comments

List of Comments and Reply Comments
In the 700 MHz Third Further Notice
(WT Docket No. 06-150 and PS Docket 06-229)

This is a list of parties who filed comments and reply comments within the designated comment periods in this proceeding. The complete record in this proceeding is available in the Electronic Comment Filing System located at http://www.fcc.gov/cgb/ecfs/.

Comments

700 MHz Regional Planning Committee, Region 6 (Northern California) (RPC 6)
Ada County Sheriff's Office
Advanced Communications Technology, Inc. (ACT)
Alcatel-Lucent (ALU)
American Association of State Highway and Transportation Officials (AASHTO)
American Hospital Association (AHA)
Andrew M. Seybold (Seybold)
Association of Public-Safety Communications Officials-International, Inc. (APCO)
AT&T Inc. (AT&T)
Big Bend Telephone Company (Big Bend)
Bill Reimann (Reimann)
Capt V. M. Sanders (Sanders)
Carol Barta (Barta)
CDMA Development Group, Inc. (CDG)
Cellular South, Inc. (Cellular South)
Charles L. Jackson, Dorothy Robyn and Coleman Bazelon (Jackson, Robyn, Bazelon)
City and County of San Francisco (San Francisco)
City of Philadelphia (Philadelphia)
Claire Nilles (Nilles)
Coleman Bazelon (Bazelon)
ComCentric Inc. (ComCentric)
Commonwealth of Virginia (Virginia)
Consumer Electronics Association (CEA)
Council Tree Communications, Inc (Council Tree)
Coverage Co.
Cox Communications, Inc. (Cox)
Craig T. Rowland (Rowland)
CTC Telcom, Inc. (CTC)
CTIA -The Wireless Association (CTIA)
David Wills (Wills)
District of Columbia (District)
Ericsson Inc (Ericsson)
Florida Region 9, Regional Planning Committee (RPC 9)
GEOCommand, Inc. (GEOCommand)
Gerard Eads (Eads)
Google Inc. (Google)
Hypres, Inc. (Hypres)
Inmarsat plc (Inmarsat)

Interisle Consulting Group (Interisle)
International Association of Fire Fighters (IAFF)
International Municipal Signal Association, International Association of Fire Chiefs, Inc., Congressional Fire Services Institute, and Forestry Conservation Communications Association (IMSA et al.)
James Lencioni (Lencioni)
Jessica Scheeler (Scheeler)
Jon M. Peha (Peha)
Kennebec Telephone Company, Inc. (Kennebec)
Kentucky Wireless Interoperability Executive Committee (KWIEC)
Kevin Mann (Mann)
King County Washington Regional Communications Board (King County)
Leap Wireless International, Inc. (Leap Wireless)
Mayo Clinic (Mayo)
Mercatus Center at George Mason University (Mercatus)
MetroPCS Communications, Inc. (MetroPCS)
Michael Stiles (Stiles)
Mobile Satellite Users Association (MSUA)
Mobile Satellite Ventures Subsidiary LLC (MSV)
Motorola, Inc. (Motorola)
National Association of Emergency Medical Technicians (NAEMT)
National Association of Telecommunications Officers and Advisors, National Association of Counties, National League of Cities, and U.S. Conference of Mayors (NATOA et al.)
National Emergency Number Association (NENA)
National Public Safety Telecommunications Council (NPSTC)
National Regional Planning Council (NRPC)
New York City Police Department (NYPD)
Northrop Grumman Information Technology, Inc. (Northrop Grumman)
NTCH, Inc. (NTCH)
Oregon State Interoperability Executive Council (Oregon SIEC)
Peñasco Valley Telephone Cooperative, Inc. (PVTC)
Peter G. Cook Consultancy, Inc. (PGCC)
Phil Stalheim (Stalheim)
Pierce County Public Transportation Benefit Area Corporation (Pierce Transit)
Ponderosa Telephone (Ponderosa)
Public Interest Spectrum Coalition (PISC)
Public Safety Spectrum Trust Corporation (PSST)
QUALCOMM Incorporated (Qualcomm)
Region 33 (Ohio) 700 MHz. Regional Planning Committee (RPC 33)
Rehabilitation Engineering Research Center for Wireless Technologies (Wireless RERC)
Rivada Networks (Rivada)
Rural Cellular Association (RCA)
Rural Telecommunications Group, Inc. (RTG)
Sandro Brusco, Giuseppe Lopomo, and Leslie M. Marx (Brusco et al.)
Satellite Industry Association (SIA)
Senator Daniel K. Inouye (Senator Inouye)
Smithville Telephone Company, Inc. (Smithville)
Society of Broadcast Engineers, Incorporated (SBE)
Software Defined Radio Forum (SDR Forum)
Space Data Corporation (Space Data)
Spectrum Acquisitions Inc. (SAI)
Spring Grove Communications (Spring Grove)

Sprint Nextel Corporation (Sprint Nextel)
State of California (California)
State of Louisiana (Louisiana)
State of Mississippi Department of Public Safety (Mississippi)
State of Washington Military Department (Washington)
Stagg Newman (Newman)
Telecommunications Development Corporation (TDC)
Telecommunications Industry Association (TIA)
TeleCommUnity, Charlotte, NC, Houston, TX, & Montgomery Co., MD (TeleCommUnity)
Televate, LLC (Televate)
Tyco Electronics M/A-COM (TE M/A-COM)
United States Cellular Corporation (US Cellular)
Van Buren Telephone Company, Inc. (Van Buren)
Verizon Wireless (Verizon)
Virginia Fire Chiefs Association, Inc. (VFCA)
Virginia Information Technologies Agency (VITA)
Western Fire Chiefs Association (WFCA)
Wiggins Telephone Association (Wiggins)
Wirefree Partners III, LLC (Wirefree)
Xanadoo Corp. (Xanadoo)

Reply Comments

American Association of State Highway and Transportation Officials (AASHTO)
American Petroleum Institute (API)
Association of Public-Safety Communications Officials-International, Inc. (APCO)
AT&T Inc. (AT&T)
City of Philadelphia (Philadelphia)
Council Tree Communications, Inc. (Council Tree)
CTIA -The Wireless Association (CTIA)
Cyren Call Communications Corporation (Cyren Call)
Google Inc. (Google)
Intelligent Transportation Society of America (ITS America)
International Assn. of Chiefs of Police & National Sheriffs' Assn. (IACPNSA)
International City/County Management Association (ICCMA)
International Municipal Signal Association, International Association of Fire Chiefs, Inc., Congressional Fire Services Institute, and Forestry Conservation Communications Association (IMSA et al.)
Joe Hanna (Hanna)
Leap Wireless International, Inc. (Leap Wireless)
Maryland Broadband Cooperative (MBC)
Michael Dasso (Dasso)
Motorola, Inc. (Motorola)
National Association of Telecommunications Officers and Advisors, National Association of Counties, National League of Cities, and U.S. Conference of Mayors (NATOA et al.)
National Association of State Emergency Medical Services Officials (NASEMSO)
National Public Safety Telecommunications Council (NPSTC)
New York City Police Department (NYPD)
Nextwave Wireless, Inc. (Nextwave)
Northrop Grumman Information Technology, Inc. (Northrop Grumman)
Public Safety Spectrum Trust Corporation (PSST)

Regional Planning Committee Twenty (RPC 20)
Bill Reimann (Reimann)
Rivada Networks (Rivada)
Satellite Industry Association (SIA)
SouthernLINC Wireless (SouthernLINC)
Space Data Corporation (Space Data)
Sprint Nextel Corporation (Sprint Nextel)
TeleCommUnity, Charlotte, NC, Houston, TX, & Montgomery Co., MD (TeleCommUnity)
Televate, LLC (Televate)
Tyco Electronics M/A-COM (TE M/A-COM)
United States Cellular Corporation (US Cellular)
Verizon Wireless (Verizon)

STATEMENT OF
CHAIRMAN KEVIN J. MARTIN

Re: 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

Since the *Second Further Notice* adopted in May, we have received significant public input (including from the public safety community, wireless providers, and others), through filed comments, Congressional hearings, and the Commission's *en banc* hearing in New York. While parties differ on how we should get there, all agree that public safety continues to have a critical and unfulfilled need for a nationwide interoperable broadband network that will link first responders across geography, jurisdictions and departments.

Today's decision is a further notice and not a final action. It is the next step in our effort to provide our Nation's first responders with the broadband network they need and deserve. The proposals in the *Third Further Notice* provide substantial detail and specificity, including draft rules, which will allow potential bidders to fully assess what their obligations will be, and make fully informed determinations as to how the public-private partnership may fit their business plans. It attempts to strike the right balance between serving the communications needs of public safety and the need to ensure commercially viability of the partnership.

Let us be clear about what is at stake; without the partnership, there are no other viable tools for the Commission to ensure that this network can be built in a timely manner, with a maximum level of interoperability for use by all public safety entities small and large, rural and urban.

The overriding consideration in all of the proposals in the *Third Further Notice* is ensuring the maximum level of interoperability on a network that is built out to as many public safety entities as possible. In this respect, the *Further Notice* proposes to use the auction mechanism itself to select a single air interface, which is the best way to ensure full interoperability. While there is a valid use for bridges and gateways to connect disparate networks, without a single air interface full interoperability cannot be achieved.

With respect to the other commercial provisions of the item, I believe they balance the need to provide certainty and the desire to preserve sufficient flexibility. The proposal to reduce minimum opening bids during the auction for unsold regions in certain circumstances will ensure that the regional license sets have the maximum opportunity to overcome a national bid while maintaining the goal of maximizing the network's reach. The specific technical proposals add an additional layer of specificity that will allow detailed assessment by the potential commercial partners while providing enhanced network capabilities, coverage, hardening and resiliency to meet public safety's needs.

With respect to the questions and tentative conclusions related to the Public Safety Broadband Licensee, this *Third Further Notice* recognizes the critical role that the PSBL will play in the partnership while clarifying the Commission's expectations as to how the relationship with the D Block licensee should function. Further, the transparency, accountability, and conflict of interest provisions proposed will help assure public safety community that its needs are being fully represented as well as assuring the commercial D Block licensee(s) that the PSBL is focused and ready to serve as a positive partner with complimentary goals.

I remain committed to providing the public safety community with a clear path forward to

achieving a nationwide interoperable broadband network. The public safety community has expressed its desire to have rules adopted by the end of the year, and we owe it to them to do everything within our power to resolve these issues swiftly.

I recognize that the current economic climate may be challenging. I would note that this further notice establishes the rules of the auction but it will be several months before it actually begins. In this notice we do not set forth a date for the auction, in fact, today we ask what the appropriate timing for starting such auction should be.

Moreover, we - - and more importantly public safety and the American people - - cannot afford to wait. In the seven years since 9/11 we have experienced enormously destructive hurricanes and tornadoes and deadly bridge collapses. Fortunately we have not experienced another terrorist attack. Simply put, we cannot afford to wait until we do.

Finally, it remains important to make the valuable natural resource of spectrum available to the marketplace in a timely manner. Having rules adopted promptly will also provide the commercial marketplace with certainty, and allow sufficient time for potential bidders to make plans and secure financing for the auction when it occurs.

I believe we must move forward and take another step closer to reaching the goal of a truly interoperable nationwide public safety network.

I thank my colleagues and the Bureaus for their work on this item, and am looking forward to hearing specific comment on the details we have proposed.

CONCURRING STATEMENT OF COMMISSIONER MICHAEL J. COPPS

Re: 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

The measure of success for this auction is quite simple: whether it results in a public safety network that meets the needs of our nation's first responders. How we actually get from here to there is, of course, far more complicated, and I will turn to that in a moment. But I know that all of my colleagues and I agree that the gold standard here is whether we come up with a system that ***actually delivers for public safety.***

I limit myself to concurrence in today's item because I have concerns about whether the service rules we propose fully measure up to this high standard. I concur because I think we have a still-inadequate grasp of the precise contours of what it is that we propose to build; how to incent its construction and operation; how to make sure public safety can afford to use whatever is built; and how exactly, or even generally, the safety of the American people will be enhanced. Indeed, some believe the network envisioned in this item may not be substantially more robust than existing commercial networks—and for which public safety users may be asked to pay a significant fee ($48.50 per user, per month) that many of them may be unable to afford. A network that is too expensive for first responders to use is little better than no network at all. "Let them eat cake" is simply not an acceptable answer when it comes to the public safety heroes who put their lives on the line every day to keep us safe. The system we build must ***attract*** users rather than shut out already cash-strapped public safety entities.

I am concerned that our item does not precisely specify what services and rights public safety users get in return for their per user, per month fee. This should be viewed as a core question, both in terms of serving public safety's needs and in making the public-private partnership financially viable. Does it allow a user to stream high-quality video? How often and how high-quality? Does it allow them to use VoIP applications (which some commercial wireless providers today do not allow)? How often and at what quality of service? Is a single police officer with a mobile device on his or her hip and a laptop computer in the police car one user or two for the purposes of the $48.50 fee? I am also concerned that technical questions regarding speed, building penetration, and the functionalities of the network for public safety users are not precisely defined. And I am concerned that the FCC does not know how these factors and the degree of "hardening" we require compares to the standards of existing commercial—let alone public safety—networks. Ambiguities like these are essential to address up-front. If we leave them to later, uncertainties can only discourage potential bidders from participating. We've been down that uncertain road before with regard to the D Block. Once was enough.

Nor am I sure that today's item adequately deals with the question of how extensive—in terms of covering the maximum number of states—a public-private network must be in order for us to accept it as an appropriate use of public safety's spectrum. To begin with, our rules depart from the assumption in the previous auction that the network will necessarily be a 100% nationwide network. In fact, the rules we propose today specify that even if bidders appear for as few as 11 of the country's 58 geographic regions, we will go ahead and build a network in those limited areas without any firm plan for how to create coverage in the rest of the country. So if a few big states and metro regions get "sold," all the rest of this spectrum could lie fallow.

On the other hand, we also have to deal with the reality that, in light of the failure to attract a single nation-wide bidder in the last auction, the best way to serve public safety users may be through a

number of regional networks that use a common technological standard. Indeed, it is possible that regional carriers may in some areas be the best partners for public safety—with better coverage and the ability to tailor their networks to local needs. So I am also concerned that our rules allow the possibility that one company could win a single national license for a relatively low bid, even if other companies were willing to pay far more, in the aggregate, for regional licenses. That is because our proposed rules specify that we will always go with a national licensee over regional licensees if even ***one*** of the 58 regions regions (no matter how small) fails to receive a bid. This could tilt the balance too far in the other direction. While I recognize this is certainly one of the most difficult questions before us, I am not sure we've arrived at an acceptable solution.

Then there is the daunting matter of incentives for getting this network built by a commercial bidder or bidders. Building a viable model that would attract bidders and builders was always going to be a challenge, we knew that. And we failed on this score our first time out. But, many months later, we still don't have a clue about what it will take to attract the ten, fifteen or twenty billion dollars to actually deploy a public safety network. The wreck and ruin left in the wake of last week's financial melt-down only make matters worse—perhaps infinitely so. Finding money in the hallowed canyons of Wall Street or anywhere else to get this network built makes Indiana Jones' searchings look like child's play. Lack of certainty on top of lack of funding will not a public safety network make. Before we set an auction process into motion—before we even design the incentives necessary—the FCC simply must get a firm fix on what the rough costs of the public safety network are going to be. We need to know that this investment is something bidders can actually expect to recoup under the rules we establish—or else we won't get any bidders this time around either. I would just as soon take my chances passing a tin cup on Wall Street as put my faith in plunging financial markets finding a way to pony up billions for a network whose design and business case the FCC doesn't fully understand and has not, to my mind, sufficiently investigated.

Uncertainties abound. We don't know, for example, the trade-offs that would come from changing the monthly fee cap to, say, $20 per user per month, or from adjusting the balance between regional and national bidding. We don't know how the business case would change if we said that public safety users can stream video at 200 kilobits per second for only 4 hours a day—or not at all. We don't know what would happen if we said that that police officer with a mobile device and a vehicle-based radio should count as one user rather than two. Without such granular knowledge, we are flying blind. I know we are asking questions about such things in this Further Notice, and that's good, but at this stage we should have more answers than questions. If this is really going to be the last chance for comment before final auction rules are promulgated, today's proposal should rest on a more solid foundation than it does.

Making this particular public-private partnership work is a task that goes far beyond the demands of a typical spectrum auction. I have called on many occasions for the FCC to develop these capabilities in-house or to reach a consulting relationship with outside experts whose insights could have and should have informed the item before us. Even at this late juncture, I think it would be prudent for the FCC to engage some sort of outside consultant to assess the cost of the network specifications we propose today and the business case (or lack of a business case) for the public-private partnership described in the item. At least their insights could inform the final rules. But it does not appear this is going to happen.

Let me be clear—my purpose here is not delay. While I believe the past several months could have been used more productively, I applaud the desire of Chairman Martin to put public safety front-and-center here at the Commission. That was a long time coming at the FCC, but he is the one who did it. And I appreciate the work done by all kinds of interested parties, particularly the leading public safety organizations who have worked to move the process forward. I totally share their sense of urgency, for it has been over seven years since 9/11 and three since Hurricane Katrina, and the American people are still

without a public safety wireless network capable of enhancing their safety. This *is* urgent business.

But I also believe that the only goal more pressing than doing this quickly is doing it right. I recognize, of course, that the line between moving fast and moving too fast is difficult to draw—and reasonable minds can certainly disagree about where to draw it. For my money, however, today's item falls on the wrong side of that line. And the stakes couldn't be higher: if we fall into the trap of committing public safety's 700 MHz spectrum to a public-private partnership that does not serve the needs of public safety, it's hard to envision a do-over or another bite at the apple. We will have squandered maybe our last best hope for getting it right for public safety.

The good news is that today's item gives commenters a proposal to consider that is specific in many respects. I appreciate the willingness of Chairman Martin and the Offices and Bureaus who worked on this item to create a set of proposals that tees up many of the appropriate details. I also am grateful for the willingness of my colleagues to offer proposed rules for comment. A decision with such profound implications for national security certainly demands the highest level of care and examination, especially given that our previous effort to create a public-private network was unsuccessful. I am pleased that commenters on the item will now have longer than the 14 days for initial input and 7 days for reply comments we suggested last spring. An issue so important and complicated as this one certainly warrants at least the 30 days for comment and 10 days for replies that we establish today—indeed, I would have preferred a somewhat longer period, given the many questions that remain unanswered.

The days immediately ahead are evidently going to be our only remaining opportunity to fill the many gaps I have cited. This is our last chance to insert real-world expertise and judgment into the proceeding. We need as many experts and organizations and stakeholders to step up to the plate and give us their help as we can find. I am asking, I am pleading, for this level of participation. And I am especially eager to see the reaction to our proposal from public safety users, our expert national organizations as well as the states and local jurisdictions that must decide whether to pay to use any network that is built. It is time for you to tell us what you really think—up or down, yes or no, move forward or go back to the drawing board. As I have said before, much as it would pain me to go back to the drawing board yet again, that outcome is preferable to committing ourselves to a flawed result. But if stakeholders and interested parties really chime in over the next 40 days with their best and brightest thinking, we may just be able to get this right and move toward final auction rules in a timely fashion.

Thanks to each of my colleagues for their ongoing attention to this important matter, thanks again to the Chairman for keeping public safety front-and-center, and my deep, deep gratitude also for the hard and dedicated work of Chief Poarch, Jim Schlichting, Julie Knapp and their capable and committed FCC teams.

STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN
CONCURRING IN PART, DISSENTING IN PART

Re: 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

Our decision today to propose revised rules for the establishment of a mandatory public/private partnership in the 700 MHz band represents a compromise in large part. With this second bite at the apple, we have, in some respects, admirably provided more detail to better inform potential bidders as to the structure and specifications of a nationwide interoperable broadband network. I am pleased we are following the suggestion that I strongly advocated to proceed with a *Further Notice* before going to final rules.

Given the vagaries upon which many of the proposals here are based, it is especially critical that we put this out for comment before finalizing it. Rather than relying on much needed independent technical and financial expertise, we have handed down a host of tentative conclusions that reflect disparate comments from interested parties.

As all of us know, broadband infrastructure and broadband networks are offering unprecedented opportunities for improving and harmonizing the capabilities of our public safety community. Increasingly, law enforcement agencies are demanding real-time, wireless access to mission-critical information on the field – a vital component to improving the responsiveness of first responders. With advancements in wireless technologies and the ability to offer an increasingly wider range of services and at faster speeds, our public safety community is eager to take advantage of the expanded capabilities these technologies bring. From surveillance videos, to the transmission of photos and other critical data, broadband infrastructure and broadband networks offer unprecedented opportunities for improving and harmonizing the capabilities of our public safety community.

Yet in spite of these opportunities, our nation's public safety users remain on outdated systems that have not kept apace with the IP evolution taking place on commercial systems. Indeed, many states continue to operate under a patchwork system of incomplete technology solutions that do not enable first responders to communicate efficiently and effectively nor do they have the capabilities to transmit critical data at any time and place.

In the face of these opportunities and challenges, the Commission is charged with gathering all it can at its disposal to realize an interoperable network for public safety to ensure that we are promoting the "safety of life and property." Given our responsibilities in this regard, it was my hope this time around to generate a set of rules that provided real incentives and laid the groundwork for building the most advanced and interoperable nationwide network possible through a careful balance of flexibility and conditions that were laid out clearly and explicitly upfront.

Instead, while I believe we have taken a measured step forward by putting out this Third Further Notice, I remain concerned that our proposed rules are not buttressed by sound outside expert advice on the myriad of highly complex technical and cost issues presented. Though I am pleased we put out detailed plans, I simply do not agree with all of them. In the end, I fear we have crafted a set of blueprints on the basis of a few interested contractors, without having solicited the expertise of architects and engineers.

Admittedly, attempting to resurrect a public/private partnership out of the ashes of the last auction is fraught with difficulty. I thank the Chairman and all of my colleagues for their good faith effort to meet that challenge. Unfortunately, this attempt falls short. It is not based on a solid economic or technical analysis that gives me sufficient confidence that we have assembled the elements for a successful auction. I am concerned that our efforts here, however well meaning, are yet another a shot in the dark.

For example, the item before us contains no analysis of the cost of building out the alternative approaches, the value of the spectrum, or revenue projections based on the prices we assume here. It would appear that some of the numbers that are suggested are based on educated guesses as opposed to solid evaluations based on independent expert analysis. We would have been better served to have followed Commissioner Copps' suggestion that we retain expert analysts, both technical and financial, which would have helped with such a monumental undertaking.

Without this basis, we have no way to determine, for example, whether such a large upfront minimum bid requirement of $750 million permits a sustainable business model, or dooms this enterprise to failure from the outset. There is no analysis provided in the item to explain this number. We are offering for sale a valuable asset, but not one of unlimited value. And we are expecting major investments to be made by private enterprise to meet the needs of public safety. Despite these hurdles, we have not undertaken to assess whether the costs we are asking the private sector to bear have any relationship to the returns it can expect. I would have preferred to see much of the amount that will go to the minimum bid to go to building out the network rather than paying for the spectrum.

Particularly in light of the unprecedented credit crunch facing our nation's economy, it is irresponsible for an expert agency to pull numbers out of thin air that generate revenue for the Treasury but deprive the private sector of the means to accomplish our ultimate goal of a viable public safety network. Our first priority should be helping our first responders, not raising money. Some might say that such an astounding sum is necessary to ensure bidders are serious. We have done no analysis to see whether $750 million or $100 million or any other number would have been sufficient. If we had opted for $100 million, to pick an example, the bidder could have put $650 million more into the network for public safety. While I appreciate that the majority has agreed to seek comment on a lower amount, I cannot put my vote behind such a high figure arrived at so arbitrarily.

Similarly, I cannot support the tentative conclusion regarding the tiered final benchmark for performance requirements. The proposal is taken out of whole cloth from the suggestion of one interested party, with no independent analysis on our part. We are consigning Rural America to second class status based on the preferences of one commercial company that presumably wants to bid and minimize its costs to maximize its profits. While that is perfectly rational behavior for a private company, it is an abdication of its duty for a Federal agency to adopt one company's agenda, no questions asked, when the public safety of Rural America is at stake. Knowing the benefits of public safety communications for Rural America, I would have preferred that we mandate rural areas get built out at the same pace as urban areas.

I am also concerned about the default penalty requirement that is triggered if the D block licensee chooses not to comply with an adjudication decision by the Commission or otherwise refuses to execute a Commission approved Network Sharing Agreement. That could prove yet another real disincentive to bidders. I would have preferred that we looked equally at the suggestion of some in the record that the Commission either eliminate the default payment entirely or consider basing the default payment liability on a standard of "bad faith." We also could have provided sufficient assurances through alternative means so that such a penalty might be reduced or removed.

I do want to thank the Chairman and my colleagues for agreeing to solicit additional comment on

several issues I raised. These include the use of bidding credits for stimulating participation in the auction, ways in which we might rely on satellite capability to provide licensees with additional flexibility for meeting coverage requirements, and consideration of how we might incorporate non-traditional technologies into our rules.

While I appreciate that my colleagues have agreed to increase the comment and reply pleading cycle period by 16 and 3 days respectively, I would have preferred that we give commenters 45 days and 15 days for replies. If we were confident we had hit the mark with this proposal, a shorter comment period could have been warranted in the interest of speeding this along. I remain troubled that this comment period is inadequate, particularly in light of our less than cogent proposals. We should have taken pains not to give the appearance that we are going through the motions, rather than doing everything we can to get it right.

I must extend my thanks to the staff of our Wireless and Public Safety Bureaus as well as to our Office of Engineering and Technology who worked tirelessly to bring forward these proposals with the resources available to them.

Ultimately, I can only concur in part and dissent in part in this decision. In short, I do not believe we have adequately developed a foundation upon which to assess the viability of these proposals in the real world, especially under the current stress in the financial markets. It is hard to have confidence that this plan will succeed, since we did not do the analysis to see if the cost-benefits are met for any private sector partner. These barriers to a successful auction, in conjunction with a less than meaningful comment cycle, cause me considerable pause.

Because we took this interim step of issuing a *Further Notice*, it is not too late. We can still get the expert input and conduct the analysis we need. I appreciate the many helpful suggestions made in this process by public safety agencies. We need more of your input, now more than ever, to help us achieve a consensus that will work for you in the field.

Although, I cannot support today's item in full, I remain hopeful that, after a lot of hard work and further refinement, I will be able to support the final *Order* that emerges from it.

STATEMENT OF
COMMISSIONER DEBORAH TAYLOR TATE

Re: 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

Over a year ago – on July 31st, 2007 – the Commission adopted the *700 MHz Second Report and Order*. That item established rules for the most impressive spectrum auction in U.S. history, which made over 1,000 licenses available and raised $19 billion for the U.S. Treasury, money our government desperately needs these days. The *Second Report and Order* also adopted a public/private partnership between the 700 MHz band commercial licensee in the D block and the Public Safety Broadband Licensee, with the specific goal of "making a nationwide, interoperable broadband network available to state and local public safety users."[985] While the D block license did not sell, the Commission has been provided the opportunity to reconsider our approach in this critical matter affecting the safety and lives of all citizens.

Today we adopt the *700 MHz Third FNPRM* to better tailor our rules related to the D block and public safety spectrum. I commend Chairman Martin for his efforts to address some of the concerns previously raised. For example, with regard to the public/private partnership, there now is much greater specificity and additional transparency in the rules governing the relationship between the commercial licensee(s) and public safety.

In establishing these and all rules related to the 700 MHz band, the Commission must balance multiple and yet equally compelling public policy goals. First and foremost is the goal of access to a nationwide, interoperable broadband network for the benefit of public safety. In addition, we must promote the deployment of this network as quickly and as efficiently as possible, which means cooperative efforts on the part of the commercial licensee in the D block and its public safety partners. We also must ensure that our rules meet the specific needs of local public safety providers on the ground, such as robustness and survivability, coverage and penetration, spectrum efficiency, and operating and capital costs. The Commission must strike the right balance as it promotes all these worthy goals. This is a grave and serious responsibility.

Thus, over the past six months, I have met with, toured and sought input from public safety service providers in a number of jurisdictions across the country, including New Orleans, New York, San Francisco, and Washington, DC. These communities have invested millions of taxpayer dollars and have already embarked on creating interoperable networks, and I thank them for their leadership and willingness to share their real-world experiences. In addition, other local communities have offered valuable input in the record,

[985] *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 1528,15428 (2007) (*700 MHz Second Report and Order*) *recon. pending*.

including Charlotte, NC; Houston, TX; and Montgomery County, MD; and we should be listening to all those who know best.

Of particular importance to me is the issue of facilitating swift deployment of public safety communications capablities, whether by the D block licensee or by the local public safety entity. I recognize that the D block licensee potentially may not face an interim build out benchmark until 2013; at best, almost five years from now. For that reason, I have argued that there should be clear rules that not only allow but encourage public safety entities to build out their networks in the 700 MHz band in advance of deployment by the D block licensee. The Commission's rules should provide incentives, not disincentives, for early build out. Those public safety entities that already are deploying – whether funded by local, State or Federal tax dollars – should not be penalized for their efforts. I encourage both public safety communications providers, as well as potential bidders for the D block license, to offer specific and constructive comments on this matter.

With regard to the prices that will be paid by public safety entities for services offered by the D block licensee, I encourage commenters to describe in detail the various considerations our rules should address, especially given the unique operating conditions and needs of public safety communications providers and how these vary across regions. These differences include such factors as the need for hardening, in-building penetration in urban areas, extensive geographic coverage in rural areas, topography, weather, and much more. It is difficult to imagine how the Commission may set a one-size-fits-all price cap for communications services that adequately reflects these and many other relevant factors, and I therefore urge commenters to address this question in detail.

As we proceed in establishing rules for this portion of the 700 MHz band, we face an historic opportunity for the Commission, for public safety, and indeed for the citizens of this country. With this as with other issues of this magnitude, we must not make decisions in a vacuum. Given the also historic economic crisis on Wall Street that now threatens Main Street, we must make our decisions with greater prudence, and call upon those involved in the banking and financial markets to share their knowledge and experience – including any difficulties licensees may face regarding access to capital at this time.

My thanks to the best and brightest of the Commission who have worked so hard on this issue over many months, and now years. And to our public safety providers and first responders who, as we consider these issues, go about the work of protecting us 24/7.

STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL

Re: 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

In a better world, Congress would have appropriated funding for construction of a nationwide interoperable public safety network suitable for 21st century challenges – either way back in 1997, as part of its original allocation of 24 megahertz of the 700 MHz band for public safety use; or in early 2006, as part of the DTV Act. In the absence of congressional action, the Commission last summer developed a plan to spark a public/private partnership by allocating an additional 10 megahertz of spectrum for public safety use, known as the "D Block." We did this to try to create an incentive for the private side of the public/private partnership to invest risk capital to construct the network. We are here today because this important objective of the 700 MHz auction was not met. So here we are, trying again.

While I question certain of the tentative conclusions in today's Further Notice, I am voting to approve because I believe that the general framework we adopt attempts to move us forward. Putting forth an admittedly imperfect proposal is much better than doing nothing. Yes, this proceeding involves complex legal, administrative and technical issues. Given the stakes, however, I am not willing to engage in a seemingly endless "analysis paralysis." And, I thank Chairman Martin for his leadership and commitment to completing this important proceeding in the near term.

Since the conclusion of our previous auction, I have continued to meet with a large number of parties and have learned a great deal about the concerns of both potential bidders and public safety entities. We've spent a lot of time weighing and balancing the natural tensions between the public and private sides of this partnership. While I am hopeful that today's proposal will help to address many of those concerns, I am not entirely confident that this Further Notice will produce a consensus solution. First, at this stage, there is no critical mass behind any commercial proposal. Further, the lack of consensus among public safety entities appears to be only getting worse. Perhaps I should not be surprised by these circumstances since there are thousands of public safety jurisdictions in the United States, each with unique personnel, deployment, topography, network, and RF propagation issues. Nonetheless, this lingering discord makes completing our task more difficult.

I remain fully committed to continuing to examine all options that may lead to the construction, and continued operation, of a nationwide interoperable public safety network. I am grateful to the FCC staff – in OET, the Wireless Bureau, and the Public Safety & Homeland Security Bureau – as well as to all of the parties that have participated in this process. Many people put a lot of time and thought into this proposal. I look forward to continuing to work with all of you.