

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)	
Service Rules for the 698-746, 747-762)	WT Docket No. 06-150
and 777-792 MHz Bands)	
Implementing a Nationwide, Broadband)	
Interoperable Public Safety Network in the)	PS Docket No. 06-229
700 MHz Band)	
_____)	

COMMENTS OF NEW EA, INC.

New EA, Inc. (“New EA”) responds to the Third Further Notice of Proposed Rulemaking in the above-captioned proceeding (“*Third FNPRM*”)¹ to urge the Commission to ensure that its rules and policies serve the public safety needs of rural America and do not unnecessarily hinder potential bidders’ participation in the re-auction of the 700 MHz D Block. New EA supports the Commission’s efforts to establish a public-private partnership that will build a nationwide interoperable wireless public safety broadband network (the “Network”). The D Block licensee(s) that will partner with public safety to establish the Network will face unique financial and operational challenges to successfully offer services to public safety and the general public. The Commission must clarify its rules and policies to

¹ See *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands Implementing a Nationwide, Broadband Interoperable Public Safety Network in the 700 MHz Band*, Third Further Notice of Proposed Rulemaking, WT Docket No. 06-150, PS Docket No. 06-229 (rel. Sept. 25, 2008) (“*Third FNPRM*”).

both assure the delivery of quality service and to enhance the bidders' ability to attract financial backing, which will promote greater participation in the D Block auction.

New EA is a broadband wireless provider focused on providing 4G wireless services to rural communities. The company believes that delivering broadband services to rural communities offers a viable business opportunity when certain challenges are overcome. One of those challenges is obtaining affordable spectrum. Access to spectrum is a major barrier to market entry for innovative new providers seeking to serve rural consumers. Too often, incumbents and larger providers dominate spectrum auctions, and new entrants face insurmountable obstacles to compete in auctions to serve rural communities. Previous spectrum auction policy has failed to provide incentives for new entry because of the ineffectiveness of the designated entity program. Further, the lack of strong build out requirements and lax Commission oversight of spectrum use has allowed too much licensed spectrum to continue to lay fallow in the hands of spectrum speculators and incumbents holding licenses primarily for market protection purposes.

Another challenge facing the deployment of rural broadband service is lack of scale. Business models designed to serve only a limited number of low-density population areas have difficulty in attracting sufficient capital to launch a successful new rural service provider. Attracting capital to launch new innovative services to rural communities requires that the new entrant obtain spectrum covering large geographic areas, including multiple states. Significant amounts of licensed spectrum that was auctioned for small rural licenses remain fallow. To foster more innovation and deployment in rural areas, the Commission should consider a different approach. For example, New EA agrees with the Commission that

it should consider – at least for the D Block – allowing bidders to create licensed areas large enough, including multiple state areas, to generate scale.

An inherent challenge to delivering affordable broadband services to rural America is the low population density, especially in western states. Establishing a dual use network that would allow public safety users and consumers to utilize the same network makes for a win-win situation for rural states, creating efficiencies and customer scale. A dual use network will allow a financially viable network to be established that would otherwise be uneconomic for the public safety community and would allow the offering of affordable, high quality broadband services to rural consumers. New EA believes that rural communities present the perfect environment for the success of dual use networks. These networks can thrive and not only enhance public safety but also provide affordable advances information and communications services to rural consumers.

The Commission's proposal to create a 20 MHz national broadband network that permits dual use helps to overcome many of the traditional challenges which have inhibited faster deployment of innovative, 4G wireless broadband services in rural areas. New EA welcomes the Commission's approach to dedicate part of the 700 MHz spectrum for dual use and believes that if the Commission adopts the provisions outlined below, public safety and rural consumers in general will be better served.

Commenters in this proceeding widely agree that broadband services are critical to public safety efforts and that nationwide interoperability among public safety communications systems and devices is essential in times of emergencies. An infrastructure shared by both commercial and public safety users can effectively achieve the goal of a nationwide, interoperable broadband network for public safety. As the Commission finalizes its rules to

govern the administrative, technical, operational and financial aspects of the Network, however, it should avoid unnecessary restrictions on D Block licensees regarding Network construction and operation. Gratuitous restrictions only devalue the D Block and reduce the interest of potential bidders.

The success of the Network hinges on two key objectives. First, the Network should cover the greatest population and geographic area possible. Second, the Network ought to be deployed in the shortest period of time. Under the Commission's proposed build out requirements, it could take up to fifteen years to cover 98 percent of the population of the most densely populated Public Safety Regions ("PSRs"), and only 90 or 94 percent of less densely populated PSRs. Even meeting these build out targets will leave millions of square miles, primarily in rural areas, without coverage, possibly indefinitely. It is these very remote rural areas where communications is most crucial to the public's well-being. Their remote nature, however, likely prevents a carrier from economically constructing a traditional terrestrial network to provide coverage to rural areas.

With sufficient regulatory flexibility, D Block licensees could construct the Network economically and efficiently to cover quickly even some of the most remote areas of the United States. Therefore, New EA offers the following three proposals to help D Block licensees achieve these goals, without sacrificing the interests of consumers or the public safety community.

- **Technological Neutrality.** The Commission should allow D Block licensees to use non-terrestrial equipment (in combination with traditional terrestrial technologies) to build out the D Block spectrum and satisfy their population-based build out requirements. If a D Block licensee can provide broadband services and still satisfy

the Commission's other D Block service requirements, there is no reason to discriminate against non-terrestrial technologies that may speed the deployment of broadband services. The Commission also should modify any technical rules that may inadvertently prohibit the use of non-terrestrial technologies.²

- **Bidding Credits.** New EA supports the application of bidding credits to the D Block auction. Bidding credits can help offset build out and other administrative and operational costs associated with the Network, particularly in more rural PSRs that will require significantly more financial resources to provide coverage to fewer people in comparison to more densely populated PSRs. The Commission should consider awarding bidding credits to any licensee that commits to: (1) exceed the Commission-mandated population coverage requirements, and/or (2) expedite build out of the Network.³
- **Combinatorial Bidding.** New EA agrees with the Commission that combinatorial bidding – i.e., bidders can group regional licenses and place single bids on that group of licenses – would provide potential bidders greater flexibility to acquire the licenses that best suit their business needs.⁴

The Commission's goals in this proceeding are best served by providing D Block licensees with maximum flexibility to use non-traditional technologies when constructing and operating the Network. It also is critical that potential bidders have sufficient financial incentives, particularly in light of the current economic crisis, to participate in the D Block

² See, e.g., See Letter from Gerald Knobloch, Space Data Corporation, to Marlene Dortch, FCC, WT Docket No. 06-150, PS Docket No. 06-229 (Sept. 17, 2008) (suggesting clarifications to the Commission's rules that would facilitate the use of non-terrestrial technologies on the D Block spectrum).

³ See *id.*

⁴ See *Third FNPRM* at ¶ 254.

