

Before the
Federal Communications Commission
Washington, D.C. 20554

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

**REPLY COMMENTS OF THE NATIONAL PUBLIC SAFETY
TELECOMMUNICATIONS COUNCIL**

The National Public Safety Telecommunications Council (NPSTC) submits these reply comments in response to the Commission's *Third Further Notice of Proposed Rulemaking (Third Further Notice)* regarding the 700 MHz D Block, the Public/Private Partnership and the Public Safety Broadband Licensee.¹ NPSTC addresses the following areas: 1) Proposals For Regional or Local Assignment of the 700 MHz spectrum, 2) Early deployment by local agencies, 3) Technology Platforms, 4) Interim Financing for the Public Safety Broadband Licensee (PSBL), 5) Service Rates for Public Safety Users, 6) Promoting Service to Unserved and Underserved Areas and 7) Relocating Narrowband Operations.

Proposals for Regional or Local Assignment of the 700 MHz Spectrum

The Public Safety Officials and CIO Task Force on Wireless Spectrum Allocation (PSO/CIO Task Force), consisting of six cities, the State of New York and Cook County,

¹ In the Matter of the Service Rules for the 698-746, 747-762 and 777-792 MHz Bands and Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, *Third Further Notice of Proposed Rulemaking*, WT Docket 06-150 and PS Docket No. 06-229, FCC 08-230 (released September 25, 2008).

Illinois, state that the proposed D Block and PSBL partnership is unworkable for large municipalities.² The PSO/CIO Task Force urges the Commission to allow local agencies to determine who its wireless partners will be within a model that establishes a national interoperable platform. The comments state that the D Block licensee will not provide a system capable of serving critical public safety performance needs. The PSO/CIO Task believes that the only model that can work is building and operating locally controlled public safety networks that can be tied together on the basis of national interoperability standards.³

Concerns addressing how the public private partnership can deploy a network consistent with public safety standards are recognized by the Commission as one of the prominent challenges of this proceeding. NPSTC shares these concerns yet believes there to be a much broader and more fundamental goal at stake. Most public safety agencies and local governments have no realistic access to the investment needed to design and deploy a broadband network of any kind, now or in the future. The record is clear that there is no federal, state and local funding for such a project. A subset of this challenge is that if the spectrum was assigned to individual agencies, no workable model exists to preserve spectrum capacity for agencies with no current funding. This core goal- providing broadband access to all public safety agencies- must remain at the forefront. The public private partnership presents the only realistic path to pursue it.

NPSTC believes that the public private partnership is a viable path for all agencies, large and small, to gain or expand broadband service. The Commission notes the ability of local

² Comments of the Public Safety Official and CIO Task Force on Wireless Spectrum Allocation (City of Boston, Massachusetts, Cook County, Illinois, City and County of Denver, Colorado, City of New York, New York, State of New York, City and County of San Francisco, California, City of San Jose, California and City of Seattle, Washington (October 29, 2008).

³ The New York City Police Department (November 3, 2008), the City and County of Philadelphia (November 3, 2008), the City and County of San Francisco (November 3, 2008), and TeleCommUnity (November 3, 2008) filed similar separate comments.

agencies to participate meaningfully in how the network is deployed and operated.⁴ NPSTC recommended that local participation and investment be integrated to enhance the network and replicate more closely public safety standards and requirements.⁵ Such requires a commitment by those involved, the D Block Licensee(s), the PSBL and local, regional and state agencies, to a comity to make it all work. NPSTC has always envisioned a PSBL with responsibility to promote this comity and preserve local discretion.

The broadband public private partnership is a departure from historic means of spectrum administration. NPSTC believes it to be not just the only alternative, but a positive path in how broadband spectrum is made available to all agencies. NPSTC urges the Commission to remain steadfast to a public private partnership for broadband access that includes a meaningful role for local agencies to participate, invest in the network and promote local discretion. The objective of serving all agencies will not be met by national interoperability standards for the various network platforms that would emerge. Agencies that have requirements but not the financial base will be left behind. Spectrum policy, how it is allocated and managed, should strive to encompass the needs of all agencies.

Early Deployment by Local Agencies

Local agencies able to deploy broadband service prior to the public private partnership can do so consistent with the network's objectives and framework. By working within the D Block Licensee(s), the PSBL and other local and regional agencies, the fundamental objective to bring about a nationwide interoperable network can be preserved. Disparate systems unable to catch up to the network once it is deployed must be avoided.

⁴ *Third Further Notice* at paragraph 228.

⁵ NPSTC Comments addressing the *Third Further Notice* at 18.

The Commission's rules should structure a process that instills comity among these interests from the beginning. This will promote more direct and efficient migration paths. An initial understanding that early deployments will migrate to the network and how that can be accomplished is vital. It will also present clarity of the costs a local agency will incur that will benefit the nationwide network and the reimbursement the agency can expect. Without this comity, NPSTC reiterates its caution that the shared broadband network will not be realized by deploying a multitude of discrete systems.⁶ NPSTC disagrees with those who state that early deployed systems can "easily migrate to the ultimate shared network technology" or that such is readily achievable.⁷ While these goals are achievable, a coordinated commitment among the D Block Licensee(s), the PSBL and local agency must pervade.

Technology Platforms

Comments express objection regarding the technology platforms proposed for the regional models.⁸ There is also concern that the spectrum be accessible as soon as possible.⁹ Under the Commission's proposal, regional licensees would provide either LTE or WiMAX[®] technology platforms. NPSTC endorses the Commission's decision. It reflects a well-reasoned analysis of several factors. These include the need for nationwide interoperability, the likely timeline to begin deployment, i.e., 2010, expected availability of state of the art broadband technology at 700 MHz and commercial economies of scale. For the 700 MHz band, NPSTC agrees with APCO that whatever technology is chosen needs to be ready for use by the time

⁶ NPSTC Comments to the *Third Further Notice* at 14-15.

⁷ Comments of Alcatel-Lucent at 7 and Comments of Northrop Grumman Information Technology, Inc. at 7 to the *Third Further Notice*.

⁸ Comments of QUALCOMM, Incorporated to the *Third Further Notice* (November 3, 2008).

⁹ Comments of the Association of Public Safety Communications Officials, International (APCO) to the *Third Further Notice* at 12-13 (November 3, 2008).

deployment begins. Given the planned auction schedule and post-auction activities, NPSTC expects that the earliest deployment would begin is in 2010.¹⁰

The Commission is presented with several goals. One is the ability of agencies with different responsibilities and disparate locations to communicate with one another. Another is promoting competition in the auction process and innovation in the technology deployed. Varying technology platforms present challenges to efficient and effective interoperability. Nationwide connectivity can be obtained via one nationwide license. Yet the one license model limits auction participants and the benefits of more competitors. Regional licenses present the risks of disparate network platforms that dilute nationwide interoperability. An additional consideration the Commission examined is that mandating a technology or a set of technologies for the regional licenses encounters the objection that innovation will be chilled.

These factors must be evaluated within the environment that separates emergency service communications from other sectors- interoperability is crucial. The Commission's proposal that LTE or WiMAX[®] serve as the technology platforms in the regional model reduces the risks associated with disparate systems considerably while allowing the market to determine the platform. The Commission's bias favoring interoperability is well grounded.¹¹ It is supported by the enormous operational challenges responding agencies encounter in both the large and small incident.¹²

¹⁰ While NPSTC believes one or both 4G technologies will be ready for deployment at that time, if that does not occur, then some accommodation may be needed to allow for limited 3G deployment subject to migration to 4G, as discussed in APCO's comments. However, NPSTC would prefer to avoid the added potential cost and complexity of such a migration by deploying 4G technologies from the outset if at all possible.

¹¹ Comments of Intel Corporation to the *Third Further Notice* (November 3, 2008).

¹² NPSTC Comments to the *Third Further Notice* at 31.

NPSTC thinks that designating technology platforms, when combined with the actual auction, will promote investment in these technologies and their applications and do much to propel their evolution. Much more will be gained by clarity than uncertainty. Whatever technology is chosen, it must be forward looking and flexible- able to embrace innovation and accommodate initial equipment and users.

Early deployments must be guided by the need to avoid cumbersome and complex migration paths that hinder the national network. Operational challenges, including coexisting with users on the network as it is deployed, the associated costs and that the network's deployment not be delayed, are integral to early deployment decisions. NPSTC believes that the comity among the D Block Licensee(s), the PSBL, the agency seeking early deployment and others users can foster the objectives of a vibrant network that is accessible as soon as possible.

Interim Funding for the Public Safety Broadband Licensee

The ability of the PSBL to represent public safety is at a critical juncture. Unless it can rely on interim funding to prepare for and participate meaningfully in the network sharing agreement (NSA) negotiations with the D Block Licensee(s) and its implementation, public safety's interests will be forfeited. The technical, legal and administrative expertise crucial to these responsibilities requires resources. NPSTC urges the Commission to address this gap between the PSBL's obligations and its ability to pursue these responsibilities.

NPSTC recommends that the Commission adopt a structure by which the winning auction participants support PSBL NSA and other responsibilities through an advanced payment of the D Block Licensee(s) obligations. Such payments will need to accommodate an environment where the PSBL must negotiate with several regional winners.¹³ Unless the PSBL

¹³ Comments of the Public Safety Spectrum Trust Corporation to the *Third Further Notice* at 33-33 (November 3, 2008).

can rely on adequate funding prior to the post licensing period, not only will public safety lose, the entire endeavor is threatened. A workable public private partnership requires that the PSBL have adequate resources. This premise is echoed by possible auction participants expressing concerns regarding the adequacy of PSBL resources.¹⁴ NPSTC urges the Commission to address this critical need.

Service Rates for Public Safety Users

Comments reflect the difficult challenge the Commission encounters in proscribing a rate that provides certainty to potential D Block licensee while affording public safety agencies a reasonable and stable price promoting access to the network. NPSTC suggests that the Commission widen the factors that comprise a reasonable rate in pursuing these legitimate goals of predictability and certainty.

As there are a broad range of public safety agencies, with varying responsibilities and resources, spread across different geographies, any rate structure should present something more than a singular option. Large agencies seek pooled usage plans allowing capacity to be shared across all their users. Smaller agencies, many of whom are volunteer, seek the ability to access capacity in limited circumstances, with low monthly fees and charges reflecting actual use. Larger metropolitan and suburban agencies may present opportunities to integrate cellular service to particular classes of users and other options for enhanced or future features. What we think needs to evolve, most likely as part of the network sharing agreement, is a rate structure that provides a menu of services encompassing the range of users, locations, relevant QOS and other factors, the combination of which promotes pervasive access of all agencies.

¹⁴ Comments of United States Cellular Corporation to the *Third Further Notice* at 36 (November 3, 2008).

Promoting Service to Unserved and Underserved Areas

The comments grapple with the challenge that the nationwide broadband network serve all areas and not be limited to those with a significant population base. Unless there is a means of access, the 700 MHz band will make no difference to rural areas. In NPSTC's initial comments, we related the crucial difference that broadband capacity can make in one area, that of wild fire response.¹⁵ The breadth of the response detailed and the tangible difference broadband can make demonstrated demographics involving urban, suburban and rural areas. The 700 MHz band must contribute to enhancing emergency response everywhere.

NPSTC reiterates that the Commission explore providing financial incentives to auction participants to deploy beyond the mileposts and that the PSBL, D Block Licensee(s) and local agencies have responsibility to pursue deploying the network to unserved areas. How the network is deployed and costs are allocated among users can, if properly balanced, promote access by all areas and agencies. The concepts presented by the Joint Public Safety Commenters (JPSC) are deserving of review.¹⁶

The Relocation of Agencies Must Be Adequately Funded

As a result of the restructuring of the 700 MHz band, agencies that had commenced narrowband operations must be relocated. In the *Third Notice of Proposed Rulemaking*, the Commission proposes to cap the narrowband relocation reimbursement costs at \$27 million.¹⁷ Comments indicate continued apprehension regarding the adequacy of this amount and the

¹⁵ NPSTC Comments to the *Third Further Notice* at 22-23.

¹⁶ Joint Comments of the American Association of State Highway and Transportation Officials, the Congressional Fire Services Institute, the Forestry Conservation Communications Association, the International Association of Fire Chiefs and the International Municipal Signal Association to the *Third Further Notice* at iv, 14-15.

¹⁷ *Third Further Notice* at paragraph 445 and footnote 936.

category of costs that may be reimbursed.¹⁸ The comments recommend that the Commission seek more comprehensive and verifiable cost estimates relating to the narrowband relocation.

NPSTC agrees with these concerns. The process of gathering cost estimates is difficult and the expanse of circumstances wide. There is no one format that can present the total universe of relocation costs. There is credible information in the record indicating that the costs are considerably more than \$27 million.¹⁹ Added to the challenge is that while once imminent, the relocation was delayed. The inevitable diversion to other priorities, particularly in the public sector, overtakes the effort.

The Commission's objective to establish a ceiling is legitimate for reasons beyond providing certainty to auction participants. NPSTC recommends that the Commission pursue two courses to bring more clarity to the circumstances. The first is that in addition to the information currently in the record, the Commission seek by *Public Notice*, prior to the auction, each licensee's estimated costs. The Commission's position that adequate opportunity has been afforded to provide such information should accommodate the reality that most agencies are not in a position to participate in all proceedings. The consequences of an inadequate ceiling will be dire. Agencies lacking adequate funding will present barriers that will thwart network deployment and disrupt narrowband operations in an environment where remedies will be much more limited. In this context, the Commission should reexamine the limit it has placed on the cost categories that may be reimbursed. Any ultimate amount should encompass all costs related to the relocation - equipment, transactional and administrative.

¹⁸ Comments of the Commonwealth of Virginia to the *Third Further Notice* (November 3, 2008) and Comments of Pierce County Public Transportation Benefit Corporation (November 3, 2008).

¹⁹ Comments of the Public Safety Spectrum Trust to the *Third Further Notice* at Appendix B (November 3, 2008).

The Commission should also consider affording the D Block Licensee(s) credit for its relocation reimbursement. This will eliminate the deterrent such costs present. The Commission's obligation to the Treasury can be secured by a process requiring licensees to certify the reasonableness of costs and encompass a review and examination of these certifications.

Conclusion

The Commission's efforts to pursue a public private partnership to deploy a 700 MHz broadband nationwide interoperable network will make a meaningful and critical difference. The National Public Safety Telecommunications Council commends the Commission's work and urges that it continue so that the network can be deployed.

Respectfully submitted,



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