

National Emergency Number Association
The Voice of 9-1-1



August 12, 2009

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: National Public Safety Wireless Broadband Network (D Block)
(WT Docket No. 06-150, PS Docket No. 06-229)

Dear Chairman Genachowski:

On behalf of the 7,000 members of the National Emergency Number Association (NENA), we welcome you back to the FCC in your new role as Chairman. We know that you and your colleagues will be addressing important matters to ensure our communications systems, including public safety communications systems, will be based on 21st century technology. We look forward to working with you and your colleagues in a collaborative, constructive manner to pursue policies that modernize and improve our nation's critical 9-1-1 and emergency communications systems, especially as we increasingly move to a broadband world.

It is in this spirit that I write today on a complicated issue that has challenged policymakers for years – establishing a national, interoperable, public safety wireless broadband network. NENA is particularly interested in ensuring that 9-1-1/emergency communications centers have access to broadband and are capable of utilizing the services and applications that will be enabled by broadband. Hundreds of millions of 9-1-1 calls are made every year by citizens who are increasingly capable of utilizing innovative forms of voice, video and data services, yet 9-1-1/emergency communication centers are typically limited to voice-only communications. In the future, 9-1-1/emergency communications centers in a broadband world will be pushing and pulling data not only from the 9-1-1 caller, but also from other external data sources and sharing that information with other agencies and responders in the field. This will better enable those who respond to emergencies to provide a more efficient and informed response, resulting in improved outcomes for those who rely on the 9-1-1 system for help. Access to broadband, and the services and applications riding broadband networks, is essential for 9-1-1/emergency communications centers to keep pace with the technological advancements rapidly changing the way in which Americans communicate today.

The Commission, along with Congress and other Federal agencies, has been focused on access to wireless broadband networks for public safety¹. Congress dedicated 24 MHz of spectrum

¹ NENA agrees that this is an important issue, but urges the Commission to acknowledge, particularly in the context of its National Broadband Plan, that the issue of broadband for 9-1-1 and emergency communications is much larger than simply establishing public safety wireless broadband networks. See June 8 comments of NENA in response to National Broadband Plan Notice of Inquiry.

in the 700 MHz band for public safety. The FCC further determined that 10 MHz adjacent to the 700 MHz D Block commercial allocation would be designated for public safety broadband use. In the absence of Federal funding for a public safety broadband network, the FCC embarked on a plan to create a public safety/commercial wireless shared network venture by establishing a Public Safety Broadband Licensee (PSBL), awarding the 10 MHz public safety license to the Public Safety Spectrum Trust (PSST), and conditioning the auction of the adjacent 10 MHz Commercial D Block on the partnership with the PSBL. Under the FCC proposal, the D Block winner would have to negotiate public safety requirements within a prescriptive framework. The benefit to the D Block auction winner, in theory, is access to the 10 MHz public safety block adjacent to the D Block. The benefit for public safety would be that the commercial partner, in return for conditional access to 10 MHz of public safety spectrum, would finance and build a national interoperable network, something public safety agencies could not afford to do on their own, and public safety would get priority access to the commercial 10 MHz D Block during emergencies. Also, public safety would benefit from the significant research and development of the commercial partner that would not likely exist if the network was built solely by and for public safety. The D Block auction was held and the FCC failed to receive a minimum bid for the D Block. Thus, the D Block remains available for auction.

It was then, and still is, a viable option to create a public safety/commercial partnership for the provisioning a broadband network available to public safety. For a variety of reasons, the Commission's previous D Block auction failed. Since the failed auction, new proposals have recently been submitted to the Commission and/or discussed in the trade press regarding either the D Block or access to the 10 MHz public safety broadband spectrum in the 700 MHz band by parties seeking waivers of the Commission's rules.² Regarding the D Block, Verizon Wireless and AT&T seek to have the D Block reallocated to public safety and their idea is also supported by some of the Major Cities Chiefs of Police and others in public safety.³ T-Mobile and some of the smaller wireless carriers oppose the reallocation of the D Block to public safety.⁴ Some of those seeking waivers of the Commission's rules are attempting to do so in a timely manner thereby allowing them to file applications for NTIA/RUS broadband grants. The continued delay in addressing the failed D Block auction, the increased needs by public safety that could be addressed by broadband and the potential availability of Federal broadband grants for public safety add to the challenges the new Commission faces. It is important that all approaches be carefully and promptly reviewed, especially when the issue concerns the future of 9-1-1 and emergency communications as we move into the broadband, IP-enabled, 21st century world of communications.

² See, e.g., City of Boston, December 11, 2008; San Francisco Bay Area Cities, March 24, 2009; State of New Jersey, April 3, 2009; State of New York, July 1, 2009; City of Charlotte, NC, August 4, 2009. The main dockets are 06-150 and 06-229.

³ Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Harlin R. McEwen, Public Safety Spectrum Trust (June 1, 2009); Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Harlin R. McEwen, Public Safety Spectrum Trust (June 4, 2009); Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Jim Bugel, AT&T Services, Inc. (July 31, 2009).

⁴ Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Thomas J. Sugrue (T-Mobile), Robert J. Irving, Jr. (Leap Wireless), Mark A. Stachiw (MetroPCS Communications), and Caressa D. Bennet (Rural Telecommunications Group) (June 23, 2009).

To that end, NENA asks you and your colleagues to consider the following factors in your deliberations :

- First, each proposal should be weighed in terms of the proposal's ability to provide a nationwide wireless broadband network that public safety can utilize. For example, if Congress approves a reallocation of the D Block to public safety, then how is a network (or network of networks) going to be built that will serve public safety in urban, suburban and rural areas? What is/are the source(s) of funding for this broadband network especially outside of the major markets? Are the funding sources sustainable and predictable in all areas, not just major markets?
- Second, Congress along with input from the Commission should address the funding needs of public safety, especially as public safety moves to broadband (wireless and wired). Funding is needed to establish a nationwide public safety wireless broadband network, or network of networks.⁵ Without a steady, secure source of funding, the likelihood of provisioning a nationwide wireless public safety broadband network is slim at best. To date, the Federal government has not presented funding for the build out and maintenance of a public safety broadband network or for the services and applications enabled by such a network.
- Third, if the Commission is going to address the waivers on file that seek access to public safety 700 MHz broadband spectrum, before addressing the Commission's current efforts to create public safety/commercial wireless partnership, then the Commission must ensure that technology choice⁶, interoperability and roaming are sufficiently addressed⁷. All of the parties filing waiver requests recognize that if waivers are granted, they must be able to integrate their particular broadband networks into the solution the Commission ultimately reaches with respect to the D Block/public safety partnership.

Fundamentally, NENA's goals in this debate are to ensure that (1) a public safety wireless broadband network, or network of networks, is built nationwide, (2) that public safety agencies have priority access to that network or networks at affordable rates and on favorable terms, (3) that a known and recurring revenue source is available to pay for public safety access to and use (hardware, software, applications) of that network(s), and (4) that public safety is able to benefit from the substantial research and development of the commercial wireless industry.

Recently, much has been written in the press regarding a NENA internal working document on this subject. The draft document is part of a broader approach to addressing the current D Block/public safety partnership. To be clear, NENA's working document is designed to address only the context of an alternative approach to the existing effort by the Commission to

⁵ Additionally, funding is also needed to ensure that all emergency response agencies have access to, and use of, our nation's wired broadband networks.

⁶ NENA, APCO, NPSTC and the PSST have all endorsed LTE as the preferred technology platform for the national public safety wireless broadband network.

⁷ The Commission should look closely to the work of the NPSTC Broadband Task Force in this regard.

forge a public safety/commercial wireless partnership, if the current public/private approach is deemed unworkable. NENA believes that within the context of the public safety/commercial wireless discussion there are alternative approaches warranting review. NENA does not believe that the alternative approaches presented below are the only approaches, but simply additional options designed to generate discussion, and one that is capable of meeting the four overarching goals described above. This letter to you, Mr. Chairman, does not address the proposal to reallocate the D Block to public safety use or the pending waivers to gain access to the 10 MHz public safety broadband block in the 700 MHz band. Obviously, if the Commission recommends and Congress does reallocate the D Block to public safety, then the public safety/commercial partnership as currently designed or alternatives of a similar nature would cease to be relevant.

As the Commission considers all of the proposals on the subject of the D Block, NENA asks only that the Commission consider whether the proposals effectively meet each of the principles outlined above. We believe the initial public/private shared network proposal, if correctly designed, can potentially meet all four goals presented above, and it would not require any Congressional action. Below is a new alternative approach to the public/private partnership concept. With this approach, like the proposal to reallocate the D Block to public safety, Congressional action would be needed. The alternative public safety/commercial wireless proposal contains the following key elements:

- The 10 MHz public safety broadband spectrum in the 700 MHz band should be either:
(1) Leased as a 10 MHz block to the winner of the D Block auction with the terms and conditions of the lease specified prior to the auction. Incentives should be established to encourage D Block bidders to enter into the lease arrangement, *e.g.*, bidding discount, installment payments, length of license term and so forth; or (2) Reallocate the 10 MHz public safety 700 MHz broadband block to commercial use to be paired with the current D Block for a nationwide, 20 MHz commercial block to be auctioned with conditions ensuring public safety access to the network and secured, recurring funding for public safety⁸. Under either alternative proposal, the Commission could issue either a single national license or multiple regional licenses. If the Commission allows multiple regional licenses, then it would need to mandate that the licensees use a common air interface standard and require interoperability and roaming.
- In return for either the upfront lease of the 10 MHz public safety broadband spectrum block or the reallocation of the 10 MHz public safety broadband block, the following conditions would apply:
 - At least half of the auction revenues are deposited into a Public Safety Broadband Trust account, administered by the PSST or another administrative body as determined by the Commission (similar to the way in which USAC was established to administer universal service funds). Public Safety Broadband Trust funds would be expended by the identified administrative entity to further ensure access to the network and/or for equipment, software, or services that utilize the network.

⁸ For the economic and efficiency gains of a 20 MHz block, as compared to the current 10 MHz public safety allocation, see the AT&T ex parte filing of July 31, 2009.

- Selection of core or key public safety requirements are identified prior to the auction so that the successful bidder, or bidders, can factor these requirements into their bid(s)/lease in the first phase of its network construction or an alternative mutually agreed up construction schedule.
- Public safety is to receive significantly favorable terms and conditions for access to and use of the 20 MHz nationwide 700 MHz broadband network and these terms and conditions are to be specified prior to the auction/lease.
- Finally, in addition to the one-time deposit from the auction revenues, there must be a recurring source of funding to pay for access to and use of the network by public safety agencies. If the public safety broadband spectrum is leased, then the recurring source of revenue could be part of the leasing arrangement. If the spectrum is reallocated to commercial use, then other sources of funding would need to be addressed prior to the auction. The Commission must address the funding issue.

To reiterate, NENA's goal is to ensure that public safety will have access to a nationwide wireless broadband network in the 700 MHz band with a known funding source.

In this proceeding, and with the establishment of a National Broadband Plan effort, the Commission has an opportunity to foster the migration from analog, voice-centric 9-1-1/emergency communications systems, to a 21st century, next generation, IP broadband-based 9-1-1/emergency communications model that embraces a wide range of voice, video, and data applications, all designed with the purpose of better serving the public. We look forward to working with the Commission on this important opportunity.

Sincerely,



Brian Fontes
CEO

cc: Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell-Baker
Jamie Barnett, Jr., Chief, Public Safety and Homeland Security Bureau