

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

In the Matter of)	
)	
Petitions for Waiver to Deploy)	PS Docket No. 06-229
Public Safety Broadband Networks)	
and 777-792 MHz Bands)	
_____)	

COMMENTS OF VERIZON WIRELESS

Steven E. Zipperstein
Vice President, Legal and External Affairs
and General Counsel

Jamie S. Gorelick
Samir C. Jain
Christopher E. Babbitt

John. T. Scott
Vice President and Deputy General Counsel

WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 663-6000

Donald C. Brittingham
Assistant Vice President –
Wireless/Spectrum Policy

Verizon Wireless
1300 I Street, NW
Washington, D.C. 20005
(202) 589-3740

Counsel for Verizon Wireless

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TABLE OF CONTENTS

SUMMARY1

I. THE CORE OF ANY SOLUTION SHOULD RELY ON A REGIONAL NETWORK-OF-NETWORKS APPROACH SUBJECT TO A NATIONAL TECHNICAL FRAMEWORK.....3

 A. Utilize A Network-Of-Networks Approach, Allowing A Combination Of Dedicated And Shared Networks Suitable For The Needs Of Each Jurisdiction....4

 B. Establish A National Framework To Ensure Interoperability And Minimum Technical And Operational Standards.7

II. THE COMMISSION SHOULD FACILITATE THE ABILITY OF PUBLIC SAFETY TO LEVERAGE COMMERCIAL INFRASTRUCTURE THROUGH PUBLIC-PRIVATE PARTNERSHIPS AND A COMPETITIVE SELECTION PROCESS.9

III. THE COMMISSION SHOULD CONSIDER USING THIS OPPORTUNITY TO ADOPT NEW RULES.11

CONCLUSION.....14

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SUMMARY

Since at least the events of 9/11, policymakers and the Commission have struggled with the problem of how to provide effective, interoperable, broadband communications for first responders. In recent months, more than a dozen state, local, and regional public safety applicants have told the Commission loudly and clearly, “we cannot wait any longer.” Each of these applicants has asked the Commission for permission to seek out its own solution, whether it is to construct a private network for its dedicated use or to pursue a public-private partnership with one or more commercial carriers. Importantly, each of these applicants has also committed to conform to a uniform national framework that would ensure interoperability across the country, and the collective public safety community has been working diligently over the past several months to develop such a framework. Verizon Wireless commends these applicants and the public safety community for these efforts and wholeheartedly supports them.

The submission of more than a dozen waiver petitions by state, local, and regional applicants demonstrates the need for a federal policy that accommodates the varying needs of

public safety jurisdictions around the country.¹ It is clear that the one-size-fits-all approach contemplated in the *Second Report and Order* cannot meet these needs. It is also clear that the federal timetable for network deployment should be flexible enough to allow jurisdictions that are prepared to deploy wireless broadband networks in their respective areas to do so on their own aggressive timetables, subject to a national set of standards and minimum operational requirements that will, among other things, ensure interoperability with each new network that comes online.

Verizon Wireless reiterates its support for regional network deployment on a network-of-networks basis that would: (i) allow public safety entities to choose the network solutions best suited to their circumstances; (ii) achieve nationwide roaming and interoperability and a uniform set of minimum technical capabilities under a national framework of standards; and (iii) facilitate public-private partnerships that leverage commercial infrastructure.² Most of the waiver

¹ See City of Boston Request for Waiver, PS Docket No. 06-229 (filed Dec. 11, 2008) (Boston Petition); City of Boston Amended Request for Waiver, PS Docket No. 06-229 (filed May 28, 2009) (Boston Amended Petition); City and County of San Francisco, City of Oakland, City of San Jose Request for Waiver, PS Docket No. 06-229 (filed Mar. 24, 2009) (Bay Area Petition); City and County of San Francisco, City of Oakland, City of San Jose Request for Waiver, PS Docket No. 06-229 (filed May 28, 2009) (Bay Area Amended Petition); State of New Jersey Petition, PS Docket No. 06-229 (filed Apr. 3, 2009) (New Jersey Petition); City of New York Petition for Waiver, PS Docket No. 06-229 (filed June 8, 2009) (New York City Petition); District of Columbia Request for Waiver, PS Docket No. 06-229 (filed June 26, 2009) (DC Petition); New York State Request for Waiver, PS Docket No. 06-229 (filed June 30, 2009) (NYS Petition); City of Chesapeake, Virginia, Request for Waiver, PS Docket No. 06-229 (filed July 8, 2009) (Chesapeake Petition); City of San Antonio, Texas, Petition for Expedited Waiver, PS Docket No. 06-229 (filed July 10, 2009) (San Antonio Petition); State of New Mexico, Petition for Expedited Waiver, PS Docket No. 06-229 (filed July 10, 2009) (New Mexico Petition); Petition for Waiver of the City of Charlotte, North Carolina, PS Docket No. 06-229 (filed Aug. 4, 2009) (Charlotte Petition); Petition for Expedited Waiver, PS Docket No. 06-229 (filed Aug. 7, 2009) (Iowa Petition) (including the Counties of Blackhawk, Buchanan, Dubuque, Grundy, Johnson, Marshall, and Scott and the City of Cedar Rapids); State of North Dakota, Petition for Expedited Waiver, PS Docket No. 06-229 (filed Aug. 18, 2009) (North Dakota Petition); County of Maui, County of Hawaii, County of Kuai, City & County of Honolulu, and State of Hawaii Request for Waiver, PS Docket No. 06-229 (filed Aug. 19, 2009) (Hawaii Petition).

² See, e.g., *In the Matter of Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, PS Docket No. 06-229, Comments of Verizon Wireless, 24-32 (June 30, 2008), Reply Comments of Verizon Wireless, 6-11 (Nov. 12, 2008), Ex Parte Presentation by Verizon Wireless, 1-4 (July 9, 2009).

petitions are consistent with these basic policy elements and could be granted in a way that ensures adherence to them.³

Verizon Wireless notes, however, that approving these early build-out requests via waiver does not diminish the importance of resolving the broader issues affecting use of the 700 MHz spectrum for public safety. The absence of a workable framework in the Commission's rules will continue to create uncertainty for those public safety agencies that do not currently have waiver requests on file, as well as for commercial carriers and other private sector participants that may be interested in being part of a public-private partnership. Resolution of these issues for the benefit of the entire public safety community is critical. In that regard, Verizon Wireless recommends that the Commission consider amending its rules to establish a coherent national solution at the outset, rather than proceeding with the interim solution of ad hoc waivers to existing rules that no longer serve their intended purpose. The Commission should use the pending waiver requests as an opportunity to revisit its existing rules to develop a comprehensive framework to ensure that *all* build-out occurs in a manner that brings public safety users across the country the benefits of interoperable wireless broadband technologies as quickly and cost-effectively as possible.

I. THE CORE OF ANY SOLUTION SHOULD RELY ON A REGIONAL NETWORK-OF-NETWORKS APPROACH SUBJECT TO A NATIONAL TECHNICAL FRAMEWORK.

As the waiver requests reflect, deploying a single, centralized national network as proposed in the Commission's *Second Report and Order* is not necessary, nor is it the best approach for reaching the goal of an interoperable public safety communications system. Rather,

³ The waiver petition filed by the State of North Dakota contemplates construction of a network based on a technology other than LTE, and as a result, raises questions about whether it would ensure interoperability with broadband networks used by other public safety agencies. *See* North Dakota Petition, 2, 4-5 (seeking to deploy "4G-like" network).

a network-of-networks approach, subject to national standards to ensure interoperability, roaming, and adherence to appropriate technical requirements, is the best path forward. However the Commission proceeds—whether by waiver or new rules—it should do so within the parameters of this general framework, either by mandating the necessary terms as a condition of any waiver or by affirmatively incorporating them into new rules to govern 700 MHz public safety licenses.

A. Utilize A Network-Of-Networks Approach, Allowing A Combination Of Dedicated And Shared Networks Suitable For The Needs Of Each Jurisdiction.

A regional network-of-networks approach offers a number of benefits that would address the significant problems inherent in the centralized national model that the FCC has pursued in the past—including the inability to tailor networks to the needs of particular regions and to include multiple commercial partners in the endeavor. As reflected in the waiver petitions already on file, more than a dozen jurisdictions have proposed building public safety wireless broadband networks of their own. These petitions reflect the diverse needs of public safety users across the country. New York City, for example, has proposed a dedicated public safety network to be managed by the City that would provide enhanced in-building coverage as well as accommodate New York’s highway, rail, subway, airport, and harbor infrastructure in a dense urban environment.⁴ The State of New Mexico has proposed a public-private partnership that can accommodate a range of topographies, vast areas of remote wilderness, and a mixture of urban pockets and rural areas, all of which would pose significant challenges to commercial

⁴ See New York City Petition, 4-5 (“The skyscraper canyons of Manhattan and of downtown Brooklyn combined with the suburban areas of Staten Island, eastern Queens, and the Rockaways and the surrounding waterways present a varied and challenging radio frequency environment for effective wireless communications. The massive transportation infrastructure for highway, rail, subways, airports and harbors heighten this challenging communications landscape.”).

deployment in the absence of government involvement.⁵ North Dakota acknowledges that a shared network is necessary in that state because “[j]ustifying the costs for a proprietary network for the less than 5,000 public safety emergency responders is untenable.”⁶ The Commission should recognize that a top-down, one-size-fits-all approach will not meet the varying needs of public safety users across the country, and should instead provide the flexibility to tailor the networks to these varying circumstances.

A network-of-networks approach also would increase the number of prospective commercial partners for any public-private partnership by opening the door to whichever provider is best positioned to meet the needs of the region (whether a commercial carrier, system integrator, or other private partner), including providers that could not commit to a build-out on a national scale or outside of their core regions. In addition to Verizon Wireless, other carriers also have urged the Commission to adopt a regional network-of-networks approach to facilitate the necessary commercial involvement.⁷ Allowing participation by multiple carriers not only provides public safety with the benefit of commercial competition for this important business,

⁵ See New Mexico Petition, 2-3 (“Because New Mexico is one of the least densely populated states in the nation, commercial providers face significant economic challenges in serving the rural areas of the State. As a result, government involvement is essential to the early buildout and deployment of a 700 MHz broadband public safety system to meet the critical needs of public safety users in urban areas such as Santa Fe and Albuquerque as well as the rural regions.”).

⁶ See North Dakota Petition, 3.

⁷ For example, as U.S. Cellular explained in recent congressional testimony:

Regional public/private partnerships would attract many smaller carriers that could build on their existing network infrastructure and operations in an area. . . . [W]ith multiple operators building in an area, network deployment will be faster, more extensive, and more reliable than under a nationwide or mega-region approach Smaller and rural carriers have infrastructure, operations, and relationships with public safety entities in many communities; they would be attractive partners for building and operating the shared network in many areas.

Joseph R. Hanley, Telephone and Data Systems, Inc., Written Statement before the House Subcommittee on Communications, Technology, and the Internet, 5-6 (Sept. 24, 2009); see also Stacey Black, AT&T, Written Statement before the House Subcommittee on Communications, Technology, and the Internet, 2 (Sept. 24, 2009) (advocating “regional public safety networks that would leverage existing commercial infrastructure to minimize costs, maximize efficiency, and ensure rapid deployment”).

but also maximizes investment in networks that will provide first responders with the advanced communications capabilities they need.

In addition, a network-of-networks approach is aligned with the Department of Homeland Security's interoperability and emergency communications initiatives, which are directed at improving public safety communications at the state and local levels. For example, DHS distributed nearly \$1 billion in grants to states under the Public Safety Interoperable Communications grant program, which, among other things, required that recipients prepare statewide communications interoperability plans (SCIPs) to coordinate state and local public safety communications investments. Additionally, the Department's SAFECOM program provides best-practices and technical guidance to state and local entities to help achieve narrowband interoperability under what it calls a "system-of-systems" approach.⁸ By empowering state and local jurisdictions to develop 700 MHz broadband networks on a network-of-networks basis, the Commission could complement DHS efforts so that federal interoperability initiatives could be mutually reinforcing. Indeed, a recent report by the Government Accountability Office specifically recommended a closer alignment between the Commission's and Department's work in this area.⁹ At the same time, the GAO expressed concern that "[t]he lack of commonly defined goals for the 700 MHz spectrum and mutually reinforcing strategies with DHS efforts threatens the usefulness and viability of the network for public safety."¹⁰ The Commission should use this opportunity to reinforce the DHS efforts by enabling state and local public safety entities to incorporate interoperable broadband capabilities

⁸ See Department of Homeland Security, *The System of Systems Approach for Interoperable Communications*, available at www.safecomprogram.gov/SAFECOM/library/interoperabilitybasics/.

⁹ See Government Accountability Office, *Emergency Communications: Vulnerabilities Remain and Limited Collaboration and Monitoring Hamper Federal Efforts*, 49-50 (June 2009).

¹⁰ *Id.* at 52.

into their communications systems and make real progress towards nationwide interoperability from the ground up.

B. Establish A National Framework To Ensure Interoperability And Minimum Technical And Operational Standards.

As the responses to 9/11 and Hurricane Katrina made clear, any effective public safety communications solution must ensure interoperability and roaming across multiple departments and jurisdictions. The technical capabilities to resolve this issue for broadband networks exist today. Software and hardware solutions using IP standards can enable agencies in different places and using different networks or providers to talk to one another, just as a wireless caller using one carrier can talk to someone who subscribes to another carrier, even where the respective carriers use different air interface standards. In addition, to ensure that first responders can travel outside of their home jurisdictions to respond to large-scale events (e.g., a natural disaster or national security incident) and seamlessly communicate with networks constructed in those areas, networks should be based on a common air interface standard.

Although the Commission has previously questioned whether relying on local or state authorities would undercut the ability to ensure national interoperability, it can address this concern by conditioning waivers and/or licenses on adherence to a national framework of standards and basic operational requirements.¹¹ In other words, whether granting waivers or setting new rules, the FCC should set a basic national framework that establishes parameters to ensure national interoperability and require compliance with those standards. Similarly, the Commission could set minimum technical and operating parameters to ensure that public safety's

¹¹ See Public Safety and Homeland Security Bureau Seeks Comment on Petitions for Waiver to Deploy 700 MHz Public Safety Broadband Networks, PS Docket No. 06-229, App. A at 7 (Aug. 14, 2009) (expressing concern that allowing state, local, or regional build-out may result in "balkanized networks incapable of even minimum interoperability").

basic needs are met, even if certain jurisdictions choose to equip their networks with additional features tailored to the specific needs of public safety users in that area.

The groundwork for this framework has already been laid. As the Commission noted in its request for comments, the leading public safety organizations have endorsed LTE as the air interface standard for the 700 MHz public safety broadband networks.¹² And since the Commission released the *Public Notice*, the National Public Safety Telecommunications Council (“NPSTC”) has developed a framework of minimum operational requirements that would ensure nationwide roaming and interoperability among public safety users.¹³ By conditioning waivers or licenses on the use of LTE and compliance with an agreed upon set of operational requirements, perhaps modeled on the NPSTC framework, the Commission could allow state, local, and regional authorities to build and operate networks on a network-of-networks basis. Moreover, because LTE has emerged as the dominant 4G commercial standard for use at 700 MHz, using LTE potentially will allow public safety users to roam outside of public safety networks and onto commercial networks (provided the requisite roaming agreements are in place), a feature that may allow users on early-deployed networks to use their devices even in jurisdictions that have yet to deploy 700 MHz networks of their own.¹⁴

In addition to the basic technical requirements needed to ensure roaming and interoperability, the Commission should also take steps to ensure that state or local implementation occurs in a timely way so that the spectrum does not remain fallow once it has been licensed or sublicensed to state or local entities. For example, the Association of Public-

¹² *Id.* (noting support from APCO, NENA, NPSTC, and the PSST).

¹³ *See* National Public Safety Telecommunications Council: 700 MHz Public Safety Broadband Task Force Report and Recommendations (Sept. 4, 2009).

¹⁴ *See* Stacey Black, AT&T, Written Statement before the House Subcommittee on Communications, Technology and the Internet, 2-3 (Sept. 24, 2009).

Safety Communications Officials-International, Inc. (“APCO”) has suggested that if waivers are granted, entities seeking to deploy early 700 MHz systems should be required to demonstrate that they have adequate funding and a sufficient commitment from the affected public safety entities in the geographic area, as well as the systems in place to select vendors and manage deployment.¹⁵ In general, Verizon Wireless supports the basic principle that waivers should be granted only where the Commission is convinced that the applicant has an actual plan for how to put the spectrum to use in a timely manner. For example, the existing early build-out rules provide for termination of spectrum leasing arrangements where public safety entities that have received early build-out authority fail to place the network into operation within one year.¹⁶ While one year is unlikely to be enough time for a waiver recipient to conduct an RFP process, select a private partner, and deploy, test, and launch a 4G network, waivers or licenses should contain conditions that ensure recipients put the spectrum to its intended use in a timely manner.

II. THE COMMISSION SHOULD FACILITATE THE ABILITY OF PUBLIC SAFETY TO LEVERAGE COMMERCIAL INFRASTRUCTURE THROUGH PUBLIC-PRIVATE PARTNERSHIPS AND A COMPETITIVE SELECTION PROCESS.

Although certain areas may require dedicated public safety networks and have the resources to deploy them, a public safety communications solution should use public-private partnerships to leverage the extensive commercial infrastructure and facilities that are already in place or that are planned for construction to the greatest extent possible. The National Emergency Communications Plan developed by the Department of Homeland Security reports that the private sector already possesses 85% of existing communications-related critical

¹⁵ See Comments of APCO on Petitions for Waiver to Deploy 700 MHz Broadband Networks, PS Docket No. 06-229, 9 (filed Sept. 22, 2009) (APCO Comments).

¹⁶ See 47 C.F.R. § 27.1330(b)(5)(iii)(E).

infrastructure and specifically calls for enhancing public-private partnerships.¹⁷ Moreover, commercial carriers of all sizes are constantly investing in improvements to their networks in order to keep pace with the competitive marketplace, and commercial infrastructure from competing carriers—including those with particularized strengths in local areas—will only improve as 4G capabilities are introduced in the coming years.

The advantages of this approach are clear: leveraging commercial infrastructure will save enormous amounts of money at a time when there are overwhelming competing needs for public funding. It also will save time. Constructing a new network would be a multiyear endeavor, while commercial networks have already been constructed. And, while various enhancements to those networks will be necessary, such enhancements can be integrated into an existing network much more quickly than building a network from scratch (or even building a network while utilizing some shared infrastructure such as towers). Commercial partnerships will also allow public safety to incorporate standardized technologies commonly employed in the commercial telecommunications sector, which will provide improved capabilities. In particular, public safety will obtain the benefits of commercial innovation at the same time as other users through the constant, competitive upgrading of commercial networks rather than having to wait for those innovations to be deployed on a separate timetable that applied only to the public safety network.

These regional partnerships should be formed through competitive “requests for proposal” (RFPs) or a similar process rather than auctions in order to provide public safety with greater flexibility to select commercial partners based on a variety of criteria—e.g., ability to meet particular law enforcement needs in the area—in addition to price. Unlike an auction,

¹⁷ See Department of Homeland Security, *National Emergency Communications Plan*, 32 (July 2008).

which might force a government entity into a long-term arrangement with a partner that may be the highest bidder but that does not provide the level of service or security needed, an RFP process allows for the considered evaluation of various competing proposals that may differ in important respects other than price. Verizon Wireless expects that a range of models for proposed partnerships will emerge to suit the varying circumstances of public safety entities. For example, public-private arrangements could encompass full commercial deployment and operation of a shared network; or deployment of a dedicated network operated by the commercial carrier or public entity; or public safety access to key commercial infrastructure (e.g., tower sites, backhaul facilities); or consultation and commercial back-end support to public safety entities that choose to build their own networks.

III. THE COMMISSION SHOULD CONSIDER USING THIS OPPORTUNITY TO ADOPT NEW RULES.

If the Commission decides to proceed by waiver, it should condition those waivers on adherence to terms that would ensure that build-outs occur in a way that fits within the framework set forth in sections I and II above.¹⁸ But the very task of developing the conditions needed to make the waivers work also provides the Commission with the opportunity to develop a general framework for going forward. In other words, rather than proceed through ad hoc waiver requests that require the Commission to create exceptions to the existing rules, the Commission could establish a new set of rules under which all build-out in the public safety broadband spectrum would proceed and that would accommodate the needs of state, local, and regional public safety entities. The Commission should seize this opportunity even if it decides that some of the pending waivers should be granted to provide for “proof of concept” testing.

¹⁸ Verizon Wireless supports APCO’s recommendation that the Commission give public safety petitioners the opportunity to supplement their filings once guidelines are set to govern the pending waiver petitions. *See* APCO Comments, 8-9.

Developing a comprehensive framework at the outset could address many of the difficult issues (such as competing or overlapping applications, as raised in the Commission's *Public Notice*) that would confront the Commission if it were to proceed only through ad hoc waivers. Such a framework also would provide the structure and certainty necessary to enable public-private partnerships at the state, local, or regional level to move forward under a coherent policy that furthers the overarching goal of nationwide, interoperable wireless broadband capabilities.

At the very least, the existing early build-out rules should be revised because they presuppose the existence of a single, commercial D Block licensee that has entered into a national network sharing agreement with the public safety broadband licensee—a state of affairs that has not come to pass and that has virtually no support among public and private stakeholders. Build-out efforts have been at a standstill since Auction 73 failed to attract a winning bidder over a year-and-a-half ago. The Commission's rules should be amended to reflect the current state of affairs so that build-out may proceed in the public safety broadband spectrum even as Congress and the Commission determine the best course with respect to the D Block. Although there remains debate about what that course should be, decoupling the D Block and the public safety broadband spectrum and developing rules to govern build-out in the public safety broadband spectrum will not foreclose what appear to be the primary options. If the D Block is reallocated to public safety, as public safety entities and Verizon Wireless and other carriers advocate, then the D Block could be folded in to the same regional framework set up for the public safety broadband spectrum. If, on the other hand, the D Block is commercially auctioned, with proceeds then flowing to public safety, as some advocate, then the Commission simply will have accelerated its development of a solution using the public safety spectrum that is available. Indeed, the waiver requests themselves are predicated on the same basic premise

that build-out can and should proceed in the public safety broadband spectrum even as the assignment of the D Block remains unresolved.

The new rules should address at least three areas. First, as described above, they should establish a national framework to ensure interoperability and roaming and minimum technical requirements. Second, they should eliminate the requirement under the existing rules that network facilities and operational control be transferred to the (eventual) D Block licensee.¹⁹ Instead, the new rules should encourage jurisdictions that are prepared to move forward with build-out to do so by allowing them to retain ownership and operational control over their networks (or to share such responsibilities with a commercial partner under public-private partnerships of their choosing). Doing so will preserve one of the key incentives public safety jurisdictions and prospective commercial partners will have to undertake their own network deployment. Allowing entities to retain ownership and control over the network would also avoid the difficult question of how to compensate the entity if, as under the existing rules, transfer to the D Block licensee were required.²⁰ Third, the new rules should establish a structure for a regional approach under which public safety entities can issue RFPs and form commercial partnerships.

By establishing a regime that governs build-out, the Commission would provide the certainty necessary to allow the private sector to evaluate the prospect of public-private partnerships under a known set of rules and to respond to RFPs issued by public safety with a clear understanding of the terms under which networks would be built, owned, and operated over

¹⁹ See Second Report and Order, *In the Matter of Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, PS Docket No. 06-229, ¶¶ 472-474 (2007); 47 C.F.R. § 27.1330(b)(1)-(4) (requiring transfer of network to D Block licensee in areas covered by NSA).

²⁰ See Third Further Notice of Proposed Rulemaking, *In the Matter of Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, PS Docket No. 06-229, ¶¶ 303-304 (2008).

the life of the partnership—and integrated into other networks in neighboring regions. After all, it was the very lack of such certainty that contributed to the failed D Block auction in 2008. But with new rules in place, successful partnerships and network management models from early jurisdictions could serve as models for those that follow, and commercial carriers could develop packages of equipment, network access, and support services that could be used by similarly situated jurisdictions. This approach would put the country on a much more certain path toward achieving the goal of a nationally interoperable wireless broadband communications system.

CONCLUSION

Verizon Wireless supports the ability of public safety entities to build, own, and operate 700 MHz broadband networks on terms of their choosing, subject to the necessary national standards and operational requirements to support nationwide roaming and interoperability. Public safety and other stakeholders have reached a consensus on key elements of a framework for moving forward, including LTE as the air interface standard for the network, technical requirements based on the work of NPSTC, and using a network-of-networks approach to deployment coupled with public-private partnerships. By conditioning waivers or licenses on the use of LTE and compliance with a common set of operational and technical requirements, the Commission can ensure that regional networks will ultimately cohere into a nationally interoperable network-of-networks. Verizon Wireless encourages the Commission to incorporate the basic elements of a national framework into a new set of rules that would set the requirements for build-out so that jurisdictions that are prepared to move forward may do so under a common set of rules.

Respectfully submitted,

/s/ *Samir C. Jain*

Steven E. Zipperstein
Vice President, Legal and External Affairs
and General Counsel

John. T. Scott
Vice President and Deputy General Counsel

Donald C. Brittingham
Assistant Vice President –
Wireless/Spectrum Policy

Verizon Wireless
1300 I Street, NW
Washington, D.C. 20005
(202) 589-3740

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WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 663-6000
Samir.Jain@wilmerhale.com

Counsel for Verizon Wireless

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