

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

In the Matter of)	
)	
Petitions for Waiver to Deploy 700 MHz)	
Public Safety Broadband Networks)	
)	PS Docket No. 06-229
Implementing a Nationwide,)	
Broadband, Interoperable Public)	
Safety Network in the 700 MHz)	
Band)	

To: The Commission

COMMENTS OF ALCATEL-LUCENT

Alcatel-Lucent welcomes this opportunity to respond to the Federal Communications Commission’s (“FCC/Commission”) *Public Notice* on the 23 “petitions for waiver filed by various entities (“Petitioners”) seeking authority to deploy public safety broadband systems on a local or regional basis in the 10 MHz of 700 MHz public safety broadband spectrum currently licensed to the Public Safety Spectrum Trust (“PSST”) (763-768/793-798 MHz).”¹

Alcatel-Lucent remains steadfast in support of nationwide interoperable broadband public

¹ *Public Safety and Homeland Security Bureau Seeks Comment on Petitions for Waiver to Deploy 700 MHz Public Safety Broadband Networks*, Public Notice, PS Docket No. 06-229, DA 10-1748, ¶ 1 (rel. Sept. 15, 2010) (“*Public Notice*”)(The state or local jurisdictions seeking waiver are: (1) Las Vegas Metropolitan Police Department, Washoe County Sheriff’s Department, the Washoe Regional Communications System, the Nevada Department of Transportation, and NV Energy; (2) Nassau County, NY; (3) the State of Maryland; (4) Delaware County, PA; (5) Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties, PA (the South Central Task Force); (6) the Louisiana Statewide Interoperability Executive Committee; (7) the City of Chicago, IL; (8) the Georgia Broadband Alliance; (9) Lackawanna County, PA; (10) Fairfax County, VA; (11) Bucks County, PA; (12) the City of Philadelphia, PA; (13) Greater Harris County 9-1-1 Emergency Network, TX; (14) the State of Florida; (15) the Seattle Urban Area Partners, including the Cities of Seattle and Tacoma and surrounding counties and the State of Washington; (16) Harris County, TX; (17) the New Orleans Urban Area Security Initiative Region 1; (18) the State of Oklahoma; (19) the City of Baton Rouge, LA; (20) the County of Chester, PA; and (21) City of Philadelphia and the Counties of Bucks, Chester, Delaware and Montgomery, PA (the Southeastern Pennsylvania Regional Task Force); (22) the Commonwealth of Pennsylvania; and (23) the City of Tucson, AZ).

safety communications and respectfully asks that the FCC act quickly and grant Petitioners request to deploy Long Term Evolution (“LTE”) 700 MHz broadband systems, pursuant to the *Waiver Order*.² Petitioners are ready to put this spectrum to use and deploy public safety broadband systems that would later be integrated into a nationwide broadband solution. The Commission should take this opportunity to again enable such early deployments.

I. THE COMMISSION SHOULD GRANT PETITIONERS’ WAIVERS AND EXPAND THE USER BASE TO NON-TRADITIONAL ENTITIES THAT ALSO PROTECT THE SAFETY OF LIFE, HEALTH, OR PROPERTY

The Commission determined in the *Waiver Order* and its tentative conclusion in the *700 MHz Third FNPRM* to limit network users to those entities under Section 337 of the Communications Act of 1934, as amended,³ (“the Act”) whose “sole or principal purpose” is “to protect the safety of life, health, or property” and who meet the remaining requirements of Section 337.⁴ Under the Commission’s rules, the Public Safety Broadband Licensee in the 700 MHz spectrum must broadly represent the public safety radio user community, including the various levels (*e.g.*, state, local, county) and types (*e.g.*, police, fire, and rescue) of public safety entities.⁵ For the following reasons, Alcatel-Lucent continues to believe that the FCC narrowly interpreted Section 337 of the Act in the 700 MHz public safety band.⁶

In 1997, Congress directed the FCC to reallocate 24 MHz of spectrum in the 700 MHz

² *Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks*, PS Docket No. 06-229, *Order*, FCC 10-79 (rel. May 12, 2010) (*Waiver Order*).

³ 47 U.S.C. § 337.

⁴ *Waiver Order* at 5155-56, ¶ 34; see 47 U.S.C. § 337(f), *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*, 23 FCC Rcd 14301, 14404-07 ¶¶ 322-27 (2008).

⁵ See 47 CFR § 90.523

⁶ See Comments of Alcatel-Lucent, at 7-8 (Nov.16, 2009) *Public Safety and Homeland Security Bureau Seeks Comment on Petitions for Waiver to Deploy 700 MHz Public Safety Broadband Networks*, Public Notice, PS Docket No. 06-229, DA 09-1819, ¶ 1 (rel. Aug. 14, 2009) (seeking expansion of the definition of the public safety user group).

band from television broadcast services to public safety communications services as part of the Digital Television Transition.⁷ Section 337(f)(1)(a) defines “public safety services” as for “the sole or principle purpose of which is to protect the safety of life, health, or property” by state and local jurisdictions. The FCC based its eligibility criteria on the “public safety services” definition implemented by Section 90.523 of its rules.⁸

The Commission under Section 90.523 has adopted a three-pronged test to determine eligibility: (1) purpose of use; (2) identity of licensee; and (3) compliance with noncommercial *proviso*.⁹

The purpose of the spectrum use must be for services the sole or principal purpose of which is to protect the safety of life, health, or property.¹⁰ With regard to the identity of the licensee, all state or local governmental entities are included in this definition.¹¹ Nongovernmental organizations are eligible if approved by a state or local government entity whose mission is the oversight of or provision of public safety services.¹² Section 90.523(b) requires that nongovernmental organizations (NGOs) obtain written approval from the governmental entity having jurisdiction over the area to be served.¹³

The Commission has narrowly interpreted the statute and its corresponding rule in determining that the traditional public safety user group is the only specified user group in the 700 MHz public safety spectrum space. Alcatel-Lucent believes that expansion of the

⁷ 47 U.S.C. §337(a)(1).

⁸ 47 C.F.R. § 90.523; *See The 4.9 GHz Band Transferred from Federal Government Use*, Memorandum Opinion & Order and Third Report and Order, WT Docket No. 00-32, FCC 03-99, ¶ 16 (rel. May 2, 2003).

⁹ *Id.* *The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, First Report and Order and Third, WT Docket No. 96-86, 14 FCC Rcd 152, 178-88 ¶¶ 48-72 (1998) (*700 MHz First R&O and Third NPRM*); *see also The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, Second Memorandum Opinion and Order, WT Docket No. 96-86, 15 FCC Rcd 16844, 16861 ¶ 36 (2000) (*700 MHz Second MO&O*).

¹⁰ *700 MHz First R&O and Third NPRM*, 14 FCC Rcd at 178 ¶ 49.

¹¹ *Id.* at 180 ¶ 54; *see also* 47 C.F.R. § 90.523(a).

¹² *700 MHz First R&O and Third NPRM*, 14 FCC Rcd at 181 ¶ 55.

¹³ *See* 47 C.F.R. § 90.523(b); *see also 700 MHz First R&O and Third NPRM*, 14 FCC Rcd at 181 ¶ 56.

Commission's rules to include hospitals, health care facilities, and emergency medical service departments is warranted, along with critical infrastructure. This expanded user group clearly protects the safety of life, health or property of United States citizens and should be allowed the use of next generation broadband applications and services. In addition, the Commission should also allow Federal users the ability to use the broadband portion of the 700 MHz spectrum via Petitioners' waiver request.

Moreover, this is a unique opportunity to expand the public safety user base to include critical infrastructure, as recommended by the FCC's National Broadband Plan.¹⁴ For example, we agree with the Commission that "wide area network requirements of utilities are very similar to those of public safety agencies"¹⁵ and can be easily shared. The resulting public/private partnership with the utilities cooperating with the public safety user base would significantly accelerate both initiatives, as utilities could potentially bring the necessary dedicated funding to build-out the network. In fact, the FCC's National Broadband Plan provides examples of shared networks between public safety and utilities.¹⁶

II. CONCLUSION

Petitioners' waiver requests should be granted with the ability to allow more users on the network, which clearly falls within the definition of Section 337 of the Act. In addition, an expanded public safety user group will drive down infrastructure and device costs as more users will be on the network, making the network more affordable for public safety deployment. Thus, the Commission should reinterpret Section 337 of the Act, as the current Commission rule limits the number of public safety entities that can use the broadband portion of the public safety 700

¹⁴ See Connecting America: The National Broadband Plan, Recommendation 12.4, at p. 252.

¹⁵ *Id.*

¹⁶ See *Id.* at 253 (citing Southern Company networks deployed in the Southeast and the Nevada Shared Radio System, as providing utility and public safety voice radio networks).

MHz spectrum to reflect the aforementioned expanded user groups, as the public interest requires no less.¹⁷

Respectfully submitted,



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¹⁷ 47 U.S.C. §337(f)(1)(a).