

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

In the Matter of)	
)	
Public Safety and Homeland Security Bureau)	PS Docket No. 06-229
Seeks Comment on Petitions for Waiver to)	
Deploy 700 MHz Public Safety Broadband)	
Networks)	

COMMENTS OF THE PUBLIC SAFETY SPECTRUM TRUST CORPORATION

The Public Safety Spectrum Trust Corporation (“PSST”) hereby submits these Comments in response to the December 1, 2010 Public Notice of the Public Safety and Homeland Security Bureau (“PSHSB”) in the above-referenced proceeding.¹ In the *Notice*, the PSHSB seeks comment on three petitions for waiver to deploy public safety broadband systems on the 700 MHz public safety broadband spectrum currently licensed to the PSST.

The PSST hereby incorporates by reference its comments filed recently regarding twenty-four other petitions for early broadband deployment waivers. As discussed in those comments (which are attached to this filing), the PSST encourages the PSHSB to proceed cautiously with the pending petitions and ensure that any new early buildout waiver recipients can demonstrate a solid commitment to participate in related ongoing testing efforts and provide evidence of adequate funding to begin their network deployment expeditiously. The PSHSB should also

¹ *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, Public Notice, DA 10-2278 (rel. Dec. 1, 2010) (“*Notice*”).

maintain the nationwide framework for the 700 MHz interoperable public safety broadband network and ensure that all proposed early buildout system deployments are consistent with that framework. In addition, the PSHSB should maintain the state level coordination approach and require the three petitioners to resolve any overlapping waiver requests. Finally, consistent with the Federal Communications Commission's approach for the initial early buildout waiver recipients, the PSHSB should require the petitioners to enter into a spectrum lease directly with the PSST and pay reasonable lease administrative fees.

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

In the Matter of)	
)	
Public Safety and Homeland Security Bureau)	PS Docket No. 06-229
Seeks Comment on Petitions for Waiver to)	
Deploy 700 MHz Public Safety Broadband)	
Networks)	
)	
Public Safety and Homeland Security Bureau)	
Seeks Comment on Additional Petition for)	
Waiver to Deploy 700 MHz Public Safety)	
Broadband Network)	

COMMENTS OF THE PUBLIC SAFETY SPECTRUM TRUST CORPORATION

Introduction and Summary

The Public Safety Spectrum Trust Corporation (“PSST”) hereby submits these Comments in response to the September 15, 2010 and September 22, 2010 Public Notices of the Public Safety and Homeland Security Bureau (“PSHSB”) in the above-referenced proceeding.¹ In the *Notice*, the PSHSB seeks comment on twenty-three petitions for waiver to deploy public safety broadband systems on the 700 MHz public safety broadband spectrum currently licensed to the PSST. In the *Texas Notice*, the PSHSB seeks comment on an additional waiver petition from the State of Texas (together with the other twenty-three petitioners, the “Petitioners”).

As discussed below, the PSST encourages the PSHSB to proceed cautiously with the pending petitions and ensure that any new early buildout waiver recipients can demonstrate a

¹ *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, Public Notice, DA 10-1748 (rel. Sept. 15, 2010) (“*Notice*”); *Public Safety and Homeland Security Bureau Seeks Comment on Additional Petition for Waiver to Deploy 700 MHz Public Safety Broadband Network*, PS Docket No. 06-229, Public Notice, DA 10-1796 (rel. Sept. 22, 2010) (“*Texas Notice*”).

solid commitment to participate in related ongoing testing efforts and evidence of adequate funding to begin their network deployment expeditiously. The PSHSB should also maintain the nationwide framework for the 700 MHz interoperable public safety broadband network and ensure that all proposed early buildout system deployments are consistent with that framework. In addition, the PSHSB should maintain the state-level coordination approach and require petitioners to resolve overlapping waiver requests. Finally, consistent with the Commission's approach for the initial early buildout waiver recipients, the PSHSB should require petitioners to enter into a spectrum lease directly with the PSST and pay reasonable lease administrative fees.

I. ABOUT THE PSST

The PSST is a non-profit 501(c)(3) entity organized under the laws of the District of Columbia. The PSST has been selected by the Federal Communications Commission ("Commission") as the Public Safety Broadband Licensee ("PSBL") for the 700 MHz public safety nationwide broadband spectrum. The PSST's mission is to provide an organizational structure through which leaders and representatives of national public safety organizations can guide the construction and operation of a nationwide, interoperable, public safety-grade wireless broadband network.²

² The Board of Directors of the PSST consists of representatives of the following organizations: American Association of State Highway and Transportation Officials (AASHTO), American Hospital Association (AHA), Association of Public-Safety Communications Officials – International (APCO), Forestry Conservation Communications Association (FCCA), International Association of Chiefs of Police (IACP), International Association of Fire Chiefs (IAFC), International City/County Management Association (ICMA), International Municipal Signal Association (IMSA), National Association of State EMS Officials (NASEMSO), National Association of State 9-1-1 Administrators (NASNA), National Emergency Management Association (NEMA), National Emergency Number Association (NENA), National Fraternal Order of Police (NFOP), National Governors Association (NGA), and the National Sheriffs' Association (NSA).

II. THE PSHSB SHOULD GRANT THE WAIVER REQUESTS FILED BY PUBLIC SAFETY ENTITIES WITH ADEQUATE FUNDING AND A COMMITMENT TO BEGIN TESTING AND DEPLOYMENT, SUBJECT TO CONDITIONS

Pursuant to the Commission's *Early Deployment Waiver Order*,³ the PSST recently entered into 20 long-term *de facto* transfer spectrum leases with local, regional, and state public safety entities (the "Lessees") planning early deployment operations on the 700 MHz public safety broadband spectrum. As the Commission recognized, these early deployments can "assist the Commission in understanding what additional issues may arise for public safety in connection with the larger goal of establishing a nationwide interoperable broadband network and serve better to inform all parties"⁴ Although the PSST applauds efforts to support the development and deployment of a nationwide network and supports the Petitioners' early deployment goals, it encourages the PSHSB to take a cautious, measured approach to these 24 petitions.

A. The PSHSB Should Review the Petitions Carefully and Seek Appropriate Evidence and Commitments Before Granting Waiver Relief

A number of parties, including the Lessees, PSST, other public safety organizations, the Public Safety Communications Research ("PSCR") program, the Commission's Emergency Response Interoperability Center ("ERIC"), PSHSB, and the Commission have already taken a number of steps to facilitate the deployment of public safety broadband networks on the 700 MHz public safety broadband spectrum. The PSST, for example, has met its commitments detailed in the *Early Deployment Waiver Order*, including entering into *de facto* transfer spectrum leases with the Lessees and preparing and submitting a budget for related

³ *Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks*, Order, 25 FCC Rcd 5145 (2010) ("*Early Deployment Waiver Order*").

⁴ *Id.* at ¶ 11.

administrative fees, and it continues to satisfy all of the ongoing requirements such as submitting monthly financial reports and coordinating with the 20 Lessees regarding their quarterly reports. In addition, the PSST has provided input to the Commission on a number of public safety broadband issues during the past year, including with respect to early deployment, interoperability, health information technologies for public safety, rural and tribal deployment, 700 MHz band equipment design, and competition for public safety equipment technologies.

Currently, the 20 Lessees are still in the initial stages of planning and securing reliable networking funding (and some have indicated that they did not receive BTOP funding and may be unable to move forward until alternative funding sources are identified). In addition, as the PSHSB recognizes in the *Notice*, ERIC is currently developing initial interoperability rules for the early deployment networks and PSCR is coordinating a demonstration broadband network. The PSST agrees with the Commission that there will be many lessons to be learned from these early deployments; as of this time, however, there is not yet enough experience or reviewable data from the initial 20 lessees on which to base such lessons.

The PSST encourages the PSHSB to act cautiously on the pending 24 waiver requests to minimize unnecessary administrative burdens on the PSHSB, the PSST, and other parties. For example, before obtaining waiver relief, the Petitioners should – in addition to the other conditions imposed in the *Early Deployment Waiver Order* – be required to demonstrate a commitment to participate in related ongoing testing efforts. They should also be required to provide documentation of substantial support from public safety agencies that would be served by the proposed broadband system. The PSHSB should also require Petitioners to submit evidence of adequate funding to begin their network deployment expeditiously. Petitioners that

are not state entities should also provide evidence of full coordination at the state level, as discussed in Section II.D, below.

Any relief provided to the appropriate waiver applicants should continue to advance, not hinder, the FCC’s nationwide interoperability goal. Waiver recipients must ensure that their proposed networks are fully interoperable with the future nationwide network and incorporate a uniform technology, nationally coordinated technical standards and operating requirements (including priority access protocols), and network sharing and roaming functionality.

To the extent Petitioners can meet these requirements and thereby indicate a substantial readiness to move forward with their proposed broadband networks, the PSST recommends that the PSHSB grant the waiver requests.

B. The PSHSB Should Maintain the Nationwide Framework for the 700 MHz Interoperable Public Safety Broadband Network

Any waiver relief granted to the Petitioners should leave the nationwide licensing and administrative framework for the 700 MHz public safety broadband spectrum intact. Doing so is critical for achieving key public safety and broadband deployment goals, including facilitating the development and deployment of a 700 MHz nationwide interoperable public safety broadband network as well as the local, regional, and state systems being constructed by the early deployment waiver recipients.⁵

As the nationwide PSBL, the PSST can efficiently serve as the primary public safety interface with the Commission, PSHSB, ERIC, equipment vendors, and commercial wireless licensees to advocate on behalf of all public safety users – especially the public safety early

⁵ See, e.g., *Service Rules for the 678-746, 747-767 and 777-792 MHz Bands*, Second Report and Order, 22 FCC Rcd 15289 ¶¶ 369-70 (2007) (“700 MHz Second Report and Order”) (discussing the goals of nationwide interoperability and a “robust, cost effective, spectrally efficient network,” and noting the benefits of economies of scale).

deployment waiver recipients. The PSST can also monitor and oversee the deployment of the 700 MHz nationwide interoperable public safety broadband network while streamlining and avoiding redundant costs. For example, the PSST can leverage its administrative and technical expertise (and the expertise of the national public safety entities represented on the PSST Board) on behalf of public safety entities that have limited resources or are less engaged on such issues, including entities in some small communities and in rural areas, to ensure that they obtain the same quality and range of innovative equipment and services that are available to public safety users with more resources. Without a nationwide framework, individual states or jurisdictions could be left without access to the resources of a nationwide public safety network.

In addition, only through a nationwide licensing and administrative framework can the PSHSB fully address the public safety community's need for nationwide interoperability and roaming. In 2007, the Commission determined that a single nationwide public safety license was the best model for achieving ubiquitous, interoperable public safety broadband services and that this approach would reduce administrative burdens on both the public safety community and the Commission.⁶ Moreover, the interoperability benefits from a nationwide license and administrative framework will also serve better the needs of public safety users in small communities and in rural areas, as a nationwide license framework provides protection against multiple "islands of incompatibility" across public safety jurisdictions. For example, the PSST can track and mobilize deployment in rural areas, promoting nationwide buildout and sharing successful models for early deployment based on its role as the lessor for the early deployment waiver recipients.

⁶ *Id.* at ¶ 369 (2007).

C. The PSHSB Should Grant Relief Only to Waiver Applicants that Satisfy the Requirements of Section 337

In the *Notice*, the PSHSB seeks comment on the eligibility of the petitioners under Section 337 of the Communications Act, as amended.⁷ The PSBL spectrum is currently allocated for “public safety services” under Section 337.⁸ Because the PSHSB cannot waive a statutory requirement, the proposed early buildout system deployments must be consistent with Section 337. Thus, the Petitioners’ “sole or principal purpose” must be “to protect the safety of life, health, or property,” and they must meet the other requirements of Section 337.⁹

If necessary, the PSHSB should provide Petitioners whose eligibility is not readily apparent an opportunity to amend their petitions. It may also need to seek additional information or require ongoing certifications from Petitioners to ensure that their proposed systems are consistent with Section 337. However, the PSST also urges the PSHSB to authorize as broad a range of public safety users and critical infrastructure industry users as possible on the Petitioners’ systems.

D. The PSHSB Should Maintain the State-Level Coordination Approach and Require Petitioners to Resolve Overlapping Waiver Requests

The PSHSB should maintain the state-level coordination approach adopted in the *Early Deployment Waiver Order*.¹⁰ Specifically, a Petitioner should be required to certify that it has provided appropriate notice to the state and that the state is coordinating with and has no objection to the Petitioner’s proposed deployment.¹¹ In addition, the PSHSB should require

⁷ *Notice* at 2.

⁸ *See* 47 U.S.C. § 337.

⁹ *See id.*

¹⁰ *See Notice* at 2-3; *Early Deployment Waiver Order* at ¶¶ 52-54.

¹¹ *See Early Deployment Waiver Order* at ¶ 52.

Petitioners that file requests for local, regional, and state systems that overlap geographically with each other (or with waivers granted to the existing Lessees) to resolve any conflicts.

E. The PSHSB Should Require Petitioners to Enter into a Spectrum Lease Directly with the PSST, and it Should Authorize the PSST to Collect Reasonable Lease Administrative Fees

The PSHSB should also require all Petitioners to enter into a spectrum lease directly with the PSST as a condition of waiver relief.¹² As the Commission recognized, the existing spectrum leasing rules “provide the most workable framework for granting conditional authority to Petitioners.”¹³ In addition, they are “an effective way to ensure accountability to the Commission by both the licensee and the spectrum lessee, while still allowing the lessee adequate flexibility, as well as sufficient rights and certainty.”¹⁴

When it granted the first set of early deployment waivers, the Commission recognized “the important role that the PSST serves in the leasing context,” including “its responsibility to retain *de jure* control of the public safety broadband spectrum” and its “role in providing important input into the framework being developed by ERIC that defines the interoperability criteria for the Petitioners’ early deployments.”¹⁵ The Commission also recognized that the PSST would “incur limited but legitimate transaction costs in preparing and executing [the] leases,”¹⁶ and required that the leases between the PSST and the waiver recipients include a provision for “an administrative fee that will provide for the PSST’s legitimate expenses”

¹² *See id.* at ¶ 20.

¹³ *Id.* at ¶ 21.

¹⁴ *Id.*

¹⁵ *Id.* at ¶ 30; *see also Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band*, PS Docket No. 06-229, Order, DA 10-1494 ¶ 8 (rel. Aug. 11, 2010) (approving the PSST’s proposed budget for lease administrative fees) (“*PSST Budget Order*”).

¹⁶ *Early Deployment Waiver Order* at ¶¶ 30, 32; *PSST Budget Order* at ¶ 8.

Consistent with the *Early Deployment Waiver Order*, the PSHSB should require additional waiver recipients to pay such fees to the PSST.

As the PSHSB is aware, the PSST submitted a proposed budget detailing the expected administrative expenses to be incurred by the PSST during the first year of the spectrum leases with the initial 21 waiver recipients (only 20 of which entered into spectrum leases with the PSST). The PSST similarly can submit a proposed lease administrative fees budget for any new waiver recipients after the PSHSB grants the appropriate waiver relief. At that point, the PSST will know how many waivers have been granted and the specific conditions (including leasing conditions) that may be applicable to the waiver recipients, both of which can affect the budget. The PSST also recommends avoiding commingling the lease administrative fees for new waiver recipients with the fees collected from the existing 20 Lessees for certain expenses relevant only to the current group of Petitioners, depending on the PSHSB's decision in this proceeding.¹⁷

¹⁷ The PSST's lease administrative expenses can also be apportioned between the waiver recipient groups to the extent such expenses are incurred for both groups. In addition, the PSHSB should consider providing additional flexibility to the PSST to raise funds from parties other than the waiver recipients to support its ongoing operational expenses unrelated to the early deployment leases.

III. CONCLUSION

For the foregoing reasons, the PSHSB should take a cautious, measured approach to the pending waiver petitions and adopt appropriate conditions to ensure successful early deployment.

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