UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications and Information
Washington, D.C. 20230

APR 8 2011

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Genachowski:

On March 7, 2011, the City of Charlotte, North Carolina (Charlotte) filed a petition for declaratory ruling with the Federal Communications Commission (Commission) requesting, among other things, that the Commission clarify the scope of activities that are permitted to be conducted by entities authorized to operate on the 700 MHz public safety broadband spectrum.[1] On March 22, 2011, the Public Safety and Homeland Security Bureau issued a Public Notice requesting comment on Charlotte's petition.[2] The National Telecommunications and Information Administration (NTIA) supports Charlotte's petition and requests that the Commission issue the declaratory ruling sought by the petition.

Under the American Recovery and Reinvestment Act of 2009 (Recovery Act), one of the core purposes of the Broadband Technology Opportunities Program (BTOP) is "to improve access to, and use of, broadband service by public safety agencies."[3] To that end, NTIA invited the public safety community to submit applications in the first and second rounds of BTOP funding and considered the advancement of broadband initiatives to support public safety as a selection factor in determining which projects to award funding.[4] NTIA further demonstrated its commitment to the public safety community by reopening the second round of funding solely to accept applications from entities that had received waiver authority from the Commission to use the 700 MHz public safety broadband spectrum.[5] NTIA ultimately committed approximately $382 million in federal funds in awards to seven 700 MHz public safety pilot projects intended to inform the broader deployment of a nationwide interoperable public safety broadband network.[6]

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[1] The City of Charlotte, North Carolina Request for Declaratory Ruling (Charlotte Petition), PS Docket No. 06-229 (Mar. 7, 2011) (Charlotte Petition).

[2] *See* Public Safety and Homeland Security Bureau Seeks Comment on Petition for Declaratory Ruling Asking to Clarify the Scope of Section 337 Regarding Use by State or Local Government Entities of the 700 MHz Public Safety Broadband Spectrum, PS Docket 06-229, DA 11-537 (rel. Mar. 22, 2011).

[3] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, §6001(b), 123 Stat. 115, 512-13 (2009) (Recovery Act).

[4] Notice of Funds Availability and Solicitation of Applications, 74 Fed. Reg. 33104, 33108 (July 9, 2009), and Notice of Funds Availability and Solicitation of Applications, 75 Fed. Reg. 3792, 3795 (Jan. 22, 2010).

[5] Notice of Funds Availability; Reopening of the Application Filing Window for Broadband Technology Opportunities Program Comprehensive Community Infrastructure Projects, 75 Fed. Reg. 96 (May 19, 2010); *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).

[6] BTOP funded 700 MHz public safety projects in Adams County, Colorado; Albuquerque and Santa Fe, New Mexico; Charlotte, North Carolina; Los Angeles and the San Francisco Bay Area of California; the state of Mississippi; and northern New Jersey.

NTIA recognized that utilizing the 700 MHz public safety broadband spectrum would increase the nationwide interoperable broadband communications capabilities of first responders and public safety agencies, improve public safety communications by providing dedicated broadband capacity for public safety uses, and enhance emergency response capabilities through support of broadband-enabled applications. Likewise, the President showed his strong commitment to the public safety community through his Fiscal Year 2012 budget proposal, which calls for $10.7 billion to support the development and deployment of a nationwide wireless broadband network for public safety agencies, including $500 million from the Wireless Innovation (WIN) Fund for research and development.[7]

NTIA selected Charlotte's CharMeck Connect project for a BTOP award because its proposed 700 MHz network would embody these comprehensive public safety goals. The project will provide government officials and first responders with essential capabilities such as live streaming video, automatic vehicle location, field-based reporting and image transfer, computer aided dispatching, and advanced mapping capabilities. CharMeck Connect also will serve as a demonstration project for national implementation of a 700 MHz interoperable public safety wireless broadband network. It is vital that Charlotte continue with these efforts, not only to provide its community with the highest level of public safety services, but to inspire and inform similar efforts across the country.

With respect to Charlotte's current petition to the Commission, NTIA agrees with Charlotte's interpretation of the Commission's rules regarding 700 MHz narrowband and broadband system eligibility, *i.e.*, the activities that may be conducted on the 700 MHz spectrum are not limited to those involving police, fire, and medical personnel who have as their sole or principal purpose the protection of public safety, health, or property. Specifically, NTIA agrees that the Commission should confirm that "territories, possessions, states, counties, towns or similar State or local government entities that qualify as 700 MHz lessees/users presumptively have as their sole or principal purpose the protection of the safety of life, health, and property and are permitted to use 700 MHz broadband spectrum for activities conducted by their personnel including, but not limited to, activities of police, fire and medical emergency responders."[8] This confirmation would be consistent with the letter and spirit of Section 337 of the Communications Act, and would remove any uncertainty with respect to access to the 700 MHz system by other governmental users whose activities are essential in supporting emergency response efforts.[9] Moreover, this confirmation would ensure that Charlotte and the other waiver recipients can deploy systems that are both financially viable and operationally sound.

NTIA is encouraged that the Commission is exploring use by utilities, public works, and others on public safety 700 MHz networks as a mechanism to coordinate common activities and respond jointly to emergencies, as well as a method to spread costs and capitalize on

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[7] Office of Management and Budget, Executive Office of the President, Budget of the United States Government, Fiscal Year 2012 (2012), *available at* http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/budget.pdf.

[8] Charlotte Petition at 3.

[9] *See* 47 USC § 337(f)(1).

infrastructure sharing opportunities.[10] In that spirit, I look forward to continuing to work with you to resolve these issues and to ensure that the nation achieves an interoperable public safety broadband network.

Respectfully submitted,

Lawrence E. Strickling

[10] *Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band*, Third Report and Order and Fourth Notice of Public Rulemaking, 26 FCC Rcd 1810 (2011) at ¶ 135.