



NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL

October 31, 2007

Ms. Marlene H. Dortch
Secretary to the
Federal Communications Commission
Washington, D.C. 20554

Re: In the Matter of the Service Rules for the 698-746, 747-762
and 777-792 MHz Bands, *et al*, WT Docket No. 06-150 and PS
Docket No. 06-229

Dear Ms. Dortch:

On behalf of the National Public Safety Telecommunications Council (NPSTC), this letter addresses Frontline Wireless, LLC's (Frontline) proposal to establish a comprehensive regulatory structure governing the obligations of the D Block licensee to the 700 MHz public safety broadband segment.¹ NPSTC urges the Commission to reject Frontline's proposal. It will remove the incentives underlying the public private partnership and undermine immeasurably the yet to be appointed Public Safety Broadband Licensee.

The Commission's decision addressing the structure and service rules of the 700 MHz Band designated a D block for a commercial licensee to be part of a public/private partnership with the Public Safety Broadband Licensee. The Public Safety Broadband Licensee is responsible for administering the 700 MHz public safety broadband segment. Through the partnership, a nationwide interoperable broadband network for public safety will be deployed and maintained. The auction winner of the nationwide 10-megahertz D Block will be awarded a license once it has entered into a Commission-approved Network Sharing Agreement (NSA) with the Public Safety Broadband Licensee. The D Block license is conditioned upon the licensee constructing and operating the nationwide, interoperable broadband network across both the D Block and the 700 MHz public safety broadband spectrum. These fundamental elements constitute the public private partnership and are the means to provide broadband access to the Nation's public safety agencies.

The Commission established requirements addressing the shared wireless broadband network and detailed rights and obligations of the D Block licensee and the

¹ *Request to Further Safeguard Public Safety Service* (September 20, 2007) and *Supplement to Request Further Safeguard* (October 15, 2007) submitted by Frontline in the above dockets.

American Association of State Highway and Transportation Officials | American Radio Relay League | American Red Cross | Association of Fish and Wildlife Agencies | Association of Public Safety Communications Officials | Forestry Conservation Communications Association | International Association of Chiefs of Police | International Association of Emergency Managers | International Association of Fire Chiefs | International Municipal Signal Association | National Association of State Chief Information Officers | National Association of State Emergency Medical Services Officials
National Association of State Foresters | National Association of State Telecommunications Directors

Public Safety Broadband Licensee. The purpose of the NSA is to facilitate shared use of the network and the spectrum over which it operates. The Commission placed conditions on the D Block license to protect services to the public safety community and to facilitate the success of the 700 MHz Public/Private Partnership.

Frontline proposes that the responsibilities of the D Block licensee to the Public Safety Broadband Licensee be separately regulated by the Commission and be distinct from its activities as a commercial licensee. The D Block licensee would establish a separate subsidiary to perform the partnership responsibilities. Frontline argues that such will ensure fair and reasonable rates for public safety agencies. It states that agencies will be charged the incremental costs associated with the public safety broadband segment. To determine incremental costs, cost accounting and cost allocation rules would be prescribed. The Commission would be the arbiter of the formulas and determine the level of incremental cost to be assessed.

NPSTC suggests that it is not the Commission's intent, in establishing the public private partnership, to isolate the D Block's licensee's commercial activities from its responsibilities to the 700 MHz public safety broadband segment. NPSTC thinks that those purchasing the D Block spectrum must reflect a commitment to an integrated effort to make the commercial and public safety segments succeed. To do otherwise dilutes the very character of the partnership. The value of the endeavor and its success is diminished considerably if the D Block licensee is shielded from the challenges to deploy and maintain a public safety broadband interoperable network. Frontline's explicit statement that the structure will protect the D Block licensee's commercial interests from the risks of the build out and operations relating to the public safety segment contradicts the foundation of the shared network and the public private partnership established by the Commission.

Under Frontline's proposal, while the D Block subsidiary can make no profit from its activities relating to the public safety broadband segment, it is assured of incurring no loss. It cannot be that the Commission intended that the partnership be a risk free opportunity for the D Block licensee. It must bring its technical and management expertise to work with the Public Safety Broadband Licensee to deploy and maintain a viable network for the public and private interests at stake.

Frontline's structure would replace the partnership's relationship with the Public Safety Broadband Licensee. It would pursue the ever elusive concept of incremental costs through complex cost accounting and allocation rules, structural safeguards and the range of proceedings associated with historic public utility regulations. It's parallel to the Universal Service Administrative Company, which administers the subsidy program to high cost and rural areas for telephone service, and is properly isolated from the carriers receiving and contributing funding, contradicts that the effort is a partnership.

The proposal undermines the authority and discretion of the Public Safety Broadband Licensee. It establishes a regulatory apparatus at the Commission to review the D Block licensee's operations and cost structure and will supplant the role of the Public Safety Broadband Licensee. It substitutes negotiation between the D Block licensee and the Public Safety Broadband Licensee called for by the Commission's decision and rules and moves these decisions to a debate over cost accounting and allocation rules. Such protracted proceedings will delay indeterminably a nationwide interoperable broadband network for public safety.

NPSTC has consistently stated that the success of the partnership relies on the D Block licensee having a viable opportunity to pursue a return on its investment. It may be that parameters addressing costs of the public safety broadband segment will need to be established. Yet any parameters, and the details of the NSA, must first and foremost be the subject of negotiations between the Public Safety Broadband Licensee and the winner of the D Block auction. A partnership encompasses responsibility and risk. The D Block licensee should not be isolated from this reality. For these reasons, the National Public Safety Telecommunications Council urges the Commission to reject Frontline's proposal.

Respectfully,

A handwritten signature in cursive script that reads "Vincent R. Stile".

Vincent Stile, Chair
National Public Safety
Telecommunications Council

