

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

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

**COMMENTS OF
THE NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL**

The National Public Safety Telecommunications Council (NPSTC) submits these Comments in response the Commission’s Public Notice seeking input on requests for waivers to deploy 700 MHz public safety broadband systems.¹ NPSTC supports those requests by public safety entities that specify operation on the 763-768/793-798 MHz broadband 700 MHz spectrum. Such use would be under an agreement with the Public Safety Broadband Licensee (PSBL), the nationwide licensee of that spectrum, and with regional systems constructed to meet interoperability requirements. NPSTC recommends the Commission move forward with waiver grants for operation in this block of spectrum in parallel to public safety efforts also to reallocate the adjacent D block to public safety. Should that reallocation occur, the Commission can then add the spectrum in the D block to the waiver authorizations. NPSTC opposes use of the narrowband 700 MHz spectrum for broadband as one petitioner requested, and recommends the Commission provide an opportunity for that agency to amend its petition to specify use of the PSBL spectrum instead.

¹ Public Notice DA 09-1819 in PS Docket No. 06-229, released August 14, 2009.

The National Public Safety Telecommunications Council

The National Public Safety Telecommunications Council (NPSTC) is a federation of public safety organizations whose mission is to improve public safety communications and interoperability through collaborative leadership. NPSTC pursues the role of resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC has promoted implementation of the Public Safety Wireless Advisory Committee (PSWAC) and the 700 MHz Public Safety National Coordination Committee (NCC) recommendations. NPSTC explores technologies and public policy involving public safety telecommunications, analyzes the ramifications of particular issues and submits comments to governmental bodies with the objective of furthering public safety telecommunications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications.

The following 15 organizations participate in NPSTC:

American Association of State Highway and Transportation Officials
American Radio Relay League
Association of Fish and Wildlife Agencies
Association of Public-Safety Communications Officials-International
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 Technology Directors
National Emergency Number Association
National Sheriffs' Association

Several federal agencies are liaison members of NPSTC. These include the Department of Homeland Security (the Federal Emergency Management Agency, the Office of Emergency Communications, the Office of Interoperability and Compatibility, and the SAFECOM Program); Department of Commerce (National Telecommunications and Information Administration); Department of the Interior; and the Department of Justice (National Institute of Justice, CommTech Program). NPSTC has liaison relationships with associate members, the Telecommunications Industry Association and the Canadian Interoperability Technology Interest Group.

NPSTC Supports Waiver Grants to Use Broadband Spectrum
with Pertinent Conditions

NPSTC supports grants of waivers to deploy regional broadband networks in public safety broadband spectrum, subject to conditions to ensure interoperability and to agreements between regional entities and the PSBL. Pending changes to the rules to allow the PSBL to take such steps without the need for a waiver, these waiver grants will involve local/regional public safety entities in system deployment and therefore should enable a balance of interoperability and operability for public safety broadband communications. Furthermore, public safety agencies already control a number of resources such as sites, backup generators, etc. for their existing or planned voice systems that can be leveraged to help reduce the cost of deploying broadband.

In its Public Notice, the Commission asks whether it should consider acting on these petitions for waiver prior to completing action on the rulemaking itself, and, if so, are there waiver conditions or other measures it should adopt to avoid prejudging pending issues in the

rulemaking. NPSTC encourages the Commission to grant the waivers without delay to use the broadband spectrum at 763-768/793-798 MHz, under an agreement that each waiver grantee would enter into with the Public Safety Spectrum Trust (PSST), the nationwide PSBL authorized for that spectrum. Such an agreement should provide for interoperability and leave flexibility for waiver grantees to deploy regional systems that also meet the operational needs of their respective areas. For example, the provisions for backup power needed may be more stringent in a hurricane-prone area than in an area that seldom faces such risks.

NPSTC believes that public safety entities which have asked for the authority to deploy regional broadband systems will need a requisite degree of certainty to move forward with requests for proposals (RFPs) and funding to implement systems. While the wording of specific waiver requests vary somewhat, most of the petitions for waiver are focused primarily on the broadband spectrum licensed to the PSBL. Therefore, NPSTC encourages the Commission to move forward with waiver grants for regional public safety use of the current broadband spectrum licensed to the PSBL, i.e., 763-768/793-798 MHz, under the conditions noted in these NPSTC comments.

NPSTC strongly supports the reallocation of the D block to public safety and recognizes that some reasonable period of time will be needed for reallocation efforts to be conducted and completed. To avoid unnecessary delays, NPSTC encourages the Commission to work closely with public safety and Congress to support the reallocation of the D block to public safety so it can be combined with the existing public safety broadband block under the PSBL's nationwide license as soon as possible. Notably, Attorney General Eric Holder, the top attorney in the country with significant experience in law enforcement and a senior official of the

Administration, recently indicated support for reallocation of the D block to public safety.²

Should the D block reallocation occur as recommended, waiver grants could be modified at that time to include authority for regional use of the additional spectrum.

NPSTC opposes use of the 700 MHz narrowband or guard band spectrum for broadband operations. Doing so would eliminate the ability to use the narrowband segments for its primary intended use of mission critical voice systems, within portions of the same or adjacent regions. As noted in an ex parte letter from the Public Safety Spectrum Trust (PSST), it would likely be 10 to 15 years or more before most public safety entities would be in a position to seriously consider substituting broadband voice for today's land mobile radio mission critical voice solutions.³ As the nationwide PSBL and a strong proponent of implementing broadband systems for public safety, the PSST has no vested interest in pointing out the realistic limitations of voice over broadband, other than to represent the needs of public safety. Therefore, the PSST should be afforded significant credibility on this issue.

To the extent a specific petition for waiver is unclear about the spectrum requested or proposes spectrum other than the 5+5 MHz of broadband spectrum licensed to the PSBL, the Commission could provide an opportunity for those petitioners to appropriately modify their requests on an expedited basis so they could be granted. NPSTC also believes the Commission should entertain waivers for use of this spectrum to deploy a network only from public safety entities. Accordingly, we recommend the Commission dismiss the petition for waiver submitted by New EA/Flow Mobile to deploy a system in the state of North Dakota. We note that North Dakota itself filed an almost duplicate waiver request, so dismissal of the New EA/Flow Mobile

² Remarks of Attorney General Eric Holder at the International Association of Chiefs of Police (IACP), Denver, CO on October 5, 2009.

³ Letter dated October 1, 2009 from Chief Harlin R. McEwen, Chairman of the PSST Corporation to Jennifer A. Manner, Deputy Chief of the FCC Public Safety and Homeland Security Bureau

petition would have no impact on the provision of broadband public safety service in that state.

Recommended Conditions Applicable to Waiver Grants

As referenced in the Commission's Public Notice, NPSTC, the PSST, APCO and NENA have all endorsed LTE as the preferred broadband interoperability Radio Access Network (RAN) technology for use at 700 MHz.⁴ NPSTC recommends the Commission proceed with caution on any waiver request that envisions a new broadband deployment with technology other than LTE. Migrations of technology are seldom as quick and easy to achieve in reality as they are in theory. Therefore, NPSTC believes that new broadband regional systems would be best implemented by deploying LTE from the outset. This could be implemented in one of two ways. The Commission could include a condition on the waiver grant requiring the deployment of LTE as the interoperable radio access network technology. As an alternative, the Commission could require waiver grantees to deploy broadband interoperable technology consistent with that defined by the PSST in a spectrum use agreement. The latter approach considers the Commission's normal reluctance to define technology but adds teeth to any PSBL requirement for regional public safety entities to deploy LTE.

The economies of scale with LTE are expected to be with equipment which has paired channel widths of 5+5 MHz or more. With broadband, the limited spectrum available does not support the traditional approach of assigning some channels to one agency and other channels to another agency. Therefore, systems must be regional in nature, serving multiple jurisdictions in a region. NPSTC recommends that the Commission condition waiver grants to require entities receiving waivers to offer broadband service to any eligible public safety entity requesting such

⁴ FCC Public Notice at page 7.

service within the footprint of the respective regional system deployed. The waiver grantee should be afforded the flexibility to determine prioritization among users on the system on a dynamic basis, within any overall framework guidelines from the PSST.

NPSTC also recommends the Commission consider the recommendations in the Broadband Task Force Report in moving forward to grant waivers and make adjustments to the rules.⁵ These recommendations include a sample template on which to base the development of a sublicense/lease agreement between the PSBL and the regional public safety entities, as well as provisions for interoperability and roaming.

NPSTC believes the PSBL and regional entities will need some latitude to make decisions that enable the deployment of broadband systems that meet both operational and interoperability needs. Therefore, rather than having the Commission try to specify every element of a deployment plan in the rules or in conditions on waiver grants, NPSTC has recommended the establishment of an Advisory Group made up of representatives of the regional system operators and PSST to continue follow-on work and to provide advice to the PSST Board.

The Commission requested comment about how it should address any existing narrowband operations that have yet to be relocated in the areas where Petitioners propose to deploy their networks. The 700 MHz public safety band plan was revised after narrowband operations began to be deployed and some narrowband systems must be “relocated” to different spectrum segments within the 700 MHz band to conform to the revised band plan. Based on previous filings with the Commission, approximately 45 to 50 agencies were able to deploy on the 700 MHz narrowband spectrum prior to the end of the DTV transition which just occurred

⁵ See www.NPSTC.org

June 12, 2009. Some of the areas that have requested waivers are unlikely to have narrowband operations deployed under the previous band plan because the presence of TV in the 700 MHz band until the end of the DTV transition prevented 700 MHz deployment in many areas of the country, especially major urban areas.

To the extent any existing narrowband operations deployed under the previous band plan are in areas that would be impacted by broadband deployment under the waivers, NPSTC believes the licensees of those deployed narrowband systems, broadband waiver grantees and the PSBL would need to reach some agreement on a compatible timetable for relocation of the narrowband systems. Ultimately, funding may be needed to enable relocations of narrowband systems to conform to the revised band plan. Since such relocations would be a prerequisite for broadband deployment, NPSTC believes funding necessary to support narrowband relocations should be provided priority under the next round of BTOP funds being administered by NTIA. With full power television stations now cleared from the 700 MHz spectrum, additional public safety entities will be able to deploy narrowband systems. However, those would have no impact on broadband since they should be deployed under the revised bandplan.

The Commission requests comment on the appropriate means of enforcement to ensure any conditions placed on waiver grants are met. Public safety entities deal with command structures every day and understand the necessity of following established rules of engagement. Therefore, NPSTC does not envision significant problems arising with public safety waiver grantee compliance, and encourages the Commission to focus primarily on how to enable broadband deployment. Any waiver grantee would need to enter into an agreement with the PSBL to operate under its nationwide license, so NPSTC believes the Commission can rely primarily on the PSBL to help ensure rules and conditions are met. The template included in the

NPSTC Broadband Task Force Report sets forth provisions to encompass any violation of the Commission rules by waiver grantees.

The Commission requests comment on how to address multiple requests from jurisdictions that cover the same geographic area. NPSTC believes that multiple jurisdictions requesting the same area or areas in close proximity must reach agreement on how to deploy in a compatible manner to avoid interference before deployment in any potential signal overlap areas actually commences. The Commission could include a condition on relevant waiver grants that requires affected grantees to coordinate with one another on deployment subsequent to waiver grants. Similar to recommendations above regarding enforcement, any necessary dispute resolution for issues that cannot be resolved by the waiver grantees themselves should reside with the PSBL. The Commission should engage in any necessary dispute resolution only if and when critical conflicts cannot be resolved directly by the parties or with the help of the PSBL.

NPSTC does see value in the deployment of trial systems by these regional agencies first to work out any unexpected issues before full deployment is required. Therefore, any time limits on the waivers or build-out requirements imposed by the Commission or the PSBL should support the completion of such trials for those agencies who wish to do them before full broadband system deployment. While most waiver petitioners have also emphasized the need for fast Commission action on the waivers to start the process, in addressing any buildout conditions, the Commission also will need to provide reasonable time for grantees to follow processes to develop and issue requests for proposals, obtain and evaluate responses, select vendors and/or partners and execute system deployment. As with a number of the Commission's processes, many of the steps public safety agencies will need to take to implement broadband systems are controlled by provisions of law.

Summary

NPSTC urges the Commission to grant those requests by public safety entities to deploy regional broadband systems on the 763-768/793-798 MHz broadband 700 MHz spectrum. Such use should be under an agreement with the Public Safety Broadband Licensee (PSBL), the nationwide licensee of that spectrum. Further regional systems should be constructed to meet interoperability requirements as recommended by NPSTC herein. The administration and enforcement of such conditions should be handled by the PSBL. In addition, the Commission should allow sufficient flexibility for waiver grantees to deploy interoperable broadband systems designed to meet the particular operational requirements of their respective region.

Respectfully submitted,



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