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

In the Matter of

Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended	WT Docket No. 99-87 RM-9332
Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies	

REPLY COMMENT OF THE NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS COUNCIL

The National Public Safety Telecommunications Council (NPSTC) submits this Reply Comment in response to comments filed addressing the Petition for Reconsideration of the City of New York with regard to the Commission's *Third Report and Order* in the above docket. The Commission's decision relates to the transition to 6.25 kHz narrowband efficiency in the 150-174 MHz or 421-512 MHz bands.[1] NPSTC supports New York City's Petition for Reconsideration. The Commission should step back and evaluate the range of mandates currently being imposed on public safety agencies to ensure that each will enhance emergency response. Land mobile communications in the public safety sector will benefit from an integrated, coordinated and balanced regulatory structure addressing its many challenges, including New York City's objection to mandated 6.25 kHz efficiency.

[1] Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Report and Order WT Docket* No. 99-87, RM-9332, FCC 07-39 (March 26, 2007) 72 Fed. Reg. 19387 (April 18, 2007), Petition for Reconsideration of the City of New York, WT Docket No. 99-87, RM-9332, filed May 18, 2007, 72 Fed. Reg. 31329 (June 6, 2007).

The National Public Safety Telecommunications Council

NPSTC serves both as a resource and advocate for public safety organizations in the United States on matters relating to public safety telecommunications. NPSTC is a federation of public safety organizations dedicated to encouraging and facilitating, through its collective voice, the 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 agencies, analyzes the ramifications of particular issues, and submits comments to governmental bodies with the objective of furthering public safety communications worldwide. NPSTC serves as a standing forum for the exchange of ideas and information for effective public safety telecommunications. The following 14 organizations participate in NPSTC:

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-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 Telecommunications Directors

Several federal agencies are liaison members of NPSTC. These include the Department of Agriculture, 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 also has a liaison relationship with the Telecommunications Industry Association.

Summary of Comments

In the *Third Report and Order*, the Commission addressed when it would mandate 6.25 kHz technology in the 150-174 MHz or 421-512 MHz bands. It noted that 12.5 kHz technology is but a transitional step in the migration to 6.25 kHz efficiency. The Commission stated that it would monitor the progress made by standards-setting organizations and equipment manufacturers to develop more spectrum-efficient systems. When that technology matures where sufficient equipment is available for testing, the Commission stated that it "will expeditiously establish a transition date…." The Commission urged licensees to consider migrating directly from 25 kHz technology to 6.25 kHz technology prior to January 1, 2013. It suggested that such a course will be more efficient and economical than first migrating to 12.5 kHz technology.[2]

There were no opposition comments filed; all comments supported New York City's Petition for Reconsideration. The Land Mobile Communications Council (LMCC) stated that

[2] Third Report and Order at paragraph 11.

the issues presented by New York City are applicable to Business/Industrial/Land Transportation licensees, particularly those with large fleet operations such as utilities, railroads, airlines and overnight delivery operations. Beyond the economic impact on the investment these licensees are making to transition to 12.5 kHz technology, LMCC notes the substantial unresolved technical challenges presented with regard to 6.25 kHz. Most of LMCC members are certified frequencies coordinators, their current work in the 12.5 kHz transition is directed toward ensuring licensees' reasonable expectation of protection from interference in the new environment. This difficult and complex work would be harmed by a mandate to move from 25 kHz directly to 6.25 kHz.

The Utilities Telcom Council (UTC) supports the Reconsideration Petition. It notes that a reasoned migration path to 6.25 kHz efficiency must be established. The challenges faced by the public sector are replicated in the utility industry; its responsibility to the critical infrastructure it must build and maintain will otherwise be adversely affected. UTC notes that the Commission's intention in the *Third Report and Order* will disrupt the current mandate to move to 12.5 kHz efficiency. UTC advocates that the Commission reexamine the 6.25 kHz mandate in the context of the expanding need for broadband. It suggests that a focus on only spectrum efficiency objective will not provide optimal use of the spectrum.

In embracing New York City's Reconsideration Petition, the Association of American Railroads (AAR) states that the Commission's notice that any investment in new 12.5 kHz equipment may be rendered obsolete by regulatory fiat before the end of its useful life is onerous and wasteful. It relates that some AAR members have suspended their transition to 12.5 kHz equipment. AAR echoes New York City's concern that any intention to mandate 6.25 kHz efficiency must be supported by evidence of viable and proven technology. The lack of

interoperability standards and the increased complexity at 6.25 kHz efficiencies present but two of the challenges that have yet to be resolved. AAR notes that the Commission's action in the *Third Report and Order* now presents significant risk to timely transition to 12.5 kHz.

Motorola, Inc. (Motorola), in supporting the Reconsideration Petition, states that the Commission has created uncertainty in the marketplace regarding the transition to narrowband equipment. It urges the Commission to clarify that any additional mandate will be imposed only after full notice and comment that allows opportunity to examine the financial and operational impact on licensees. Motorola notes that the Commission's statements conveying intent to expedite the transition to more efficient technologies are having the opposite effect. Users are wary that the Commission will mandate 6.25 kHz efficiency that does not allow for full amortization or depreciation of 12.5 kHz equipment.

The Enterprise Wireless Alliance (EWA) urges the Commission to provide licensees and users the opportunity to develop rational, cost-effective approaches toward the integration of advanced, more efficient technologies in the highly congested frequency bands of 150-174 MHz and 421-512 MHz. EWA notes that there are multiple paths to enhanced technical efficiency and that the Commission's rules must be flexible to permit deployment of a variety of technologies. It urges the Commission to continue to embrace efficiency standards, which include equivalency alternatives, set forth in current rules rather than particular technologies.

New York City's Petition for Reconsideration Should Be Granted

New York City and the responding interests are correct. The Commission's stated intention to move directly to mandate 6.25 kHz efficiency will strand investment, undermine crucial interoperability capability and diminish public safety communications ability to meet operating requirements. This intention reflects a distance from the realities of public safety

communications current challenges. NPSTC urges the Commission to step back and examine the many objectives it is pursuing and to integrate and balance the goal of more spectrum efficient technologies with the other mandates and responsibilities public safety faces.

The record is emphatic that public safety systems are historically under funded; their life span extends appreciably beyond even the longest of depreciation schedules or manufacturers' equipment cycles. That 6.25 kHz technology lacks the verified testing and credible experience will make arduous deployment decisions more difficult and riskier. This is evidence in the investment directed to 12.5 kHz efficiency, particularly with regard to expanding interoperability. Until additional analysis and development work is completed, serious questions remain with regard to its use in tactical operations.

The reality is that state and local governments must pay for the Commission's mandates. The efficiencies perceived cannot be rationalized by additional revenue opportunities. Without a reasoned opportunity to participate in how those mandates are imposed and to plan a migration path once imposed, the objective of spectrum efficiency is drowned in the challenges it imposes on the very agencies a 6.25 kHz mandate it is intended to assist.

These challenges include the significant additional expenses associated with 6.25 kHz efficiency since it will require a digital platform. These costs will impose burdens on a number of agencies, particularly the volunteer fire services. There is also the fundamental inquiry as to whether a transition to 6.25 kHz will provide a meaningful increase in efficiency. The only equipment available today, and for the foreseeable future, is 2 slot/12.5 kHz TDMA, where the second slot cannot be shared except where an agency has the precise coverage requirements of the other. This supports New York City's and the LMCC's legitimate concern regarding the complexity of the channel structure 6.25 kHz presents and the analysis that must be undertaken.

More broadly, NPSTC urges the Commission to examine it rules not only in the context of promoting spectrally efficient technologies, but whether it enhances emergency response. The criterion encompasses not just transmission capacity, but the quality and format of what can be delivered and received. Mandates imposed on public safety must be measured in terms of whether it expedites emergency response. It is critical that the technical capabilities associated with 6.25 kHz efficiency equal or exceed capabilities associated with current operations. As noted, the record is far from proven with regard to 6.25 kHz, particularly as to tactical operations.

The Commission must not isolate its various mandates and rules from one another. There should be an understanding of the range of requirements imposed on public safety and its ability to respond to each. Currently, public safety faces a reconfiguration of 800 MHz channels[3], a spectrum efficient standard of 12.5 kHz in the 150-174 MHz and 421-512 MHz bands,[4] possible restructuring of guard bands and relocation of narrowband voice channels in the 700 MHz,[5] possible substitution of a national licensee to administer the 700 MHz band for broadband not wideband[6], revisions and expansion of the Emergency Alert System (EAS)[7], and substantial

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[3] *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order*, Improving Public Safety Communications in the 800 MHz Band, FCC 04-168 (August 6, 2004).

[4] *Promotion of Spectrum Efficient Technologies on Certain Frequencies*, WT Docket 99-87, RM -9332, 29 FCC Rcd 25045 (December 23, 2004).

[5] *Further Notice of Proposed Rulemaking* addressing WT Docket No. 06-150, CC Docket No. 94-102, WT Docket No. 01-309, WT Docket No. 03-264, WT Docket 06-169, PS Docket 06-229 and WT Docket No. 96-86, FCC 07-72 (April 27, 2007).

[6] Implementing a Nationwide, Broadband Interoperable Public Safety Network in the 700 MHz band and In the Matter of the Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, *Ninth Notice of Proposed Rulemaking*, PS Docket No. 06-229, WT Docket 96-86, FCC 06-181 (December 20, 2006).

[7] In the Matter of Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on the Communications Networks. *Order*, EB 06-119, WC 06-63, FCC 07-107 (June 8, 2007)

changes in tower and antennas structure rules by the Federal Aviation Administration[8] and the Commission itself.[9] Agencies nationwide must fulfill interoperability objectives established by the Department of Homeland Security.

These changes are pursued in the notice and comment process of either the Commission or other federal agency, yet each appears to be considered independently of the other. NPSTC urges the Commission to comprehend that there is a finite limit on what local and state agencies can absorb, can meaningfully comment upon and ultimately implement effectively. The Commission should step back and examine how each of these proceedings affects and advances public safety communications overall. New York City's Petition for Reconsideration should be examined in this context. Instead of moving forward to mandate 6.25 kHz efficient technologies, the Commission should examine whether that particular objective will enhance public safety operations.

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[8] *Notice of Proposed Rulemaking*, Docket No. FAA-2006025002, Safe, Efficient Use and Preservation of the Navigable Airspace.

[9] In the Matter of Communications Towers on Migratory Birds, *Notice of Proposed Rulemaking*, WT Docket No. 03-187, FCC 06-164 (November 7, 2006).

Summary

New York City's Petition for Reconsideration should be granted. Any transition to 6.25 kHz efficiency must first meet a core objective of enhancing public safety communications. The current record indicates that such a mandate will harm public safety to the detriment of emergency response.

Respectfully submitted,

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Certificate of Service

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