

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

In the Matter of)	
)	
Reallocation of 30 MHz of 700 MHz Spectrum (747-762/777-792 MHz) from Commercial Use)	RM No. 11348
)	
Assignment of 30 MHz of 700 MHz Spectrum (747-762/777-792 MHz) To the Public Safety Broadband Trust for Deployment of a Shared Public Safety/ Commercial Next Generation Wireless Network)	

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

The National Public Safety Telecommunications Council (NPSTC) submits these Reply Comments addressing the Petition for Rulemaking filed by Cyren Call Communications, Inc. (Cyren Call).¹

Cyren Call proposes that 30 MHz of spectrum yet to be auctioned in the 700 MHz band be committed to public safety communications for a nationwide interoperable broadband network. A Public Safety Broadband Trust (“PSBT”) would be established to administer these channels and provide funding to build the network. Private entities would lease the spectrum in a shared government/commercial environment; the leasing revenue will fund building the network and paying the Treasury for lost auction revenue.

¹ Consumer & Governmental Affairs Bureau Reference Information Center, *Petition for Rulemakings Filed*, Report No. 2794, RM 11348, Part 27, Cyren Call Communications Inc., In the Matter of Communications Reallocation of 30 MHz of Corporation 700 MHz Spectrum (747-762/777-792 MHz) From Commercial Use (October 30, 2006).

Virtually all of the 1,327 comments filed in the Commission’s docket support the Cyren Call petition. NPSTC addresses four comments opposing the petition. The opposing comments state that public safety will be harmed because auction revenues committed for interoperability projects will not be available.² Parties note the disruption in commercial expectations if the 30 MHz is withdrawn from auction, the need of commercial interests for additional spectrum,³ that the spectrum would better serve commercial rather than public safety interests⁴ and that bidding credits to commercial interests at auction are more effective in assisting public safety.⁵ One comment states that public safety needs no additional spectrum and that a broadband network should be pursued within its current allocation in 700 MHz, characterizing the need for public safety interoperability as “local, pedestrian, mundane and constant...”.⁶

In many respects the comments deny the enormous expansion of domestic defense and emergency response responsibilities imposed upon local and state agencies. This expansion requires more than the increased financial resources recently committed and current frequency assignments. It requires spectrum resources and modern technology that the 700 MHz band can enable. Failing to pursue the remaining 30 MHz of upper 700 MHz band spectrum to strengthen public safety services will forfeit the opportunity to make dramatic improvements and shortchange those who rely on them.

Public Safety’s Current Allocations

The Cyren Call petition presents a comprehensive proposal to construct a nationwide public safety broadband network providing interoperable communications

² Comments of Cingular Wireless LLC (Cingular) at 3.

³ Comments of Cingular at 4, Comments of MetroPCS Communications (Metro PCS) at 11.

⁴ Comments of the National Grange of the Order of Patrons of Husbandry at 2.

⁵ Comments of the Region 24 Planning Committee at 7.

⁶ MetroPCS comments at 10 and 15.

among local, state and federal agencies and advanced mobile broadband capabilities. The goal is so fundamental yet no current public safety allocation is capable of such. Nor can the yet to be used 24 MHz public safety segment in the 700 MHz band approach such an objective. Public safety responsibilities, which drove the structure and use of the spectrum, are now enormously enlarged and have overtaken public safety's spectrum resources.

Current spectrum allocations, primarily used for voice communications in the public safety bands, are congested in every urban and suburban area. Operations are complex and difficult, hindered by lack of financial resources, making for an environment where dangerous delay and disruption lurk. Significantly, the propagation character of specific spectrum is crucial to particular public safety services and where they operate. The overwhelming voice dominated requirements pervading the public safety bands reflect the continuing importance of every assignment, yet improvement potential is incremental at best. NPSTC will pursue any viable means to provide more spectrum for public safety in all of its current assignments.

The not yet auctioned 30 MHz in the upper 700 MHz band cannot be viewed as a substitute for any current allocation, including the 24 MHz segment in 700 MHz. It presents the opportunity to raise public safety communications capability to parallel its expanded responsibilities. Assertions that the 24 MHz in the 700 MHz and public safety's other assignments are adequate ignore the reality that the historic responsibilities of local and state agencies are eclipsed by today's challenges.

The foundation of the 24 MHz public safety segment in the 700 MHz band is local management. This premise has driven the work, investment and expectations of

public safety agencies throughout the country since the segment was allocated and service rules established by the Commission in 1998.⁷ The 700 MHz regional committees are the agents that promote and implement this policy. Whether voice, wideband, or broadband operations, the objective is to entrust to local governments, who must pay for the infrastructure and equipment, with the authority to determine how it should be used. As vital as the 24 MHz is, it is but part of the requirements public safety faces.

NPSTC's opposition to an all broadband mandate in the 24 MHz segment is grounded on the range of agencies and environments encompassed by public safety services.⁸ To mandate all broadband shuts out a range of agencies from using the spectrum. As broadband systems require more transmitter sites than wideband operations, the cost of the system commences at a higher level. NPSTC believes that mandating broadband will remove the flexibility and local control over the resource that is integral to administering the 24 MHz segment.

In contrast, the broadband network envisioned by the Cyren Call proposal gives public safety communications a nationwide platform to complement and not replace the local systems underlying current public safety allocations, including the 24 MHz. It will be built and managed to public safety standards to reflect and protect the mission critical systems required. It will accommodate funding commitments envisioned by the law with

⁷ Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010, WT Docket No. 96-86, *First Report and Order and Third Notice of Proposed Rulemaking*, 14 FCC Rcd 152, 189-90 ¶ 76 (1998).

⁸ NPSTC Reply Comments at 4-5, 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, *Eighth Notice of Proposed Rulemaking*, WT Docket 96-86, FCC 06-34 (March 21, 2006).

regard to the broadcast digital transition. It will provide resources to deploy, maintain and upgrade an advanced nationwide network that will be the first real sharing environment between public and commercial interests. Information transmitted and received nationwide across all agencies, local, state and federal, will become the norm.

The Demands on Public Safety Communications

The lack of a network connecting all agencies is a glaring gap profiled by the September 11, 2001 attacks and the Hurricane Katrina response. Effective investigation, deterrence and response requires transmitting and receiving information fast. The information must be shared simultaneously with local, state and federal government agencies. Technology provides that opportunity and more. The expanse of information that can now be transmitted, whether video, photographs, diagrams, text or voice communications to or from the scene is reality but only with adequate spectrum and funding. These requirements are large and flow from the great challenge now facing

public safety services. The report of the National Commission on Terrorist Attacks Upon the United States (9-11 Commission) emphatically stated:

The lesson for civilians and first responders can be stated simply: in the new age of terror, they-we- are the targets. The losses America suffered that day demonstrated both the gravity of the terrorist threat and the commensurate need to prepare ourselves to meet it.

The first responders of today live in a world transformed by the 9/11 attacks. Because no one believes that every conceivable form of attack can be prevented, civilians and first responders will against find themselves on the front lines. We must plan for that eventuality. A rededication to preparedness is perhaps the best way to honor the memories of those we lost that day.⁹

This core responsibility of government requires local, state and federal agencies to deter, detect and respond in a coordinated way. This challenge transcends the commercial economic expectation associated with auctions not yet held. It is a responsibility that has committed billions of dollars from the Treasuries of federal, state and local governments. Yet the communications resources stand essentially where they were in 1997, when the 24 MHz of the 700 MHz band was allocated to public safety.¹⁰

The complexity and difficulty of domestic defense and emergency preparedness is unrivalled. The threat is widely fragmented but experience shows it to be recognizable and dangerous. The catastrophic events and everyday incidents give testament that such core responsibility should not be improvised. Yet that will continue to be unless public safety is afforded the vital tool of additional spectrum and funding.

⁹ 9-11 Commission Report at 323, The National Commission on Terrorists Attacks Upon the United States, <http://www.9-11commission.gov/report/index.htm>.

¹⁰ As important as actions such as the 4.9 GHz commitment to public safety is, where its propagation character presents significant challenges in several environments, demand has continued to outpace public safety capacity.

If one was not burdened by the history of the radio spectrum, how the public safety and commercial bands became structured, if one did not comprehend how the diverse band segments have evolved and now face severe congestion in urban and suburban areas, yet understood the magnitude of what public safety now faces, the question would be why a nationwide public safety broadband network is not in place. The still to be auctioned spectrum presents a brief opportunity to do something free of history's burdens. The Cyren Call petition provides a path to generate debate and make decisions that will bring tangible enhancement to public safety communications.

The 9-11 Commission recommended increased radio spectrum for public safety and that access to currently allocated spectrum be expedited.¹¹ While February 17, 2009 is the statutory deadline for the TV Digital transition and access to the 700 MHz, the increased spectrum remains only a recommendation. The 9-11 Commission recognized that the demands and standards of public safety communications, diversity, redundancy and universal coverage, are not replicated by commercial services and are integral elements of national security and must be upgraded. Action on the Cyren Call petition will halt the widening gap between the enormous responsibilities of federal, state and local agencies for domestic security and emergency preparedness and the communications resources needed.

¹¹ 9-11 Commission Report at 393.

Summary

NPSTC urges the Congress, the Administration and the Commission to pursue the recommendation of the 9-11 Commission. The Cyren Call petition outlines the substance and direction to follow.

Respectfully submitted,

Vincent R. Stile

Vincent R. Stile, Chair
NATIONAL PUBLIC SAFETY
TELECOMMUNICATIONS COUNCIL
8191 Southpark Lane, Unit 205
Littleton, Colorado 80120-4641
866-807-4755.

December 14, 2006

Certificate of Service

On December 14, 2006, this Reply Comment of the National Public Safety Telecommunications Council was filed electronically with the Commission's Secretary.

A copy was provided via first class mail to the following:

J.R. Carbonell, Esquire
Carol L. Tacker, Esquire
Attorneys for Cingular Wireless, LLC
5565 Glenridge Connector
Suite 1700
Atlanta, Georgia 39342

David Jatlow, Esquire
Attorney for Cingular Wireless, LLC
11760 US Highway 1
West Tower
North Palm Beach, Florida 33408

Carl W. Northrop, Esquire
Michael Lazarus, Esquire
Attorneys for MetroPCS Communications, Inc.
Paul, Hastings, Janofsky & Walker
875 15th Street, NW
Washington, D.C. 20005

/s/ John E. Logan