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June 25, 2007

The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Reference WT Docket No. 96-86, PS Docket No. 06-229,
WT Docket No. 06-169, WT Docket No. 03-264, WT
Docket No. 01-309, CC Docket No. 94-102 and WT
Docket No. 06-150.

Dear Chairman Martin:

The current Public Safety narrowband 700 MHz allocation is configured in two paired 3 MHz spectrum segments, separated by the Public Safety data spectrum. The Further NPRM in the above-captioned proceeding proposes to consolidate the narrowband spectrum into one 6 MHz paired block at the upper end of the public safety 700 MHz band. NPSTC has expressed its willingness to support the consolidation of public safety's narrowband allocation only on two conditions. First, any shift must ensure that Public Safety retains interoperability for its mission-critical narrowband voice operations in the international border regions. Second, any shift must not leave public safety agencies bearing the cost of re-tuning its narrowband systems to accommodate the new band plan. Band Plan Proposals 1 and 2 of the Further NPRM fail to account for *both* of these conditions and must not be adopted. By contrast, Band Plan Proposals Numbers 3, 4 or 5 solve for both of these conditions. In particular, this letter addresses the second condition, namely the commitment from Access Spectrum and Pegasus (the "incumbent 700 MHz licensees") to bear the costs for retuning in the event Band Plan Proposals 3, 4 or 5 are adopted and certain other conditions are met. In our comments filed on May 23, 2007, NPSTC recommended the Commission to accept the incumbent 700 MHz licensees' proposal and now NPSTC recommends a process by which the retuning and consolidation would take place.

At our recent meeting in Denver on June 12 - 14, we discussed the consolidation of the narrowband blocks in detail with both the incumbent 700 MHz licensees and Public Safety's vendors in attendance (i.e., Motorola and M/A-Com) a plan to ensure the timely retuning of fielded Public Safety radios and systems without expense to Public Safety

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licensees. On June 13, NPSTC's Executive Council approved adoption of the process described below, which the incumbent 700 MHz licensees and vendors have agreed to implement.

The agreement among the parties centers on three principles and four key milestones. The three principles are:

- a. Public safety should not bear any of the costs of re-tuning.
- b. Public safety should not be forced to delay any of its narrowband system deployments.
- c. The 700 MHz process should be streamlined and straightforward with no extraneous participation.

NPSTC believes these three principles are an essential foundation of any consolidation and retuning process for the narrowband spectrum. We note that the scope of the retuning at 700 MHz is far less complex than that at 800 MHz and therefore believe a streamlined process is not only possible, but appropriate.

To support these three principles, NPSTC recommends the following process that includes four milestones. These milestones are based on the expectation that the Commission would adopt the revised 700 MHz band plan by the end of July of 2007. Delays in that decision may cause a reevaluation of some of the milestone dates.

- 1) The Completion of the Re-tuning : the retuning will be completed and pursuant to the new consolidated band plan by February 17, 2009, the scheduled "hard date" for the Digital Television transition, pursuant to the process outlined below.
- 2) The Completion of Essential Tasks: the essential tasks will be completed as soon as possible after the issuance of the Commission's Report and Order, but no later than July 31, 2008. The essential tasks are:
 - a. Re-programming of the CAPRAD database
 - b. Updating of all state-wide and regional frequency plans
 - c. Updating public safety licenses
 - d. Development and testing of revised code-plug programming software necessary to retune radios and systems to properly operate on the newly assigned frequencies in the consolidated narrowband allocation under the revised band plan.



- 3) The Census: an essential predicate for the retuning will be to identify each and every licensed agency with fielded systems and radios operating on 700 MHz that need to be retuned. This must be completed no later than December 31, 2007 in order to qualify for the re-tuning subsidy. To that end, it has been agreed that Public Safety will facilitate the completion of a Census to identify all systems and radios that require and are eligible for the subsidized retuning program pursuant to the process below. Specifically:
 - a. Public safety entities that have or plan to have infrastructure, vehicular repeaters or talk-around radios fully operational on 700 MHz by July 31, 2008 qualify to participate in the subsidized re-tuning program.
 - b. Each qualified agency must submit to Access Spectrum/Pegasus a “Statement of Work” that outlines the number of base stations, mobiles, portables and/or vehicular repeaters it expects to have fully operational on 700 MHz by July 31, 2008.
 - c. The Statement of Work must include an estimate of the cost, the party or parties the licensee would like to re-tune the system and the preferred method of payment (i.e., to the agency, to the third-party re-tuner, to the relevant vendor).
- 4) Preparing for the Re-tuning Process: By the later of March 31, 2008 or the date that the Essential Tasks are completed, Access Spectrum/Pegasus will have engaged with the agencies that have submitted requests pursuant to the Census, worked out final arrangements, signed re-tuning contracts and set timetables for re-tuning. Access Spectrum and Pegasus will also bond their allocable portion of the re-tuning costs. This process will work as follows:
 - a. Upon receipt of the Statement of Work, Access Spectrum/Pegasus would have three choices:
 - i. Agree to pay to re-tune the public safety system pursuant to the agency’s suggested method.
 - ii. Engage the agency to determine if there are other ways for Access Spectrum/Pegasus to complete the task in a way that is acceptable to the agency.
 - iii. If the agency, its vendor and Access Spectrum/Pegasus cannot reach agreement, they would appeal to a public safety-appointed entity (NPSTC or its designee) for assistance in resolving the situation. Access Spectrum, Pegasus, and the relevant vendors deploying 700 MHz narrowband equipment (Motorola, M/A-Com, EF Johnson, and Data Radio) should agree to abide by the NPSTC decision.



1. Note, in the event the public safety agency opposes the NPSTC's decision, it should be permitted to appeal to the Commission who would be the final arbiter in any dispute.
- b. Upon completion of this process, all the relevant parties will be ready to begin the re-tuning process as soon as the essential tasks are completed.

We are confident that this process will accomplish the narrowband re-tuning and consolidation contemplated by Band Plan Proposals 3, 4 and 5 consistent with Public Safety's key principles.

In summary, NPSTC reiterates its support for prompt adoption of Band Plan Proposal 3, 4 or 5 and recommends the process above to consolidate the Public Safety narrowband spectrum blocks.

Respectfully,

Vincent R Stile

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