



***VIA ELECTRONIC DELIVERY***

May 7, 2009

Acting Chairman Michael J. Copps  
Commissioner Jonathan S. Adelstein  
Commissioner Robert M. McDowell  
David Furth, Acting Chief, Public Safety & Homeland Security Bureau  
Marlene H. Dortch, Secretary

Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Comments on Recent Waiver Requests for Use of the 700 MHz Public Safety  
Broadband Allocation Currently Licensed to the Public Safety Spectrum Trust  
PS Docket No. 06-229, WT Docket Nos. 06-150 and 96-86  
City of Boston (December 11, 2008)  
Bay Area Cities (March 24, 2009)  
State of New Jersey (April 3, 2009)**

Dear Ms. Dortch:

The Public Safety Spectrum Trust ("PSST") submits this letter in response to the recent waiver requests ("Requests") filed by: (1) the City of Boston; (2) the Bay Area Cities (City and County of San Francisco, the City of Oakland, and the City of San Jose); and (3) the State of New Jersey (collectively, the "Petitioners") in the above-referenced proceeding.<sup>1</sup> The Requests seek a waiver of the Commission's rules to enable the Petitioners to deploy a local or regional public safety network using the 700 MHz public safety broadband spectrum.

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<sup>1</sup> Request by the City of Boston for Waiver of the Commission's Rules to Deploy a 700 MHz Public Safety Interoperable Broadband Network That Can Be Integrated into the Public-Private Partnership, PS Docket No. 06-229 (filed Dec. 11, 2008) ("Boston Request"); Request by the City and County of San Francisco, City of Oakland and City of San Jose for Waiver of the Commission's Rules to Allow Establishment of a 700 MHz Interoperable Mobile Public Safety Broadband Network, PS Docket No. 06-229 (filed Mar. 24, 2009) ("Bay Area Cities Request"); Petition by the State of New Jersey on the Commission's Rules Regarding a 700 MHz Nationwide Public Safety Interoperable Broadband Network, PS Docket No. 06-229 (filed Apr. 3, 2009) ("New Jersey Petition").

As discussed below, the PSST supports the Petitioners' goal of deploying wireless broadband networks for public safety users. PSST also supports the Petitioners' desire to build out their networks before the nationwide Shared Wireless Broadband Network ("SWBN") is constructed. To the extent the FCC considers the Petitioners' Requests, however, it should ensure that any such proposed systems will be fully interoperable with the SWBN. In addition, the FCC should ensure that the proposed local or regional systems do not undermine the Commission's other public safety goals, including the 700 MHz public-private partnership framework. For this reason, the PSST prefers the approach outlined in the waiver requests filed by the City of Boston and the State of New Jersey. After recent discussions with the Bay Area representatives, it is our understanding that they support the option of public-private partnerships.

### **The FCC Should Consider the Waiver Requests to Facilitate the Early Deployment of Local and Regional Public Safety Broadband Systems.**

The PSST also supports the Petitioners' goal to deploy wireless broadband networks for public safety users as soon as possible. The City of Boston, for example, notes that a grant of its request "will enable rapid public safety broadband deployment."<sup>2</sup> In its request, the Bay Area Cities state that a waiver grant would allow them to "immediately begin planning and implementation" of a local or regional public safety wireless broadband network and begin serving first responders.<sup>3</sup> The Bay Area Cities also state that moving forward at this time would result in "significant cost savings, efficiency benefits, and the accelerated availability" of a broadband public safety network.<sup>4</sup> The State of New Jersey states that a waiver would enable it to "begin deployment as quickly as possible" and allow public safety agencies to "achieve greater interoperability and cost effectiveness," among other things.<sup>5</sup> The PSST agrees that providing first responders and other public safety users with wireless broadband services expeditiously is in the public interest. For that reason, the FCC should consider the merits of the Petitioner's Requests and the viability of their proposed local or regional systems.

The PSST has previously expressed support for the FCC's rules regarding early build-out of local and regional 700 MHz broadband networks by public safety entities. As PSST noted, the existing rules "provide an appropriate safety valve for public safety licensees that wish to accelerate broadband deployment in their community and that have the financial ability to do so, without undermining the fundamental purpose of the SWBN: the development of a nationwide interoperable network."<sup>6</sup> If granted a waiver,

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<sup>2</sup> Boston Request at 1-2.

<sup>3</sup> Bay Area Cities Request at 1-2.

<sup>4</sup> *Id.* at 1.

<sup>5</sup> New Jersey Petition at 3-4.

<sup>6</sup> Comments of the Public Safety Spectrum Trust Corporation, PS Docket No. 06-229, 30 (Nov. 3, 2008).

the Petitioners state that they can “meet [their] own funding needs, without the participation of a commercial partner.”<sup>7</sup>

### **The Local or Regional Systems Should be Fully Interoperable with the Future SWBN.**

In the Requests, the Petitioners state that they will deploy standards-based technology and meet all of the technical specifications proposed in the FCC’s Third Further Notice of Proposed Rulemaking (Third FNPRM) in this proceeding.<sup>8</sup> The PSST urges the Commission to consider cautiously the offers from the Petitioners because the proposals set forth in the Third FNPRM have not been adopted by the FCC. The Bay Area Cities also state that they will “urge the Region” to enter into a network sharing and roaming agreement.<sup>9</sup> As a condition of any waiver grant, the FCC should require the Petitioners to ensure that their proposed local or regional networks are fully interoperable with the future SWBN. Our recent discussions with the Bay Area representatives indicate that they understand and agree with a requirement for network sharing and roaming agreements. Those discussions have provided clarity on their current focus and positions and how these more closely align with those of the PSST.

The FCC designated the PSST as the nationwide 700 MHz Public Safety Broadband Licensee (“PSBL”) to facilitate the deployment of the SWBN. Through the public/private partnership, the SWBN would offer nationwide interoperability with nationally coordinated technical standards and operating requirements. Moreover, the SWBN would be accessible to public safety users in all jurisdictions throughout the nation. Furthermore, the SWBN would be supported by a reliable and sustainable source of funding and infrastructure deployment via the partnership with the D Block licensee. Since becoming the PSBL, the PSST has worked extensively and continuously with the public safety community, carriers, equipment vendors, and other parties to promote and advance the FCC’s public safety goals and meet the urgent need for improved, interoperable broadband communications among the nation’s emergency first responders. Moreover, PSST has remained committed to ensuring that broadband services are accessible to public safety users in all jurisdictions.

Nationwide interoperability is a fundamental goal of the SWBN and the FCC’s public safety broadband framework. Although cities, regions, and states with sufficient resources should be able to build out public safety broadband systems as expeditiously as possible, stand-alone public safety systems that are capable of meeting local and regional requirements but that leave islands of incompatibility within a nationwide

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<sup>7</sup> See, e.g., Bay Area Cities Request at 7.

<sup>8</sup> See, e.g., *id.* (stating that the Bay Area Cities will “urge the Region” to deploy standards-based technology and meet all of the technical specifications proposed in the FCC’s Third FNPRM); Boston Request at 1; New Jersey Petition at 1; see also *In the Matter of Service Rules for the 678-746, 747-767 and 777-792 MHz Bands*, Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 14301 (2008) (“Third FNPRM”).

<sup>9</sup> Bay Area Cities Request at 9.

broadband network are contrary to the Commission's SWBN and public-private partnership goals. Thus, the FCC should require full interoperability with the eventual SWBN as a condition of any relief provided to the Petitioners. The FCC should also ensure that, as part of any waiver relief, it provides a mechanism for addressing the relocation (and related expenses) of any existing narrowband voice systems.

We believe it is important to note that on April 20, 2009, at a meeting hosted in Washington, DC by the Major Cities Police Chiefs Association (MCC), representatives of the MCC and the Major County Sheriffs' Association (MCSA), along with several national public safety organizations (APCO, IACP, IAFC, NSA, and Metro Fire Chiefs) discussed common goals for a nationwide 700 MHz public safety broadband network. Three of the PSST Board members as well as representatives of the Bay Area Cities and the City of Boston Police Department were in attendance at that meeting. There was agreement from all who attended that one of the outcomes of the meeting was a common understanding and support for an interoperable nationwide public safety wireless broadband network. For example, those attending seemed to be in agreement that any locally built, stand alone systems must be designed to allow local users to roam nationally on the SWBN when outside the local network. In addition, systems must be designed to allow other (*i.e.*, non-local) users of the SWBN to roam onto their system when in the local network area.

Two of the Petitioners, the City of Boston and the State of New Jersey, have committed to integrating their networks into the future SWBN—regardless of the technology eventually chosen for the SWBN.<sup>10</sup> The City of Boston states that it “would work with the D Block licensee to achieve seamless integration” and that its network could be integrated with the SWBN “regardless of the technology chosen” for the SWBN.<sup>11</sup> Similarly, the State of New Jersey asserts that its network “will be capable of being integrated into any eventual shared network regardless of the technology chosen for that network.”<sup>12</sup> Because of their importance to public safety, the PSST supports the above-listed commitments in both the New Jersey and Boston waiver requests. The Bay Area representatives have recently advised that they will be providing additional clarity to the FCC that will show their agreement regarding the need for and support of full integration and interoperability with the SWBN.

To facilitate expeditious build-out where possible, the FCC – with input from the PSST – should provide specific guidance as to the technological standards and minimum system requirements that must be satisfied. By establishing a technological “floor,” for example, the FCC can minimize the need for public safety entities to duplicate their build-out efforts and expend unnecessary resources. It can also reduce the amount of time needed for such “early builders” to upgrade their systems for integration into the SWBN.

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<sup>10</sup> Boston Request at 9; New Jersey Petition at 5.

<sup>11</sup> Boston Request at 9.

<sup>12</sup> New Jersey Petition at 5.

## The FCC Should Ensure that the Petitioners' Systems Do Not Undermine the Commission's Public Safety Goals.

Any waiver relief provided to the Petitioners should continue to advance, not hinder, the FCC's preference for nationwide interoperability, uniform technical standards, and sustainable funding through a shared wireless broadband network.

In its request, the Bay Area Cities ask that the Commission "grant them the *authorization* to use the public safety broadband 700 MHz spectrum (763-768/793-798 MHz)." <sup>13</sup> The Bay Area Cities and any additional petitioners should not overlook the fact that the FCC has already licensed the 700 MHz public safety broadband spectrum to the PSST.<sup>14</sup> Moreover, the FCC has tasked the PSST with, among other things, administering access to the 700 MHz public safety broadband network and reviewing requests for early local build-outs.<sup>15</sup>

The FCC should not disrupt the nationwide administrative and oversight role already established for the 700 MHz public safety broadband spectrum by providing a separate license to localities, regions, or states. Instead, the Commission should provide more limited relief to enable the Petitioners to build-out their local, regional, or state systems expeditiously, subject to PSST approval and compliance with the FCC's public-private partnership framework. In its Request for Waiver, for example, the City of Boston states that it "would obtain the approval of the Public Safety Broadband Licensee for any early deployment undertaken under the waiver."<sup>16</sup> The PSST supports this approach for ensuring that the FCC's public safety goals remain intact, and any relief provided to the Petitioners should similarly require the Petitioners to coordinate with and obtain approval from the PSST, the current licensee for the 700 MHz public safety broadband spectrum.

Respectfully submitted,

/s/ Harlin R. McEwen

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<sup>13</sup> Bay Area Cities Request at 1 (emphasis added). The Cities also state that they would "urge the Region to enter into a network sharing and roaming agreement *with other licensees* to support the goal of nationwide interoperability." Bay Area Cities Request at 9 (emphasis added).

<sup>14</sup> *Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band*, Order, 22 FCC Rcd 20453 (2007).

<sup>15</sup> *Id.* at ¶ 6.

<sup>16</sup> Boston Request at 9.