

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229

REPLY COMMENTS OF APCO AND NENA

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”) and the National Emergency Number Association (“NENA”) hereby submit the following joint reply to comments filed in response to the Commission’s *Third Further Notice of Proposed Rulemaking*, FCC 08-230 (released September 25, 2008) (“*3d FNPRM*”) in the above-captioned proceedings.¹

APCO and NENA continue to support the public-private partnership model and a national public safety broadband network. Most of the initial comments share that view, and also agree with our concerns that the rules proposed in the *3d FNPRM* go too far in watering down public safety requirements to attract potential D Block bidders. However, a few of the comments of other parties suggest the need for further response and clarification.

National and Local Network Issues

Some large local government entities urge the Commission to abandon the national public safety licensee concept, and instead advocate local or regional licensing of the public

¹ NENA also notes its support of APCO’s initial comments in response to the *3d FNPRM*.

safety broadband spectrum.² We understand their concerns (and have engaged in a dialog with some of the entities in question). However, we continue to believe that a national approach is the only way to ensure that public safety broadband service is not limited to a small number of very large, well-funded jurisdictions. The vast majority of smaller and/or cash strapped agencies would be left out in a local or regional licensing model. A national network is also the most efficient and effective means of providing seamless nationwide (and regional) interoperability, and to promote ubiquitous use of “off-the-shelf” technology to reduce cost and promote innovation. In contrast, any approach that favors the highly populated areas with local control significantly increases the risk that proprietary systems will be deployed, thus compounding and continuing interoperability problems.

A major concern of the public safety entities who oppose a national network is that it will not meet public safety requirements. While we share that underlying concern, we believe the answer is to strengthen the requirements in the FCC’s proposed rules, not to abandon the national network approach. Thus, APCO, NENA, and many others support changes to the FCC’s proposed performance, technical, and operational requirements to ensure that the shared broadband network will provide the level of service necessary to satisfy the needs of public safety agencies.³ As noted in APCO’s initial comments, we also support provisions to ensure that the national network is able to meet unique local requirements. We also continue to support local build-out alternatives, subject to the conditions discussed in APCO’s initial comments regarding common technology platforms.

² *E.g.*, Comments of NYPD, Comments of City and County of San Francisco.

³ *See also* Comments of NPSTC, Comments of PSST, Comments of City of Philadelphia

Some comments also suggest regional licensing of public safety spectrum.⁴ However, that is not a realistic approach, except perhaps for the few areas that have well-established multi-jurisdictional governing authorities. Contrary to suggestions from AT&T and others, the 700 MHz regional planning committees do not have the resources to assume the responsibility of being a licensee or managing a network build-out.⁵ The committees are invaluable to the planning process and provide a useful forum for local agency coordination. However, the regional planning committees consist of volunteers, have no funding or staff, and in many cases meet only on a very occasional basis.

PSBL Funding

Several parties address funding for the PSBL, including reference to the Commission's suggestion that funds from the D Block auction winner be made available prior to the commencement of the NSA negotiations. APCO and NENA agree with that approach, and the need to ensure that the PSBL has the capability to participate in the NSA negotiations in a meaningful manner.⁶ Of course, any such funding must be conditioned on the PSBL submitting a budget to the Commission.

Network Operational Concerns

Many parties agree that the Commission's proposals go too far in limiting the role of the PSBL in the operations of the shared network. The details of the PSBL's involvement should be addressed in the network sharing agreement (NSA). While it would be appropriate for the FCC to establish general guidelines, the Commission should abandon its proposal that the PSBL's role

⁴ AT&T Comments

⁵ Indeed, the difficulties now faced by the national PSBL would seem minor compared to the problem of 58 separate PSR committees/licensees developing their own governance, management, expertise, and funding mechanisms.

⁶ APCO's comments stated that the PSBL should not be prevented from seeking third party loans. APCO was not suggesting that such loans would be necessary, only that there is no compelling reason bar such loans that have appropriate Commission oversight.

be limited to receiving monthly reports. The potential NSA provisions might include allowing the PSBL to have “read-only” access to all of the system monitoring capabilities. At minimum this would include (a) status of all critical system resources (sites, backbone links, routers, etc); so that the PSBL has access to real time information regarding system outages, and (b) relative capacity split on the system by site, sub-region, region, etc; so that the PSBL knows what the public safety and commercial capacity split is on the system, and if the specified service levels are in fact being provided. There should also be a PSST hotline to the D Block system operator so that these issues can be addressed expeditiously. These and similar provisions to be developed in the NSA would not have a significant impact on the D Block licensee’s network control or operational costs.

User Fees

Most parties who addressed the proposed monthly fees for public safety users agree that there is not sufficient basis at this time to establish \$48.50 as the fixed rate. APCO and NENA prefer that there be a pre-determined discount from commercial rates and flexibility to address the variety of local agency needs and available resources.

Satellite Capability

APCO and NENA agree with those who suggest that at least one of each type of device offered for use on the network should be satellite-capable, but we disagree with the suggestion that a set percentage of devices must have that capability.⁷ Users will need to determine if satellite capability is a necessary component for their operations, and the supply of satellite-enabled devices will presumably reflect that demand. Satellite capability will be useful in extreme disaster situations where there are massive network outages, and it may be the only

⁷ Comments of Satellite Industry Association.

viable means of reaching remote areas. However, the Commission should not place too much reliance on satellite service for “routine” emergency communications due its requirements for line-of-sight communications. Indoor use is an issue in all populated areas, including remote communities.

CONCLUSION

The Commission should proceed to finalize rules for the D Block auction consistent with our comments set forth above.

Respectfully submitted,

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November 12, 2008