

**Written Statement
Of**

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Committee on Homeland Security
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Good Morning Chairman Cuellar, Ranking Member Dent, and Members of the Subcommittee. My name is Derek Poarch, and I am Chief of the Public Safety and Homeland Security Bureau at the Federal Communications Commission. Thank you for the opportunity to appear before you on behalf of the Commission to discuss our ongoing efforts to develop a nationwide interoperable broadband network in the 700 MHz band for the benefit of public safety agencies and first responders throughout the United States.

As you may be aware, prior to joining the Commission, I spent three decades in law enforcement in North Carolina. I spent 21 years of my career in the Lenoir, North Carolina Police Department, after which I served for 9 years as Chief of Police and Director of Public Safety at the University of North Carolina at Chapel Hill. I remain a sworn police officer in the State of North Carolina. Because of this experience, I have first-hand knowledge of the critical role that emergency communications play in the arena of public safety and homeland security. After retiring from law enforcement, I accepted the position as Chief of the Public Safety and Homeland Security Bureau with a purpose and vision in mind -- to help shape and advance initiatives that will provide the public safety community with the communications tools they need to do their jobs and save lives.

The 700 MHz proceeding addresses some of the most critical issues facing the Commission and the Bureau. Through this proceeding, we seek to foster development of a nationwide broadband network that can meet public safety requirements while also keeping pace with state-of-the-art commercial technologies. We also seek to ensure that public safety will have access to a number of applications including off-the-shelf radios and newly designed equipment at more affordable prices. Development of a nationwide broadband public safety network is essential to meeting the communications and information needs of first responders in the 21st century.

Last year, the Commission adopted the Second Report and Order in the 700 MHz band rulemaking, which set forth the regulatory framework for the creation of a nationwide, interoperable, broadband communications network for public safety. The order provided for the nationwide licensing of 10 megahertz of the 700 MHz public safety broadband spectrum block to a single entity, the Public Safety Broadband Licensee, and established rules for a public/private partnership that would bring together the Public Safety Broadband Licensee and the eventual winner of the commercial 'D' Block spectrum in the upper 700 MHz Band. Subsequently, the Commission approved the Public Safety Spectrum Trust Corporation (PSST) to serve as the Public Safety Broadband Licensee.

As you know, the D-Block auction earlier this year did not result in a successful bidder to fulfill the commercial half of the partnership. Following the auction, the Commission issued a Second Further Notice of Proposed Rulemaking in May of this year, in which the Commission sought comment on a broad variety of options for reauctioning the D Block and potentially reconfiguring the public/private partnership. The Commission emphasized that its aim was to identify ways to improve upon the existing public/private partnership concept while meeting the broadband communications needs of the public safety community in a commercially viable manner. The Commission also stated that before ultimately adopting final rules in response to the Second Further Notice, it would issue a subsequent Further Notice that presented a detailed proposal for an additional round of comments from all interested parties.

We received numerous comments in response to the Second Further Notice from the public safety community, commercial wireless providers, equipment manufacturers, and many other

interested parties. While the comments were wide-ranging, we found that most commenters expressed continued support for the public/private partnership concept, reauction of the D Block license, and a network sharing agreement between the D Block licensee and the Public Safety Broadband Licensee. Many commenters also noted the absence of any alternative funding mechanism that could ensure access by individual public safety agencies to an advanced, nationwide, interoperable broadband network over spectrum dedicated for public safety use. At the same time, we received many thoughtful and detailed comments suggesting ways in which the Commission could refine and improve the rules governing the prospective D Block licensee, the Public Safety Broadband Licensee, and the partnership relationship between them.

Based on the comments we received, the Commission staff has developed a draft Third Further Notice of Proposed Rulemaking, which is scheduled to be considered and voted on by the Commission at its upcoming agenda meeting on September 25, 2008. Because the draft Further Notice is currently under consideration by the Commission, I cannot provide specific detail on its content. Indeed, because the Commission has not made any final decision on the draft notice, elements of the proposal as currently drafted could change. However, I would like to give you a broad overview of the current proposal under consideration.

The current draft Third Further Notice sets forth in detail a new proposal for reauctioning the D Block and reconfiguring the public/private partnership. This would include offering at auction both a nationwide license and two set of regional licenses, one using the LTE or Long Term Evolution standard, and one using the WiMAX standard. The regional licenses would be auctioned on the basis of the 55 public safety regional planning areas, with three additional areas auctioned for Guam, the Northern Marianas islands, and the Gulf of Mexico for a total of 58 regional licenses. The auction mechanism itself would be utilized to determine which set of licenses would be awarded. In this regard, so long as there are bids on licenses that cover at least half of the U.S. population, the set of licenses yielding the highest population coverage would be the winning set. The current proposal would also set the minimum opening bid for each set of licenses at \$750 million, with the minimum opening bid for each individual region established according to the population density of the region.

The current proposal would also extend the license term from 10 to 15 years, and adjust the build out obligations for the commercial entity, including benchmarks at the 4 year, 10 year, and 15 year marks. The final 15 year build out benchmark would vary according to population density, with the least densely populated areas required to reach 90% population coverage, the medium density areas required to reach 94% population coverage, and the highest density areas required to reach 98% population coverage.

The proposal also includes specific technical and operational parameters that the network would be required to meet, such as mandatory roaming for regional licenses to ensure interoperability, minimum standards for throughput, quality of service and hardening. For example, public safety would be allowed to designate up to 35% of the network sites as "critical," which would trigger enhanced back up power obligations including 8 hours of battery back up and 48 hours of generator back up.

With respect to the Public Safety Broadband Licensee, the proposal contains additional requirements that would increase transparency and eliminate conflicts of interest. This includes more clearly defining the role of the Public Safety Broadband Licensee, prohibiting the Public

Safety Broadband Licensee from acting as a mobile virtual network operator, and requiring certain structural safeguards related to the licensee's management and advisors. A minimum term sheet is also proposed that will be a mandatory part of the Network Sharing Agreement between the Public Safety Broadband Licensee and the commercial D Block licensee(s). This would include specific monthly pricing for public safety users and an annual \$5 million cap on the lease payment that the D Block licensee would be obligated to pay the public safety licensee for use of the public safety spectrum.

Finally, to provide further certainty, the draft Third Further Notice includes a full set of proposed rules, as was requested by many in Congress, the public safety community, and commercial industry. As I noted earlier, the purpose of the Third Further Notice is to solicit a final round of public comment on the Commission's detailed proposal before the Commission adopts final rules. Therefore, upon release of the Third Further Notice, interested parties will have the opportunity to review and comment on the proposal and proposed rules.

Following receipt of comments on the Third Further Notice, the Commission will work as quickly as possible to reach a decision on final rules for the D Block, the public safety broadband spectrum, and the public/private partnership. Chairman Martin has stated his desire to have final rules adopted by the end of the year, so that a reauction of D Block could take place by the middle of next year. I can assure you that I and my staff will work tirelessly to help the Commission achieve this goal.

Thank you for the opportunity to appear before you today. This concludes my testimony and I would be pleased to answer any questions you may have.