

**Written Statement
Of**

**Derek K. Poarch
Chief, Public Safety and Homeland Security Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
Telephone: (202) 418-1300**

**Before the
Subcommittee on Emergency Communications, Preparedness and Response
Committee on Homeland Security
U.S. House of Representatives**

September 16, 2008

[Edited for delivery]

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 inviting me to appear before you on behalf of the Commission to discuss ongoing efforts to develop a nationwide interoperable broadband network in the 700 MHz band for the benefit of public safety throughout the country.

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.

The 700 MHz proceeding addresses some of the most critical issues facing the Commission. Through this proceeding, we seek to foster development of a nationwide broadband network that can meet public safety requirements while also providing state-of-the-art commercial technologies. We also seek to ensure that public safety will have access to broadband applications including off-the-shelf radios and newly designed equipment at more affordable prices.

Last year, the Commission adopted the Second 700 MHz Report and Order, which set forth the regulatory framework for the creation of such a network for public safety. The order provided for the nationwide licensing of 10 megahertz of 700 MHz public safety spectrum block to a single entity, the Public Safety Broadband Licensee or PSBL, and established rules for a public/private partnership that would bring together the PSBL 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 to serve as the PSBL.

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 which the Commission sought comment on a variety of options for successfully reaucting the D Block. The Commission emphasized that its aim was to identify ways to improve the existing public/private partnership concept while meeting the broadband needs of the public safety community in a commercially viable manner. The Commission also stated that 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 many 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 PSBL. Many commenters also noted the absence of any alternative funding source that could ensure access by public safety agencies to an interoperable public safety network.

Based on the comments, the Commission staff has developed a draft Third Further Notice, 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 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 sets 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 and the Northern Marianas Islands, American Samoa, and the Gulf of Mexico for a total of 58 regional licenses. The auction 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 set the minimum opening bid for each set of licenses at \$750 million, with the minimum bid for each individual region established according to the region's population density.

The current proposal extends the license term from 10 to 15 years, and adjusts 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, from the least densely populated areas required to reach 90% population coverage, to the highest density areas required to reach 98% population coverage.

The proposal includes specific technical and operational parameters to ensure interoperability, 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 PSBL, prohibiting the PSBL 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 PSBL 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 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.

Following receipt of comments on the Third Further Notice, the Commission will work as quickly as possible to reach a decision on final rules. 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.

Thank you for the opportunity to appear before you today. I would be pleased to answer any questions you may have.