

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

THIRD FURTHER NOTICE OF PROPOSED RULEMAKING
COMMENTS OF
THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION

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October 31, 2008

TABLE OF CONTENTS

TABLE OF CONTENTS.....i

INTRODUCTION.....1

SUMMARY.....2

DISCUSSION.....3

I. THE PROPOSED MINIMUM BID SHOULD BE REDUCED CONSIDERABLY OR ELIMINATED; REGIONAL WINNING BIDDERS SHOULD POST A PERFORMANCE BOND ONCE AN NSA IS REACHED WITH THE PSBL3

a. The Commission Should Significantly Reduce Its Proposed Minimum Bid.....5

b. While Lowering its Minimum Bid, Regional Licensees Should Provide Financial Security Demonstrating Intent to Build the Shared Broadband Network.....7

II. THE COMMISSION SHOULD FULLY REIMBURSE THE D BLOCK LICENSEE’S COSTS FOR NARROWBAND RELOCATION, AND DEFER A DECISION ON THE REIMBURSEMENT AMOUNT TO ALLOW COLLECTION OF ACTUAL COST DATA.....9

III. HARDENING REQUIREMENTS BEYOND THOSE MANDATED BY THE COMMISSION SHOULD BE NEGOTIATED IN THE NSA.....11

IV. CHARGES FOR PUBLIC SAFETY USE OF THE SHARED NETWORK SHOULD BE RESOLVED IN THE NSA.12

V. PROVISIONING OF LEGACY INTEROPERABILITY SHOULD BE LEFT TO THE PARTIES’ FUTURE DISCUSSION.....13

VI. DATA RATES PROPOSED BY THE COMMISSION SHOULD BE REGARDED AS CURRENT BASELINE RATE DESIGN OBJECTIVES; INCREASED DATA RATES SHOULD BE AMENDED WITHOUT FURTHER RULEMAKING.....14

VII. THE PSBL SHOULD PROVIDE PUBLIC SAFETY COMMUNICATION DEVICE SPECIFICATIONS AND AUTHENTICATION, ALLOWING PUBLIC SAFETY ENTITIES TO SELECT COMMERCIAL PRODUCTS CONSISTENT WITH RULES AND THE NSA.....15

CONCLUSION.....18

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SUMMARY.

TIA supports the Commission's goals of establishing an interoperable broadband public safety network and deploying advanced commercial wireless services. In attempt to achieve these goals, the Commission proposes changes in its 700 MHz D Block auction rules designed to provide greater incentive for commercial entities to bid on the D Block, including clearer and refined commercial licensee and Public Safety Broadband Licensee (PSBL) responsibilities. As it seeks to motivate carriers to invest in the shared broadband network it envisions, the Commission should take into account the nation's economic crisis, which will necessarily strain carriers' ability to justify investment levels that may have been reasonable earlier in the year. Accordingly, the Commission should reduce or eliminate its proposed minimum bid of \$750 million, yet establish bond requirements for regional licensees to ensure their ability to build out the network pursuant to Commission rules and the Network Sharing Agreement (NSA) entered into with the PSBL.

Consistently, TIA urges the Commission to eliminate its proposed cap on reimbursement for narrowband relocation, and establish at a later time full reimbursement amounts based upon actual data reflecting the licensee(s)' costs of narrowband relocation. Further, TIA recommends that the Commission allow the licensee and the PSBL to negotiate in the

NSA charges for use of the shared network and hardening requirements that exceed the requirements mandated by the Commission. Similarly, the Commission should forbear from establishing proposed maximum public safety and gateway-based access fees for use of the shared network, and allow these fees, if any, to be addressed in the NSA.

Continuing TIA's assertion that parties should have flexibility to address matters impacting both the licensee(s) and the PSBL, TIA recommends that the Commission amend its proposed rule on interoperability solutions to allow the D Block licensee to provision interoperability between its network and other public safety networks to the extent that it and the PSBL agree. The Commission should also clarify that its proposed data rates proposed are design objectives that are based on current capacity, and allow increased data rates to be established without further rulemaking. Finally, the PSBL should establish public safety device specifications, and allow public safety to select commercial products meeting these parameters.

DISCUSSION.

I. THE PROPOSED MINIMUM BID SHOULD BE REDUCED CONSIDERABLY OR ELIMINATED; REGIONAL WINNING BIDDERS SHOULD POST A PERFORMANCE BOND ONCE AN NSA IS REACHED WITH THE PSBL.

TIA supports the Commission's efforts to create an interoperable broadband public safety network and deploy commercial broadband wireless services in the 700 MHz D Block.

The fulfillment of these dual goals is largely dependent upon elevating commercial interest in partnering with the PSBL to share a broadband network. As the Commission labors to increase interest in building the shared broadband network, it simultaneously

proposes a minimum opening bid for the D Block of \$750 million.² As the Commission recalls, the initial auction on the D Block resulted in a single bid of \$472 million, falling well short of the Commission's reserve price of \$1.33 billion.³ Despite the Commission's proposals in the Third FNPRM to increase the value of the D Block through greater specificity of the roles of parties and refined mandates for the licensee(s), TIA believes that recent and ongoing severe economic downturns warrant a considerable decrease in or elimination of the Commission's proposed minimum bid. Consistently, financial security should be imposed to assure that regional bidders have the incentive and ability to build out the shared broadband network.

² See Third FNPRM at ¶ 275.

³ See Auction of the D Block License in the 758-763 and 788-793 MHz Bands, AU Docket No. 07-157, Order, FCC 08-91, ¶ 3 (rel. Mar. 20, 2008).

a. **The Commission Should Significantly Reduce Its Proposed Minimum Bid.**

The Commission has, in other proceedings, found that market-based spectrum bidding is an effective way to ensure that spectrum pricing reflects market, investment, and economic conditions, promotes economic growth, and increases access to communications services by awarding spectrum to the bidders that value it the most.⁴ Artificial floors to auction bidding will simply limit the ability for commercial entities to bid on and build out a network. This approach is also consistent with the Commission's long-standing policy of favoring market forces over inflexible government mandates.⁵ In the Third FNPRM, the Commission takes several steps aimed at motivating commercial carriers to justify competitive bidding on the D Block as a shared broadband network. Some of the Commission's efforts include clarifying public safety priority access to the network in emergencies,⁶ refining the technical requirements of the network,⁷ modifying performance requirements of the D Block licensee(s),⁸ and revising

⁴ See Implementation of Section 309(j) of the Communications Act - Competitive Bidding, PP Docket No. 93-253, Second Report and Order, 9 FCC Rcd 2348, 2349-50 ¶¶ 3-5 (1994) (“Because firms have different views of the value of the licenses to be awarded, a firm that expects to be able to offer new or much lower cost services might be willing to pay more for a license than another firm that does not believe it can offer services as competitively.”).

⁵ See Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, Memorandum Opinion and Order on Recon., 14 FCC Rcd 17556, 17567 ¶ 16 (1999) (“[M]arket forces, not government regulation, will ensure the provision of services to the public.”); Implementation of Sections 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1420 ¶ 19 (1994) (“Success in the marketplace . . . should be driven by technological innovation, service quality, competition-based pricing decisions, and responsiveness to consumer needs – and not by strategies in the regulatory arena.”).

⁶ See Third FNPRM at ¶¶ 322-338

⁷ See *id.* at ¶¶ 102-132

⁸ See *id.* at ¶¶ 148-164.

the operational roles of the D Block licensee(s) and the PSBL.⁹ The Commission makes clear that it expects such revisions to its D Block auction rules to provide greater certainty for carriers and thus increased incentive to invest in and bid on the D Block as a shared wireless broadband network.¹⁰

TIA lauds the Commission's efforts to provide greater details of the responsibilities of the D Block licensees in an effort to create increased incentive for private investment in the D Block license with a public-private partnership structure. However, while making these changes to elevate the value of the D Block to prospective bidders, thereby enhancing the ability for competitive bidding that reflects market conditions, the Commission proposes a minimum bid of \$750 million -- over \$300 million above the single bid of the last D Block auction.¹¹ While it may be argued that the Commission's proposed revisions to its D Block rules warrant such a dramatic increase in the value of the D Block in the last auction, TIA respectfully disagrees, particularly in light of the severe economic crisis this and other nations currently face.

The economic crisis of the past few weeks is expected to influence the financial markets for months to come, and the ability of potential bidders to raise money in a tight credit market could continue to be effected in the time frame proposed for this auction.¹² As commercial carriers scramble to justify investing in the D Block -- spectrum with an

⁹ See *id.* at ¶¶ 169-174; 196-202

¹⁰ See *id.* at ¶ 2.

¹¹ See *id.* at ¶ 275.

¹² Jeffrey Silva, Economic Downturn: Wall Street Shakeup Impacts D-Block Debate, RCR Wireless News (Sept. 29, 2008) (quoting Jennifer Zufolo, Medley Global Advisors L.L.C., as saying that "Until the capital markets stabilize, potential bidders other than those with strong cash positions will not be able to justify the cost of constructing a nationwide broadband network, nor will they have access to any risk capital to participate.")

unprecedented regulatory structure and thus of questionable commercial value -- the Commission should heed the concerns of potential bidders that there simply may not be the funding for bidding on the D Block there was in recent past.¹³ As Commissioners have made clear, the ability for carriers to reach a \$750 million dollar minimum bid could be very difficult.¹⁴ Finally, the Third FNPRM rightly indicates that auction revenue is less significant in this proceeding than building an interoperable public safety network.¹⁵ Accordingly, the Commission should reconsider and, in light of the economic crisis we face and immediate need for a nationwide public safety network, significantly lower or eliminate its minimum bid for the D Block auction.

b. While Lowering its Minimum Bid, Regional Licensees Should Provide Financial Security Demonstrating Intent to Build the Shared Broadband Network.

With a decreased minimum bid, the Commission faces the possibility, most likely in the context of regional bidding, that winning bidders may not be able or intend to build the shared broadband network pursuant to the Commission's rules. The Commission has identified this concern, and seeks comment on the need for and potential structure of

¹³ Yu-Ting Wang, Sprint Xohm Sees Growth and Funding, Despite Market Crisis, Comm. Daily at 6 (Oct. 9, 2008) (quoting research firm Bernstein as saying that “‘Scarce credit could radically reduce’ Sprint’s range of strategic options and tighten already ‘competitive screws.’”)

¹⁴ See Third NPRM, Separate Statement of Michael J. Copps, Commissioner, FCC (“Finding money in the hallowed canyons of Wall Street or anywhere else to get this network built makes Indiana Jones’ searchings look like child’s play.”); Separate Statement of Deborah T. Tate, Commissioner, FCC (“[W]e must make our decisions with greater prudence, and call upon those involved in the banking and financial markets to share their knowledge and experience – including any difficulties licensees may face regarding access to capital at this time.”).

¹⁵ See *id.* at ¶275 (“The successful creation of a nationwide interoperable broadband network meeting the needs of public safety will be of enormous value to the public, quite possibly exceeding the value of any potential revenue for the public from the sale of licenses for the D Block.”).

financial security requirements for bidders.¹⁶ The Commission also seeks input on whether such requirements should only apply to specific types of bidders.¹⁷

TIA asserts that, as in other types of auctions, the circumstances warrant targeted financial security requirements to provide assurance that a regional licensee is fully committed to construct the shared broadband network pursuant to Commission requirements. Regional network bidders may have lower financial backing for building its portion of the network, compared to nationwide network bidders. Thus regional bidders should be required to execute performance bonds payable to the U.S. Treasury; these bonds should be obtained within 30 days of a reaching an NSA with the PBSL. Without the bond performance, a regional license should be deemed null and void. TIA maintains that the bond should serve as a milestone requirement, with non-performance of specific Commission and NSA requirements resulting in full payment of the bond.

TIA recommends that a licensee meet three specific milestones to avoid mandated bond payment: 1) hardening requirements established by the Commission and/or the NSA; 2) ensuring that the D Block licensee(s) meet obligations to publish IP-based specifications enabling public safety operations in other frequency bands to access the shared broadband network(s) via bridges and/or gateways;¹⁸ and 3) meeting all regional planning committees construction mandates.

¹⁶ See *id.* at ¶ 290.

¹⁷ See *id.*

¹⁸ As proposed in *id.* at ¶ 114.

Such bond requirements have been required by the Commission in other proceedings. For example, the Commission adopted satellite licensing rules that addressed similar concerns that bidders may not be able to build the network as the Commission required.¹⁹ In such circumstances, the bond and milestone structure TIA recommends was embraced by the Commission.²⁰ Thus, this bond structure seems reasonable for regional licensees, which simply have greater financial hurdles to overcome to serve as legitimate licensees capable of building a network pursuant to its obligations.

II. THE COMMISSION SHOULD FULLY REIMBURSE THE D BLOCK LICENSEE'S COSTS FOR NARROWBAND RELOCATION, AND DEFER A DECISION ON THE REIMBURSEMENT AMOUNT TO ALLOW COLLECTION OF ACTUAL COST DATA.

The Commission has proposed, in requiring the D Block licensees to be responsible for relocating existing narrowband radios from TV channels 63 and 68 (at 764-767 MHz and 794-797 MHz), and the upper one megahertz of channels 64 and 69 (at 775-776 MHz and 805-806 MHz), that the Commission cap the reimbursement to public safety to \$27 million.²¹ TIA joins many other parties that argue the Commission should fully reimburse D Block licensee(s) for relocating incumbents.²² As the Commission has

¹⁹ See Amendment of the Commission's Space Station Licensing Rules and Policies, First Report and Order and Further Notice of Proposed Rulemaking, IB Docket No. 02-34, 18 FCC Rcd 10760, 10826-27 ¶¶ 170-72 (2003) (reforming satellite licensing regime to require satellite licensees to execute performance bonds that are reduced upon the satisfaction of milestones), aff'd and modified in part, 19 FCC Rcd 12637 (2004); Amendment of the Commission's Rules To Provide Channel Exclusivity To Qualified Private Paging Systems at 929-930 MHz, PR Docket No. 93-35, Report and Order, 8 FCC Rcd 8318, 8326 ¶ 23 (1993) (conditioning extensions of time on obtaining a performance bond or placing monies in escrow with amounts to be reduced as construction proceeds), recon. granted in part, 11 FCC Rcd 3091 (1996).

²⁰ See *id.*

²¹ See Third FNPRM at ¶ 445.

²² See, e.g., National Association of Telecommunications Officers and Advisors (NATOA) Comments at 9-11; State of Nebraska (Nebraska) Opposition at 2; Motorola Comments at 1-7.

established in other proceedings where relocation costs are reimbursed, the narrowband relocation reimbursement could be structured as a credit towards future payments.²³

However, the record clearly is not sufficient to estimate costs of narrowband relocation, at this time, and it will likely be premature to establish accurate cost estimates prior to the creation of D Block rules. The proposed \$27 million cap is not well-grounded in a factual record on reimbursement costs; there remains a significant gap in the record between various estimates of the cost of full reimbursement for narrowband relocation.²⁴

Accordingly, TIA urges that the Commission address the issue of the amount of full narrowband relocation reimbursement in a further phase of this proceeding, to conclude no later than June 1, 2009. More accurate data on relocation costs will be available as public safety and other parties work together to implement the relocation.²⁵ To accurately reimburse carriers fully for narrowband relocation costs, the Commission

²³ See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, Report and Order, 19 FCC Rcd 14969 ¶ 212 (2004) (crediting Nextel for costs incurred for relocating incumbents from the 800 MHz and 1.9 GHz band as part of value-for-value exchange of spectrum in the 1.9 GHz band), modified on recon., 19 FCC Rcd 25120 (2004).

²⁴ See Comments of Motorola Inc., WT Docket No. 06-150, (submitted June 20, 2008) at 19 (stating that the “costs of relocation vary widely” and that “a complete and accurate estimate of relocation costs can only be created by soliciting information directly from individual public safety agencies”) (“Motorola 2nd FNPRM Comments”); Comments of the National Public Safety Telecommunications Council, WT Docket No. 06-150, (submitted June 20, 2008) at 24 (stating that “service providers and manufacturers indicate that the cap is off several-fold from what is required for full reimbursement and relocation”) (“NPSTC 2nd FNPRM Comments”); Reply Comments of Motorola, WT Docket No. 06-150, (submitted July 7, 2008) at 4-6 (agreeing that the cap is “off several-fold”); see also Comments of Ada County Sheriff’s Office, WT Docket No. 06-150 (submitted June 20, 2008) at 1 (“Ada 2nd FNPRM Comments”) (stating that the \$10 million cap is far too low for the actual costs of relocating licensees); Comment of the Public Safety Spectrum Trust Corporation, WT Docket No. 06-150, (submitted June 20, 2008) at 53 (stating that the current cap “substantially underestimates the funds needed”); Comments of the Virginia Information Technologies Agencies, WT Docket No. 06-150 (submitted June 20, 2008) at 3 (stating that the costs of relocation would exceed \$10 million).

²⁵ See, e.g., Ada 2nd FNPRM Comments at 1 (stating that funding needs to be based on the actual relocation cost); Motorola 2nd FNPRM Comments at 19 (proposing for the collection of more accurate cost data from public safety licensees); NPSTC 2nd FNPRM Comments at 24 (stating that the FCC needs to get cost estimates directly from each agency).

should require detailed cost information from the licensee submitted to the PSBL or the Commission directly. In refraining from acting prior to receiving such information, the Commission can eliminate the need for a reimbursement cap and provide total reimbursement based upon actual cost data, rather than speculative estimates.

Finally, deferring a decision on the reimbursement amount will likely not be a material issue for potential auction bidders, who could plan on full reimbursement costs in the range of \$25 to \$75 million, an amount that is low relative to expected bids.

III. HARDENING REQUIREMENTS BEYOND THOSE MANDATED BY THE COMMISSION SHOULD BE NEGOTIATED IN THE NSA.

In the Third FNPRM, the FCC proposes that up to 35 percent of all wireless facility sites, designated “critical” by the D Block licensee and the PSBL jointly, must have battery backup power of 8 hours and a fuel supply for generators to operate for at least 48 hours.²⁶ TIA agrees with the Commission in its mandatory hardening requirements, and agrees that identification of critical sites should be agreed upon by the licensee(s) and the PSBL. However, TIA believes that, as the licensee(s) and the PSBL designate critical sites, they congruently be allowed to negotiate an increased number of critical sites. This type of approach will set maximum ceilings on which bidders may rely, but afford parties flexibility in their approach to resolving hardening issues in the NSA.

²⁶ See Third FNPRM at ¶ 117.

IV. CHARGES FOR PUBLIC SAFETY USE OF THE SHARED NETWORK SHOULD BE RESOLVED IN THE NSA.

The Commission has inquired as to whether its proposed maximum public safety and gateway-based access fees for use of the shared network are appropriate. Specifically, the Commission seeks input on its proposed policy to require that D Block licensee(s) can charge no more than \$48.50 per public safety customer,²⁷ and \$7.50 per user for gateway-based access to the shared network.²⁸ TIA recommends that the Commission refrain from setting specific sums for access to the shared network. As these rates are part of a greater whole -- an entire structure of operations and relations between the licensee(s) and the PSBL -- they should be an elemental a part of the NSA negotiations. Public safety, gateway-based users, and D Block licensee(s) will benefit from initiating a flexible process where competitive factors are taken into consideration. This approach is also consistent with the Commission's long-standing policy of favoring market forces over inflexible government mandates.²⁹

²⁷ See *id.* at ¶ 114.

²⁸ See *id.* at ¶ 392.

²⁹ See Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, Memorandum Opinion and Order on Recon., 14 FCC Rcd 17556, 17567 ¶ 16 (1999) (“[M]arket forces, not government regulation, will ensure the provision of services to the public.”); Implementation of Sections 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1420 ¶ 19 (1994) (“Success in the marketplace . . . should be driven by technological innovation, service quality, competition-based pricing decisions, and responsiveness to consumer needs – and not by strategies in the regulatory arena.”).

V. PROVISIONING OF LEGACY INTEROPERABILITY SHOULD BE LEFT TO THE PARTIES' FUTURE DISCUSSION.

The Commission proposes, without exception, that “[p]ublic safety users shall bear the costs of the bridges and gateways, including installation and maintenance costs.”³⁰ While this proposal may be a reasonable requirement for public safety in some circumstances, there may be other cases where public safety prefers that the D Block licensee(s) provide interoperability to other public safety communications networks. For example, parties may come to agreement that, from an economic or technical standpoint, the D Block licensee(s) should own and/or operate the technology that allows communication between the broadband network and other networks. Accordingly, the PSBL and the licensees should be able to address this matter through the NSA process on a national, regional or even local level, and the mandate for public safety responsibility for gateway development costs should be eliminated. TIA thus urges the Commission to alter its proposed language in 47 C.F.R. 27.1305 to:

“The D Block licensee(s) are not required to bear the costs of interoperability equipment and solutions, including installation and maintenance costs, between the shared network and other public safety networks.”

³⁰ See Third FNPRM at ¶ 114.

VI. DATA RATES PROPOSED BY THE COMMISSION SHOULD BE REGARDED AS CURRENT BASELINE RATE DESIGN OBJECTIVES; INCREASED DATA RATES SHOULD BE AMENDED WITHOUT FURTHER RULEMAKING.

The Commission's tables for Sections 27.1305 and 90.1405 establish proposed data rates for applications and services required by the licensee(s).³¹ The proposed data rates may reflect reasonable and achievable current requirements for shared network data rates in various regions for various types of applications. However, these rates should not be adopted as, or interpreted as, minimum or maximum data rates in light of expected increases in data rates that will be required to support new applications. For example, the data rates proposed are likely to be far lower than those needed to support new applications, such as those requiring high definition video imaging. Moreover, state-of-the-art technologies such as LTE and WiMAX are expected to continue to evolve over time toward faster data rates.

TIA supports the Commission's apparent conclusion that these rates are "design objectives and are not to be applied for a particular device, time or location. It would not be practical or appropriate to apply these data rates as the minimum for any given device at any particular time or location."³² However, the underlying proposed regulations state that the shared wireless broadband network shall provide for the application data rates shown" in the Commission's tables.³³ Based upon this discrepancy, TIA requests that the Commission eliminate the mandatory use of "shall" and clarify that these data rate speeds

³¹ See Third FNPRM at Appendix C, Table 1 for 47. C.F.R. §§ 27.1305, 90.1405.

³² Id. at ¶ 121.

³³ See id. at Appendix C, proposed rules for 47. C.F.R. §§ 27.1305, 90.1405.

are “design objectives” for the initial build-out of the network, and that all parties should expect that new applications will create the need to modify these objectives over time. The Commission should also specifically allow the parties to modify the design objectives as necessary to support the use of new applications without requiring parties to seek a rule change to Sections 27.1305 and 90.1405 .³⁴

VII. THE PSBL SHOULD PROVIDE PUBLIC SAFETY COMMUNICATION DEVICE SPECIFICATIONS AND AUTHENTICATION, ALLOWING PUBLIC SAFETY ENTITIES TO SELECT COMMERCIAL PRODUCTS CONSISTENT WITH RULES AND THE NSA.

As the Commission makes clear, interoperability in a broadband IP-based network requires a common air interface and devices that utilize that interface in order to best support mutual aid from different geographies. In addition, the Commission noted that the PSBL may wish to promote the use of compatible applications among “like” agencies, such as firefighters.³⁵ For these reasons, the Commission tentatively concludes that the PSBL have the authority to “approve, in consultation with the D Block licensee,” public safety equipment and applications.³⁶

Under the proposed rules, the subscribing public safety entities will purchase client devices and applications from “any vendor,” provided that the equipment and

³⁴ TIA suggests that the Commission tie the design objectives to an evolving industry standard, like the standards developed by TIA or the American National Standards Institute (“ANSI”) that the Commission has previously relied upon in developing its rules. See, e.g., Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets, WT Docket No. 07-250, Second Report and Order, 22 FCC Rcd 19670, 19691-93 ¶¶ 58-62 (2007) (basing the hearing aid compatibility technical standard on ANSI C63.19); 47 C.F.R. § 1.20006(a) (allowing carriers to satisfy the Communications Assistance for Law Enforcement Act obligations by complying with standards adopted by an industry association or standard-setting organization, such as J-STD-025).

³⁵ See Third FNPRM at ¶ 115. Of course, the PSBL should have the flexibility of promoting some different applications in any given category, if only to better evaluate which features, functions, capabilities, and user support receives the best user reviews.

³⁶ Third FNPRM at ¶¶ 175, 196, 310.

applications are approved by the PSBL and that the equipment and applications “are consistent with reasonable network management requirements.”³⁷

TIA agrees with the Commission that commercially available technology will reduce the costs of end user devices for first responders, and urges that the Commission retain its proposal to require that the shared wireless network utilize standardized commercial technologies.³⁸ TIA also supports the Commission’s goal of administering the shared network in a way that best promotes local, regional and nationwide interoperability, and opposes a solution that would allow individual public safety agencies to solely determine the equipment and applications that they would use. Doing so could create unintended barriers to achieving these important interoperability goals.

TIA is concerned, however, that the PSBL’s gatekeeping function over equipment and applications, as proposed in the Third FNPRM, needs to be better specified to avoid a “bottleneck” that will slow the adoption of new and more powerful technologies and applications for public safety.³⁹ Rather than approving specific pieces of equipment, the PSBL should be responsible for determining and approving relevant specifications for public safety equipment used on the network to ensure local, regional and national interoperability.⁴⁰ The PSBL should also consult with the D Block licensee to ensure that

³⁷ Third FNPRM at ¶ 310.

³⁸ See id. at ¶ 105.

³⁹ For simple reasons of funding and capacity, TIA does not recommend that the PSBL conduct its own “testing” of equipment or applications. In its role to interact with manufacturers and vendors, the PSBL can discuss testing that the vendor community might conduct to better persuade users of the device or application’s utility. In general, vendors are anxious to demonstrate that their technology meets or exceeds specifications, and in an IP, broadband environment, the PSBL can expect multiple vendors competing for sales.

⁴⁰ See id. at ¶ 310.

PSBL specifications incorporate licensee requirements to avoid harm to the network. For applications that are not commercial applications broadly in use, the PSBL should also develop relevant specifications for such applications, including matters such as specific capabilities that are desired by various classes of agencies in applications that each will use. The purpose of these specifications is to provide guidance to application developers and guidance to public safety agencies that will purchase these applications.

Additionally, in consultation with the D Block licensee, specifications may include or reference provisions to ensure that applications do not harm the network. The PSBL should announce categories of commercial applications broadly in use (e.g., Internet browsers, email applications) that require no further specification on the part of the PSBL in that they are created for a broader class of user than public safety.

The PSBL's process of developing specifications must be fair and transparent, and the PSBL should be encouraged to seek information from public safety, relevant federal agencies, and the vendor community before announcing its initial set of specifications, and before future and periodic revisions of them. The PSBL should also provide a list of equipment and applications that have been deemed to meet or exceed relevant specifications. The PSBL may also choose to recommend specific applications for use on the network. In formulating such a list, the PSBL shall be encouraged to promote use of commercial equipment and applications whenever possible. Equipment and applications that meet or exceed announced specifications, and applications that are recommended, should not require further approval by the PSBL before a public safety agency purchases

the equipment or application. Thus, public safety entities should have the right to purchase eligible devices and applications from any vendor they choose.⁴¹

These provisions, which establish parameters for equipment and applications used on the public safety network, while encouraging public safety's use of the commercially available devices and applications that best fit their needs, strikes the proper balance between ensuring the operability of the public safety network and allowing public safety to decide how best to use equipment on the network.⁴²

CONCLUSION.

For the foregoing reasons, TIA urges the Commission to: a) reduce its proposed minimum bid and establish bond requirements for regional licensees; b) eliminate its proposed cap on reimbursement for narrowband relocation and establish at a later time full reimbursement amounts based upon actual data reflecting the licensee(s) costs of narrowband relocation; c) allow the licensee and the PSBL to negotiate in the NSA charges for use of the shared network and hardening requirements that exceed the requirements mandated by the Commission; d) amend its proposed rules to allow the D Block licensee(s) to provision interoperability to other public safety networks to the extent the D Block licensee and PSBL agree to do so; e) clarify that proposed data rates are design objectives that are baselines based on current capacity, and allow increased

⁴¹ See id.

⁴² Should the Commission decide to retain its proposed approach for the PSBL that would allow it to "approve" equipment and applications, the term "approval" should be further specified to prevent the PSBL from engaging in duplicative testing already required of manufacturers under the FCC's equipment certification rules and permit PSBL to approve air-interface modular components that are shared among a family of similar products.

data rates to be established without further rulemaking; and f) require the PSBL to establish public safety device specifications and allow public safety to select commercial products meeting these parameters.

Respectfully submitted,

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