

## **FCC Grants Petitions to Build Interoperable Broadband Networks for First Responders**

Legal Alert  
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The FCC has granted conditional approval of 21 petitions filed by cities, counties, and states that sought waivers to move forward with the construction of regional or statewide wireless broadband networks in the 700 MHz public safety broadband spectrum. The FCC required these broadband networks to be deployed under a common interoperability framework in coordination with the FCC's Emergency Response Interoperability Center (ERIC), thereby ensuring that all networks that are being deployed are technically compatible and fully interoperable. See *In the Matter of Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks*, PS Docket No. 06-226, FCC 10-79, Order (rel. May 12, 2010).

As a brief background, the 700 MHz Band (698-806 MHz) was made available for wireless services as part of the digital television transition. Pursuant to Congress's direction in the Balanced Budget Act of 1997, the FCC allocated, in the Upper 700 MHz Band (746-806 MHz), 24 megahertz of spectrum for public safety services and 36 megahertz for commercial services. In a related Order, the FCC designated the 763-768 MHz and 793-798 MHz bands for public safety broadband communications, and consolidated existing narrowband allocations to the 769-775 MHz and 799-805 MHz bands. The FCC also created a single nationwide license, the Public Safety Broadband License, for the public safety broadband spectrum and specified the criteria, selection process, and responsibilities of the licensee assigned this spectrum. The Public Safety Spectrum Trust (PSST) was later designated as the nationwide Public Safety Broadband Licensee (PSBL). The FCC also created a nationwide license for the commercial D Block, located adjacent to the public safety broadband spectrum at 758-763 MHz and 788-793 MHz. The FCC required the D Block licensee to enter into a public/private partnership with the PSBL, and, using the spectrum associated with both licenses, construct and operate a nationwide network that would be shared by commercial and public safety users. The auction of the D Block and other 700 MHz Band licenses, designated Auction 73, began on January 24, 2008, and closed on March 18, 2008. While the other 700 MHz Band commercial licenses offered at Auction 73 were sold, no bidder met the reserve price for the nationwide D Block license. In subsequent Notices, the FCC sought comment on the best path forward for the D Block and the envisioned nationwide interoperable public safety broadband network. To date, these proceedings remain open, and the envisioned partnership has not materialized. In light of this, several cities, counties, and states subsequently sought waiver of the FCC's rules in

order to allow early deployment of local or regional public safety broadband networks in the public safety broadband spectrum. In August 2009, the FCC sought comment on the waiver petitions.

The FCC's May 12 Order addresses these petitions and provides a path forward for states and local jurisdictions to proceed with the deployment of interoperable public safety broadband networks under uniform terms and conditions. In addition, it represents a critical first step towards the deployment of a fully interoperable nationwide network. To ensure compatibility and interoperability of public safety broadband networks, the Order adopts several conditions to which each waiver recipient must comply, including the following:

Comply with certain initial technical requirements, including:

- Nationwide network interoperability;
- Mandatory use of the Long Term Evolution (LTE) air interface standard, recognizing the unique circumstances associated with the 700 MHz band and the need to achieve interoperability;
- Network support for certain applications, including access to the Internet, to an incident command system, and to field-based server applications; and
- Use of certain system characteristics, including security features.

Submit technical deployment and conformance testing plans to ERIC, specifically including plans for achieving and maintaining interoperability with all public safety broadband network deployments in the 700 MHz band. Waiver petitioners must also implement all phases of technical requirements adopted by the FCC.

Participate in demonstration network testing being sponsored by the NIST/NTIA Public Safety Communications Research program and the District of Columbia.

Offer service and/or access to all designated public safety agencies within the network coverage area.

Enter into a standard form spectrum lease with the PSST, which holds the national license for the public safety broadband spectrum. The PSST may charge a limited administrative fee as part of the lease arrangement, but only after first submitting a proposed budget for public comment and approval by the Public Safety and Homeland Security Bureau.

Submit quarterly progress reports to the FCC, in consultation with the PSST.