

WRITTEN TESTIMONY OF

Chief Harlin R. McEwen

Chairman
Public Safety Spectrum Trust Corporation
and

Chairman
Communications & Technology Committee
International Association of Chiefs of Police

Before the

SUBCOMMITTEE ON COMMUNICATIONS, TECHNOLOGY AND THE INTERNET
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES

September 24, 2009

**EXAMINING POTENTIAL OPTIONS FOR THE CREATION
OF A NATIONAL INTEROPERABLE BROADBAND NETWORK
FOR USE BY THE PUBLIC SAFETY COMMUNITY**

Thank you, Chairman Boucher, Ranking Member Stearns and distinguished Members of the Committee for the opportunity to appear before you today.

My name is Harlin McEwen. I have dedicated nearly 50 years of my life to public safety, most of that in law enforcement. I am the retired Police Chief for the City of Ithaca, New York, and am also retired as a Deputy Assistant Director of the Federal Bureau of Investigation in Washington, DC. I serve as Chairman of the Communications and Technology Committee of the International Association of Chiefs of Police (IACP), a position I have held for more than 30 years.

I also serve as the elected Chairman of the Public Safety Spectrum Trust Corporation (PSST), a non-profit corporation formed under the laws of the District of Columbia. The PSST consists of fifteen national public safety organizations that collectively represent more than a half million public safety first responders and professionals. The principal purpose of the PSST is to serve as licensee for the 700 MHz nationwide Public Safety Broadband License (PSBL), which was granted to the PSST by the Federal Communications Commission (FCC) on November 19, 2007. The PSBL is for the 10 MHz of broadband radio spectrum and 2 MHz of guardband spectrum in the 700 MHz band that has been allocated by the FCC for public safety. It is intended to be part of the spectrum that is proposed for development of a shared commercial/public safety wireless broadband network. The other part of the spectrum is proposed to come from the so-called D Block. The PSST is committed to serving the needs of the local, state and federal public safety community. I and the other members of the Board of Directors of the PSST take this duty very seriously, and I appear today on behalf of not only the PSST, but also the public safety community we serve.

First, I am sure each of you knows why having a national public safety broadband network is so important, and we applaud the efforts of Congress and the FCC to support the creation of this network. Any review of major crises such as 9-11 or Katrina shows how much the personal efforts and effectiveness of our nation's first responders – police, firefighters, emergency medical personnel, and others - are diminished or undermined when the communications infrastructure that supports our efforts fails or is insufficient for the needs of the public safety professionals. Our vision is to embrace the capabilities of broadband technology, but at the same time not forget that public safety needs a network that is hardened to withstand catastrophes and has power support for individual communications sites, satellite back-up and other important features so that it will be available and reliable in a crisis.

We also need a network that uses one common technology standard so the dozens of separate groups making up our nation's first responders in any area can communicate with each other. This requires that the public safety community, whether local, regional or national, be on the same frequency, using the same network. In answer to the need for one common technology standard, all of the major national public safety organizations have recently endorsed Long Term Evolution (LTE) technology as their choice for this network. This decision was based primarily on the lack of commitment from the WiMax promoters to develop standards and products for the 700 MHz band.

Establishing and building out the wireless broadband network will be a significant challenge, but it is one that very much needs to be done to meet our national security and public safety needs for the years to come. In response to direction from Congress, the FCC is currently working to develop a National Broadband Plan that must be completed by February 2010. We are supporting the FCC in this endeavor and believe it is critical

that a nationwide public safety wireless broadband network be included in the plan. It is important to recognize that a nationwide wireless broadband network will address the critical mobility needs of our public safety first responders. In implementing a new nationwide public safety network, we are convinced that by expanding broadband communications capabilities to public safety personnel, we will also be expanding broadband services to the public in unserved and underserved areas of our nation.

As you are aware, the 700 MHz spectrum auction conducted by the FCC in early 2008 did not attract a winning bid for the D Block. Since then, the FCC has sought several rounds of comment on various new proposals and options, but has taken no further action. During the past 16 or so months the PSST and the public safety community have worked diligently to examine options that will enable us to be successful and also preserve requirements that will result in a network designed to deliver up-to-date, affordable and interoperable broadband communications capabilities to our country's first responders. The PSST has also been working with the FCC as it examines various solutions.

We in the public safety community have come a long way in the past few years – with the help of the FCC and many of you here in Congress – to be in a position to play a constructive role in crafting a viable solution to improve our longstanding mobile communications deficits. We have embraced the concept of sharing the use of spectrum, and sharing a network, with commercial providers, with the understanding as set forth in the FCC's previous order that public safety will have priority access to the network when it urgently needs it.

The FCC's Second Report and Order assigns important tasks to the PSST as the public safety broadband licensee to ensure that the needs of first responders are met. Public safety's needs, and the technology

available to meet those needs, will not remain static. There will be a continuing need for input from the public safety community with regard to network upgrades being implemented by the commercial operator (as every commercial operator knows, a network must be continually maintained and upgraded). We see the PSST in a continuing role as the public safety representative in these matters.

There is also a very important role to be played with respect to the public safety community itself, to educate public safety users and assist them in embracing new broadband technologies and data services that will become available to them with the implementation of a nationwide wireless broadband network. There are thousands of public safety entities around the country, and many have a strong need for support by someone who understands public safety's communications needs and can explain how and why to embrace this new network. Finally, priority communications for public safety – expressed in the concept adopted by the FCC of preemptive use of spectrum on the network during emergencies – has to be implemented in an effective and responsible manner by an organization rooted in public safety. No priority system of the type envisioned by the FCC exists today, and the PSST looks forward to working with the FCC and potential private partners to develop such a system that will meet public safety's needs.

Unfortunately, these responsibilities have not been matched by an equally clear and appropriate source of funding to assure their successful accomplishment. There is no allocation in existing law – nor in pending legislation – for funding to meet the PSST's needs. Although many core public safety organizations have contributed the time and knowledge of their executives and managers to assist the PSST, those organizations are challenged to meet their own budgetary needs and cannot provide meaningful financial support to the PSST. There is also a requirement in

the FCC's Second Report and Order that the PSST oversee the relocation of the narrowband channels that resulted from a rebanding in the 700 MHz spectrum. Our estimate of this cost is approximately \$80 million, and we anticipate that the funds for this task will come from the private side of a public/private partnership.

In the total absence of conventional funding alternatives, the PSST supports the public/private partnership concept where the private partner(s), which will be using some of the shared spectrum for its/their own commercial purposes and profit, are the principal source(s) of financial support to the PSST. For example, the Second Report and Order envisions that the use of public safety spectrum by the private partner(s) will be under a lease. We have suggested that there be lease payments that are reflective of the value of access to the PSBL spectrum.

There is one item we would like clarify again. At no time during this process has the PSST ever expressed a preference for any particular type of private partner(s) or commercial business plan – incumbent or new entrant, wholesale or retail, open access or operator-controlled access. We were opposed to any limitations on participation in the auction that might deprive public safety of the opportunity to partner with any entity that could best construct and operate a nationwide wireless broadband network capable of meeting public safety's legitimate mission critical communications needs and have welcomed regional or national licensing options.

We do understand that a public/private partnership structure and the shared broadband network must meet the basic needs of both its commercial and its public safety constituencies or it will work for neither.

We also understand it is our role in the process to be the advocate for the needs of the public safety community. Public safety users need

broader network coverage than is commercially available and also “higher than commercial” levels of network reliability, survivability and redundancy. All of these things cost money that a commercial wireless operator would just as soon not spend, and this is the reason these things are not available to the public safety community today. Striking that right balance is one of the most important challenges we face.

So where are we today? We have worked hard to achieve consensus within the public safety community to move this process forward. All of the major national public safety organizations, with the exception of the National Emergency Number Association (NENA), have reached consensus on the preferred approach for success. The consensus organizations include the IACP, the Major Cities Police Chiefs Association (MCC), the National Sheriffs’ Association (NSA), the Major County Sheriffs’ Association (MCSA), the International Association of Fire Chiefs (IAFC), the Metropolitan Fire Chiefs Association (Metro Chiefs), the Association of Public-Safety Communications Officials-International (APCO) and the National Emergency Management Association (NEMA). In addition, the PSST and the National Public Safety Telecommunications Council (NPSTC) have endorsed the following consensus approach.

The consensus position is for Congress to adopt legislation that will direct the FCC to remove auction requirements from the D Block and to instead allocate it to the national PSBL. This would then give public safety 20 MHz of broadband spectrum that would enable us to proceed with public/private partnerships through a Request For Proposal (RFP)-type process that would identify the best private partner(s) to build out the network. This will also give us the ability to develop strong public/private partnerships locally and nationally that will provide the private funding necessary through network leasing and sharing agreements without

requiring dependence on federal, state and local funding or auction revenue.

The 700 MHz auction conducted in early 2008 far exceeded expectations in terms of revenue raised, netting nearly \$20 billion for the Treasury, well above the \$10.2 billion revenue target reflected in the Deficit Reduction Act of 2005. That performance should set to rest concerns regarding the possible undesirable budgetary impacts that could be associated with setting aside spectrum to craft a solution for public safety's critical communications needs.

The public safety consensus organizations agree with the approach originally envisioned by the FCC that there will be times that public safety will have a critical need to access more than the 10 MHz of spectrum currently allocated to the PSBL. The consensus position to allocate the D Block to public safety, rather than to auction the spectrum, supports that need but also gives public safety more options in selecting their private partner(s) rather than just partnering with the winner(s) of an auction. We believe that this will produce a better outcome, and want to emphasize that this is all about developing a new nationwide wireless broadband network for public safety.

A number of local entities, regions and states have submitted waiver requests to the FCC expressing the desire and urgent need for early build-out of the nationwide public safety network in their area. The PSST and the consensus group have endorsed such early build outs as a way to not only begin development of the nationwide network but also as a way to gain early lessons from such effort. Most of the entities requesting waivers have also indicated support for nationwide interoperability and roaming, and full build-out of the network not only in major urban areas but in more rural and remote areas that may not have access to broadband today.

On August 14, 2009, the FCC Public Safety and Homeland Security Bureau issued a Public Notice seeking comment on the waiver requests and other related matters. In support of the waiver activities, the PSST asked the NPSTC to form a Broadband Task Force (BBTF) to identify the minimum requirements to allow local and regional entities to build out in a way that will be consistent with and supportive of a nationwide network. The BBTF submitted its report to the NPSTC on September 4, 2009, and NPSTC is expected to submit it to the PSST in the near future. The PSST will then review the report and submit its recommendations to the FCC.

We in the public safety community applaud the efforts of the FCC and members of this Committee and of Congress for their support of a nationwide public safety wireless broadband network and the public/private partnership approach, and we urge you to support this consensus position. Our efforts to get a nationwide public safety wireless broadband network have been ongoing for a very long time, and now it is time for you to help us get this problem fixed!!