

Testimony of

Janice Obuchowski
Chairman, Frontline Wireless, LLC

Executive Summary

The future of wireless can be bright if policymakers today make the right choices for tomorrow. Specifically, policymakers must address two major and urgent challenges. First, our public safety communications systems need to be fixed. As recent tragedies have illustrated, these systems are outdated; they lack interoperability; and they threaten lives. Any solution, however, must address the reality that public funds are unavailable and that the public safety system is Balkanized. Second, the wireless industry is increasingly concentrated and steps are needed so that it remains competitive and benefits Americans with innovation and customer choice. The upcoming spectrum auction gives the FCC a once-in-a-generation opportunity to address both challenges at once.

Frontline Wireless has proposed to the FCC a market-based solution — the Public Safety Broadband Deployment Plan (“Plan”) — that uses the spectrum auction to solve these two important and urgent challenges without requiring any new legislation or causing auction delays.

First, this Plan improves and modernizes public safety communications by requiring the construction of a nationwide, interoperable, wireless broadband network for the public safety community at no cost to taxpayers. Under the Plan, the FCC would license a portion of the 700 MHz commercial spectrum to a national commercial licensee under the condition that it build this nationwide network and give public safety agencies priority access to the commercial spectrum during emergencies. The Plan would thus provide the following benefits to public safety: (1) *free build-out* of the public safety broadband network; (2) *increased spectrum* during emergencies; (3) *national interoperability*; (4) *local control*; and (5) *maximum equipment choice*.

Second, this Plan promotes competition in the wireless industry by proposing specific license conditions for the national commercial licensee that will spur innovation, unleash entrepreneurial forces, and lead to increased consumer choice. These conditions include: (1) offering *roaming*

to requesting carriers; (2) providing service on a *wholesale basis*; (3) operating the network under *open access* principles.

The Public Safety Broadband Deployment Plan thus achieves the important objectives of helping public safety and promoting competition. Our nation has not been put through the massive dislocation of the digital television conversion only to deliver spectrum to the dominant incumbent carriers. That is not why this Subcommittee worked on the DTV transition many years ago.

Finally, although maximizing auction revenues is not a relevant consideration under the Communications Act, the Plan will likely increase auction revenues because it (1) increases the amount of accessible spectrum on which to bid; (2) increases the number of bidders by reducing the size of the spectrum blocks; and (3) increases economic security by providing for a more secure customer base.

This Subcommittee has worked tirelessly to promote interoperable public safety communications and competitive markets. It has given the FCC all the tools and authority it needs to make its vision a reality. If, however, the FCC does not act, this vision will remain just that — a vision. Without further FCC action, the national public safety broadband network will not be built and the market will grow less competitive. Accordingly, we urge the Subcommittee to reach out to the FCC and express support for Frontline's Plan before it is too late.

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Before the

SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
COMMITTEE ON ENERGY AND COMMERCE

UNITED STATES HOUSE OF REPRESENTATIVES

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I. INTRODUCTION

Thank you Chairman Markey, Ranking Member Upton, and distinguished members of the Subcommittee for the opportunity to address how the American people can finally benefit from the far-sighted spectrum policies adopted by this Subcommittee over the years. My name is Janice Obuchowski and I serve as Chairman of Frontline Wireless, which is a Limited Liability Corporation based out of Greensboro, North Carolina. Frontline was founded by our CEO Haynes Griffin, Reed Hundt, our vice chairman, and me. We are fortunate to also have as our partners Jim Barksdale, John Doerr, and Ram Shriram — all visionary high-tech entrepreneurs who share our commitment to meeting public safety's needs.

Frontline recognizes and applauds the outstanding work this Subcommittee has done to free up this spectrum for public safety and commercial uses. Indeed, we are here today only because of the foundation you have laid. This Subcommittee worked to establish the digital television transition and kept this transition on track by enacting firm deadlines. You also had the foresight to allocate spectrum for public safety communications. Equally important, this Subcommittee has worked tirelessly to promote competition and innovation in the industry. In short, you have given the FCC the tools it needs to protect the safety of the American public and

to promote a new generation of wireless services. We are close to the finish line, but not yet across it. The FCC must finish the job that you have started.

The future of wireless is bright if key policymakers continue to use the tools at hand — spectrum auctions and private sector solutions that can improve public safety and advance competition — to meet the challenges ahead. To reach that bright future, policymakers must address two major challenges in particular. First, and most importantly, our public safety communications systems have reached the point of crisis. These communications systems are unreliable; they are not interoperable; and they put our dedicated first responders (and all the people who depend upon them) in danger. Our first responders deserve better, we deserve better, than what has been provided to date. We cannot rely on misguided policies that will strain taxpayers and result in slow and uncoordinated deployment of modern communications systems. In short, we must provide better communications systems for our public safety community and we must do it now.

Second, policymakers need to ensure that the wireless industry remains competitive. By promoting innovation and expanding consumer choice, market-based competition is the most effective way to unlock the potential benefits of next-generation wireless services. Without robust competition, American wireless services will lag behind other nations in terms of innovation, capabilities, and costs. Indeed, while we pioneered wireless technology, America has fallen behind much of the world in the deployment of new wireless services and technology. One reason is that consolidation in the wireless sector has reduced the number of competitors, thereby increasing the already-daunting barriers to entry. The upcoming spectrum auction provides the FCC a once-in-a-generation opportunity to address both of these problems.

Our company, Frontline, has come forward and proposed to the FCC a readily-achievable, market-based solution that meets these two important challenges head on. Our Public Safety Broadband Deployment Plan (“Plan”) accomplishes these two critical objectives without requiring additional legislation and without delaying the spectrum auction by a day. First, the Plan improves and modernizes public safety communications by requiring the construction of a nationwide, interoperable, wireless broadband network for the public safety community at the willing expense of a national commercial licensee who would construct the network as a condition of the license. The Plan also increases the spectrum available to public safety by providing it access to the national licensee’s commercial spectrum during an emergency. To generate the capital necessary to build such a network, the commercial licensee would have secondary, preemptible access to unused public safety spectrum. The Plan thus meets the following five key communications needs of our nation’s public safety community:

- *Free build-out* of a nationwide public safety wireless broadband network;
- *Increased spectrum* through priority access to commercial 700 MHz spectrum in an emergency;
- *Nationwide interoperability* among all broadband networks with security and authorization controlled at national, regional, and local levels;
- *Local control* over public safety networks; and
- *Maximum equipment choice* with the use of open access standards.

Second, the Public Safety Broadband Deployment Plan promotes competition in the wireless industry by proposing specific license conditions for the national commercial licensee that will spur innovation, unleash entrepreneurial forces, and lead to increased consumer choice. These conditions include:

- Offering *roaming* to requesting carriers;
- Providing service on a *wholesale basis*;

- Operating the network under *open access* principles; and
- Creating *a new E Block* that will expand bidding opportunities and increase competitive choice.

The Public Safety Broadband Deployment Plan is the best way to achieve these critical objectives. The Subcommittee should note that, as articulated in a proposal to the Southern Governors' Association, Verizon's proposal, by contrast, would not achieve these objectives. For one, the Verizon plan calls for public safety's network to be financed with billions of taxpayer dollars. The history of the past few decades, underscored by the history since 9/11, tells us that this approach would not lead to a national public safety broadband network. Instead, it would result — at best — in a slowly-developed Balkanized network funded by taxpayers at many times the cost of the Plan.

In addition, Verizon's proposal would vastly accelerate consolidation in the wireless market. Quite simply, the Verizon proposal will expedite the delivery of spectrum into the hands of those who have powerful incentives to hoard spectrum and raise prices. The wireless market is an increasingly national one. To compete, companies must have the ability to offer a national service. Auction design must not facilitate warehousing by carriers such as Verizon of even more spectrum, making it impossible for new and small businesses to become national competitors. Such a plan thus robs customers of competitive choice and further depresses innovation.

The FCC is therefore at a key decision point. It can use an auction to encourage innovation, or predestine more spectrum to a few dominant incumbents. The FCC should not bulk up Verizon's spectrum at bargain basement prices. Instead, it can and should promote a national policy that would open the door to competition, new technologies, and a national network for policemen and fire fighters.

The Public Safety Broadband Deployment Plan outlines a better policy. We want an auction at which lots of parties can participate. We want an auction where small businesses can enter and bring their innovative business models to the market. We want an auction where the winners of this crucial spectrum adjacent to public safety's spectrum will build — for free — a network that lets our public safety heroes save lives. That is a better outcome than encouraging the dominant incumbents to chase bidders out of an auction and warehouse spectrum, leaving public safety to count on taxpayer funds that are not forthcoming. We want an auction where the winner has to build a network open to all users instead of closing off access to only the few favored choices selected by the spectrum owner. In short, we want a market-based solution to the problems of consolidation, rising prices, stifled innovation, shrunken choice, and handicapped public safety.

We cannot let this opportunity pass. The FCC has an opportunity to enable the construction of a national public safety broadband network, and it should take it. Our nation has not been put through the massive dislocation of the digital television conversion only to entrench the status quo. That is not why this Subcommittee worked on the DTV transition over the past decade.

To address these numerous issues, I want to discuss Frontline's innovative proposal. First, I will address the inadequacy of our current public safety communications systems. Second, I will describe how these problems could be solved with a national public safety wireless broadband network. In particular, I will explain how the Public Safety Broadband Deployment Plan eliminates the current obstacles to constructing this important network. Third, I will describe how the Plan promotes and protects competition in the wireless industry. Finally,

I will outline the actions that I believe this Subcommittee should take to make its wireless policy vision and goals a reality.

II. A PREVENTABLE CRISIS — OUR FAILING PUBLIC SAFETY COMMUNICATIONS SYSTEMS

Our first priority must be to improve our public safety communications systems. As you know, reliable communications systems can be the difference between life and death in an emergency. Whether responding to a terrorist attack or a local fire, our nation's courageous first responders rely upon communications systems to share information, coordinate responses, and save lives. Because they selflessly put their lives on the line every day for us, we owe them nothing less than the most modern, most reliable, most interoperable, and most flexible communications system available. Unfortunately, this is not the type of system they have today.

Instead, our public safety community uses 20th century technology to respond to 21st century emergencies. Although technology has advanced and security threats have increased, our public safety communications systems have not kept up. These systems are outdated, inefficient, and wholly inadequate to the ever-increasing demands placed upon them. Even today, more than five years after 9/11, many of our first responders lack the modern, interoperable communications systems that allow them to talk to each other during emergencies.

We have seen the results of these communications failures all too clearly, most notably on September 11. Thomas Kean, co-chair of the 9/11 Commission, has stated bluntly, "On September 11, people died because police officers couldn't talk to firemen." The 9/11 Commission Report elaborated, providing examples of how the lack of interoperable radio frequencies between police and fire department officials hindered evacuation efforts:

At 9:00, the [police department] commanding officer of the World Trade Center ordered an evacuation of all civilians in the World Trade Center complex. . . . This order was given over World

Trade Center police radio channel W, which could not be heard by the deputy fire safety director in the South Tower.

As we now know, the South Tower collapsed an hour after this unheard evacuation order was issued.

Four years later, the failures of our public safety communications networks were again on display during Hurricane Katrina. Even though our first responders once again showed selfless courage and determination, the communications systems they relied upon failed both them and the public. An independent panel appointed by the FCC documented some of the more disturbing examples of these communications breakdowns:

[C]ommunications between the military and first responders also appeared to suffer from lack of interoperability. In some cases, the military was reduced to using human runners to physically carry messages between deployed units and first responders. In another case, a military helicopter had to drop a message in a bottle to warn first responders about a dangerous gas leak.

With each tragedy, we vow “never again” to allow communications systems failures to hinder the efforts of our first responders. Yet, these failures keep happening, with predictable consequences.

While we have made important progress in some areas, the truth is that our public safety communications systems — and thus the American public — will remain highly vulnerable so long as the networks continue to rely on yesterday’s technology. This is unacceptable. The patience of the American public is wearing thin. The time has come to ensure that the public safety community has the 21st century communications systems it needs and deserves.

III. THE FRONTLINE PLAN PROVIDES THE ANSWER — A NATIONAL PUBLIC SAFETY WIRELESS BROADBAND NETWORK

Public safety officials have stated clearly what they need to cure these communications deficiencies. They need a nationwide, interoperable, wireless broadband network. This type of

network — with the reliable, secure, diverse capabilities it enables — is the single best way to improve and modernize public safety communications systems. For this reason, virtually all parties — including the FCC — agree that such a network is needed.

Unfortunately, there are a number of obstacles that stand in the way of the construction of a broadband network that can meet public safety needs — most notably, funding. Making spectrum available is simply not enough. Someone must build a network to use that spectrum. Building a network, however, requires huge capital investment to cover the large, upfront, fixed costs that will be required and that are beyond many communities' means. Additional steps are therefore needed to ensure that public safety broadband networks will actually be built. By adopting the right policies, the FCC has the opportunity to leverage private sector investment to yield public safety benefits. Without that kind of investment, public safety networks simply will not be built.

Our company has proposed a readily-achievable solution to these urgent communications needs. The Public Safety Broadband Deployment Plan proposes that the FCC structure the upcoming spectrum auction to achieve the construction of a nationwide, interoperable, state-of-the-art, wireless broadband network for the public safety community at no cost to public safety or to taxpayers. The Plan requires no new legislation, and it will keep the auction on track to meet deadlines contained in the statute.

To summarize briefly, the Plan proposes that the FCC license a portion of the 700 MHz commercial spectrum under the conditions that the commercial licensee build a nationwide public safety broadband network *and* give public safety agencies priority access to the commercial spectrum during emergencies. In return, and to generate the capital necessary for construction of the network, the commercial licensee — whether Frontline or any other entity

that wins the auction — would have access to this spectrum and also secondary preemptible access to the public safety spectrum during times when it lies fallow. The Plan thus provides public safety — and all Americans — with enormous benefits including (1) free network build-out; (2) increased spectrum; (3) national interoperability; (4) local control; and (5) maximum equipment choice.

The Plan also specifically addresses the chronic communications problems that public safety officials face and removes the obstacles to the construction of a public safety broadband network. These problems include the following:

Insufficient Funds for Capital Expenditures. The most obvious obstacle to a nationwide public safety broadband network is that the government dollars are not available to pay the more than \$10 billion needed to construct a network. The public safety community is not one monolithic entity, but rather consists of a diverse coalition of state, regional, and local agencies and officials with access to unequal resources. Each of these agencies cannot be assigned its own spectrum for broadband communications, much less be expected to build their own individual networks. The Public Safety Broadband Deployment Plan solves the funding problem by building the broadband network infrastructure with private capital at no cost to public safety. This proposal relieves public safety agencies of both the construction costs and the time-consuming task of securing investment, thereby freeing them to focus on protecting our communities. The Plan also includes aggressive build-out requirements ensuring that the new network will be national in scope. Public safety agencies in communities with less resources will no longer need to worry about being left behind.

Insufficient Spectrum. Another critical problem faced by public safety is a lack of sufficient spectrum for broadband communications. To its credit, the FCC has proposed

allocating half of the 24 MHz of public safety spectrum for a broadband network. Although the FCC's grant of more spectrum is an improvement, 12 MHz falls short of meeting the critical spectrum needs of a national public safety broadband network during an emergency. Indeed, it is important to understand that public safety's need for broadband communications peaks during emergencies. The Public Safety Broadband Deployment Plan solves this urgent problem by granting public safety communications primary access to commercial spectrum during emergencies. As a result, the Plan nearly doubles the amount of broadband spectrum available to public safety communications during emergencies.

Lack of Interoperability and Local Control. Again and again, we have seen the tragic consequences that result because first responders and emergency officials lack interoperable communications. The Public Safety Broadband Deployment Plan addresses this chronic problem by requiring the wireless broadband network to operate a state-of-the-art, IP-based network that provides interoperability and local command and control capabilities. The national commercial licensee will provide the unified platform needed to ensure this interoperability.

These types of broadband networks will address and resolve many of the communications problems that have plagued our nation's first responders during emergencies. First, the Plan avoids the problem of states and localities constructing diverse networks that cannot talk to each other since there will be a single nationwide network. Second, the IP-based broadband networks that the Plan requires are uniquely suited to promote interoperability within and among agencies. Similarly to everyday communications over the Internet, public safety communications would not depend on a specific type of device or transmission method. Fire fighters rushing into a burning building could access a video feed of the inside and share that with the rescue squad as they plan how to save lives — without worrying if their wireless devices were compatible.

Third, broadband networks allow public safety agencies to take advantage of advanced, high-tech services that are unavailable on older communications systems. A police helicopter in rural Montana could transmit a data-intensive video feed of a forest fire to the officials fighting on the ground. An interagency terrorism task force could share large databases of information in real time, from the field. And an ambulance could send in-depth patient diagnostics ahead to a waiting emergency room. These types of advanced capabilities are simply unavailable to much of our public safety community today.

Lack of Freedom of Equipment. Public safety officials often express frustration with the wireless devices they use. Lacking meaningful choices, public safety agencies are forced to purchase equipment that is too expensive and relatively primitive. The Public Safety Broadband Deployment Plan solves this problem by adopting open access principles that ensure freedom of equipment choice. Specifically, the Plan requires the commercial licensee to permit public safety users to attach the device (or devices) of their choice to the broadband network. This policy will allow public safety to take advantage of affordable, state-of-the-art technology from a variety of vendors in response to their individualized needs. In addition, freedom of equipment choice will spur investment and innovation in the equipment sector as entrepreneurs work to satisfy public safety officials' unique needs.

IV. THE FRONTLINE PLAN PROVIDES THE ANSWER — PROMOTING WIRELESS COMPETITION

In addition to making Americans safer by improving public safety communications, the Public Safety Broadband Deployment Plan allows the FCC to promote other important policies that will profoundly affect the future of wireless services — namely, promoting competition. Quite simply, when markets are competitive, American consumers win. Indeed, market competition is the single most effective way to ensure that next-generation wireless services live

up to their promise and potential in tomorrow's information economy. It is therefore critical that the wireless industry be deeply competitive. In fact, the FCC's own reports show how effective the forces of competition were in the wireless industry from 1993 to 2003 when five and six players existed in most markets: Subscribers went up by 780%, capital investment went up by 800%, and per minute prices went down by 74%.

Today, however, market competition within the wireless industry is decreasing. The FCC's most recent CMRS competition report found significant market concentration. Under the index the FCC uses to measure concentration (i.e., the Herfindahl-Hirschman Index or "HHI"), the market's average HHI was 2706, which is extremely high.¹ By way of comparison, the Department of Justice's Antitrust Division considers HHIs over 1800 to indicate "highly concentrated" markets. In addition, the HHI number is growing, having increased by 250 over the past year.

The report also suggested that these numbers reflected "the limited effect of competitive entry." The report confirms that new entrants in the wireless market face daunting challenges. Having spectrum and building a network in a specific market is no longer enough. New entrants must increasingly be able to offer national "go anywhere" service. Roaming is thus the key enabler for national service. However, commercially reasonable roaming agreements with the major incumbents are harder and harder to come by.

These developments should trouble the Subcommittee, which has done so much to spur competition. Indeed, the detrimental effects of this development are reverberating. Declining competition can (and is) limiting roaming options for smaller and rural carriers. As potential

¹ *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Eleventh Report, WT Docket No. 06-17, FCC 06-142, ¶¶ 42-47 (2006).

roaming partners drop from the market, rural carriers have little choice but to narrow coverage or increase customer fees. Because neither option makes for a viable business plan in the long term, many small providers face pressure to sell out to larger players.

Although wireless broadband has the potential to revolutionize American communications and spur dramatic growth and broadband penetration, it can only do so if we create the incentives for innovation and market entry. For instance, if the innovators of tomorrow can only obtain wireless access from their *retail competitors*, they will be less likely to enter the market, and will certainly be less likely to obtain capital for their new ventures. While we see wireless innovation in the unlicensed realm, unlicensed technology is simply not capable of providing the fully-mobile, highly-reliable communications needed to reach all Americans, particularly in rural and less wealthy areas.

Once again, the Public Safety Broadband Deployment Plan meets these important challenges head on. The Plan recognizes both the benefits of competition and the tremendous opportunity that the spectrum auction provides to promote the pro-competitive policies that will usher in the next generation of innovators and services. To this end, our Plan promotes competition by carving out a new 10 MHz “E Block” from the existing 20 MHz “D Block.” The Plan then requires the E Block commercial licensee to comply with the following license conditions: (1) offer service on a *wholesale basis*; (2) operate the network under *open access* principles; and (3) offer *roaming* to requesting carriers. These policies will accomplish two critical objectives: (a) they will promote technological innovation; and (b) they will dramatically expand customer choice, particularly for rural customers. For these reasons, the Plan is far superior to the “Verizon first” proposal that is designed to bulk up Verizon’s already-massive spectrum holdings, thereby limiting both innovation and customer choice.

Wholesale Service. One important challenge that innovators and entrepreneurs face in the wireless context is that they must often purchase network capacity from their retail competitors. For instance, imagine that someone invented a revolutionary type of voice service, yet could only buy network capacity from a rival voice provider. This situation would potentially limit both wireless innovations and capital. Unfortunately, if current trends continue, more and more service providers will face this precise predicament, particularly if the FCC were to adopt an auction and band scheme destined to put more spectrum in the hands of a few at cheap prices. The Public Safety Broadband Deployment Plan addresses this problem by requiring the commercial licensee to operate on a wholesale basis. The result will be an innovation-friendly zone free from the concerns of potential retail discrimination.

With respect to the wholesale requirement, and to ensure that Congressional policy is respected, it is important that the FCC clarify that its small business (i.e., “Designated Entity”) rules would not prohibit an otherwise eligible small business from bidding on the commercial spectrum and receiving a credit in doing so. The FCC’s recently-adopted rules deny these credits to an entity that leases or resells more than 50% of its bare spectrum capacity to another entity. The E Block licensee, however, will not be leasing or reselling spectrum. Instead, it will be required *to build facilities and construct a national network over which it will offer services*. Because these build-out requirements will apply to any E Block licensee (whether Frontline or anyone else), the leasing and resale restrictions are not relevant and the FCC should so clarify.

It bears mention that the leasing and resale restrictions were intended to prevent sham arrangements in which one small business “flips” spectrum to a larger entity which in turn constructs the facilities over which service is delivered to the public. As the FCC explained in adopting the rule, it wishes to discourage relationships that can “impede a [small business’s]

ability to become a *facilities-based provider*, as intended by Congress.”² Accordingly, it makes no sense — and would wholly undermine Congressional and FCC policy — to apply this restriction to the potential E Block licensee. Indeed, the FCC’s failure to make this clarification would have the ironic effect of discouraging new entrants from building out networks.

Open Access. The Public Safety Broadband Deployment Plan also promotes competition by requiring the commercial licensee to operate according to open access principles. Specifically, the commercial licensee must (1) provide reasonable, nondiscriminatory access to services and applications of the user’s choice and (2) allow users to access the network through the device of their choice subject to “do no harm” requirements. Because open access provides customers with maximum freedom to use the services or device of their choice, it will create the incentives for revolutionary innovation and will unleash entrepreneurial forces into the wireless market.

This particular requirement is urgently needed. Today, equipment manufacturers are forced by many cellular operators to disable features in handsets that may compete with other services offered by the cellular operator. Further, manufacturers must frequently sign exclusive deals with operators to get their products to the market. In the wireline world, freedom of equipment policies broke monopolists’ grip on customer equipment and spurred tremendous innovation from PBXs to faxes to PCs. Open access can and will spur the same type of explosive growth in wireless customer equipment.

² *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures*, Second Report and Order, WT Docket No. 05-211, 21 FCC Rcd 4753, 4762 ¶ 23 (2006) (emphasis added).

Roaming. Small, mid-sized, and rural carriers — and the competitive choices they provide — are increasingly threatened by a lack of roaming options in a consolidating wireless market. Whereas Verizon’s proposal would exacerbate this urgent problem, Frontline’s Plan would address it by requiring the commercial licensee to offer roaming to requesting CMRS providers using compatible equipment. This requirement will not only help ensure widespread and robust wireless service in rural areas, but will allow smaller and mid-sized carriers to “go national,” and offer additional competitive choices to American consumers. Without the ability to offer national service, these carriers cannot provide a competitive alternative to larger carriers’ service.

E Block. As described above, the Public Safety Broadband Deployment Plan creates a new 10 MHz E Block by dividing the current 20 MHz D Block in half. This type of allocation is well within the FCC’s authority, and it leaves the remainder of the commercial spectrum untouched. Creating the E Block in this manner will promote competition and innovation by providing an opportunity for a greater number of more diverse parties to bid on the valuable spectrum.

Further, it is important to note that the legislation creating spectrum auctions made clear that maximizing revenues is *not* and should not be the guiding principle shaping auction rules. *See* 47 U.S.C. § 309(j)(7). Rather, Section 309(j)(4)(C) states that the FCC should also strive to “promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services.” The Public Safety

Broadband Deployment Plan enables the Commission to meet each of these goals freely and fairly.

Indeed, there is a strong argument that this proposal will *enhance* auction revenues. Three reasons support that conclusion: First, by getting preemptible access to public safety spectrum, a bidder is getting 10 MHz *plus* conditional access on an adjacent 12 MHz. Simple economics tells us that the right to use additional spectrum will drive up the price any entity is willing to bid. Second, by cutting the large D Block into two 10 MHz blocks, more players can bid. Yes, Verizon may be anxious to bid on the largest block, but it is unclear that it is well-suited to any other party. By contrast, there will be significant demand for smaller chunks of spectrum, particularly if purchasers of these licenses have a guaranteed national roaming partner in the E Block licensee. Third, the prospect of having public safety as an anchor tenant will give an auction bidder the prospect of an established customer base; thus enabling projection of future revenues that likely will push bid prices higher. Though we acknowledge that maximizing revenues is not the only goal, we think the Treasury will do well under this proposal.

V. NEXT STEPS — WHAT THIS SUBCOMMITTEE CAN DO TO MAKE ITS SPECTRUM GOALS A REALITY

Looking ahead, the FCC faces a number of challenges that might prevent it from implementing this Subcommittee's spectrum goals. Specifically, it has a number of important and difficult tasks that it must accomplish with this spectrum auction in short order. It must plan one of the most important and consequential spectrum auctions ever; conduct the auction within a specific period of time; and ensure that the auction results in timely payment to the United States Treasury by next summer. These are difficult challenges, and Frontline applauds the FCC's efforts to keep the auction on track.

In light of these tasks, it is important that the FCC not lose sight of the spectrum policy goals embodied in law. The FCC will soon auction what is perhaps the most valuable piece of spectrum ever allocated for mobile wireless services. It will be decades before such a large amount of valuable, versatile spectrum is auctioned again. Thus, it is critical that the FCC uses this one-time opportunity to improve our public safety communications systems and promote competition within the market, and not to construct an auction designed to benefit the dominant incumbents. The FCC's action (or inaction) will shape the wireless market for the next generation. It is important that the FCC not let this opportunity pass by. When the next emergency strikes, our communications systems must be a tool that saves lives rather than a source of confusion and tragedy.

So, what can this Subcommittee do to make this vision a reality? First, let me be clear that no legislation is necessary. Instead, Frontline respectfully requests that the members of this Subcommittee urge the FCC to adopt the following elements for the upcoming 700 MHz auction:

- Create an E Block to enable the construction of a public safety wireless broadband network and to promote market competition;
- Establish a national license for the E Block to ensure uniform construction and quality of the public safety network and to facilitate capital investment in the network;
- Require the E Block licensee to offer service on a wholesale basis;
- Ask the FCC to clarify that the Designated Entity restrictions on wholesale and retail providers do not apply to the potential E Block licensee given that it is required to construct its own facilities and offer services upon them;
- Require the E Block licensee to offer roaming to requesting carriers; and
- Require the E Block licensee to operate according to open access principles.

As this Subcommittee has repeatedly recognized, these issues are extremely important. The Subcommittee has given the FCC everything it needs to improve public safety communications and to ensure a competitive wireless market. However, unless the FCC takes

further action, or if it adopts Verizon's proposal, the national broadband network will not be built and the wireless market will continue to consolidate. In fact, without FCC action, the *best case* scenario is that patches of public safety broadband networks without uniform interoperability *might* be constructed in communities with the resources and political will to do so.

In conclusion, the FCC has the opportunity to advance American leadership in wireless service for the next generation. Given the stakes involved, we hope this Subcommittee will monitor the auction closely and will urge the FCC to take the steps necessary to make this Subcommittee's vision a reality. I thank you again for the opportunity to be here today.

Janice Obuchowski

Janice Obuchowski is Chairman of Frontline Wireless. Janice Obuchowski, President and founder of Freedom Technologies, Inc., has held several leadership positions, both in the United States government and in the private sector. Mrs. Obuchowski served as Head of Delegation and as the United States Ambassador to the World Radiocommunications Conference 2003 in Geneva, Switzerland. She also served as Assistant Secretary for Communications and Information at the Department of Commerce, leading the National Telecommunications and Information Administration (NTIA) under President George H.W. Bush.

Mrs. Obuchowski also serves or has served on several corporate Boards of Directors. Her public Board Memberships have included Orbital Sciences Corporation (trading on the New York Stock Exchange), CSG Systems, Inc. and Qualcomm (trading on the NASDAQ), and Stratos Global (trading on the Toronto Stock Exchange). She currently chairs the CSG Corporate Governance Committee and the Orbital Human Resources and Compensation Committee. Earlier in her career, Mrs. Obuchowski had responsibility for all international government affairs for NYNEX (now Verizon).

Mrs. Obuchowski earned a J.D. from the Georgetown University Law Center, where she was an Editor of the Law Journal, and a B.A. with Honors from Wellesley College. She is a Dame of the Roman Catholic Order of Malta. She was named Polish American of the Year in 2003 and one of the Georgetown Law Center's Alumnae of the Year in 2005.

Mrs. Obuchowski is a Trustee of the National Presbyterian School Board where she has served as Vice President, Chair of the Advancement Committee and Chair of the Trustee Committee.

