

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Service Rules for the 746-764 and 776-794 MHz Bands (Television Channels 60-69))	WT Docket No. 99-168
Reallocation and Service Rules for the 698- 746 MHz Spectrum Band (TV Chs. 52-59))	GN Docket 01-74
Auctions of Licenses in the Above Bands, Nos. 31, 44, Scheduled for June 19, 2002)	DA 02-260, 02-563

COMMENTS
OF THE
NATIONAL EMERGENCY NUMBER ASSOCIATION

The National Emergency Number Association (“NENA”) hereby responds to the Commission’s invitation to comment¹ on the Application for Review filed April 24, 2002, by the Cellular Telecommunications & Internet Association (“CTIA”), seeking delay of the above-captioned spectrum auctions. While NENA’s primary mission is the implementation and improvement of emergency calling systems, it recognizes that the summons for help must be met by the emergency responders -- police, fire, medical and other -- whose resources are set in motion by the dialing of 9-1-1. These resources, in turn, depend on radio spectrum allocated for public safety and kept as free as possible of interference. NENA’s membership of more than 6,000 embraces both the calltaker and responder communities and associated fields.

In its earlier denial of CTIA’s request for delay, the Commission noted that its auction deadlines are legislatively mandated and that Congress, despite Administration support for delay,

¹ Public Notice, DA 02-971, April 26, 2002, restricting public comment to a single round with a deadline of May 3, 2002.

has not acted to relieve the FCC of its obligation to meet those deadlines.² CTIA's response, in part, is that Congress has begun to consider measures that would defer the auctions³ and that, in any event, the Commission has flexibility under the auction statute, Section 309(j) of the Communications Act, to defer the opening of bidding. (Application for Review, 3)

Without claiming expertise in spectrum allocation and assignment, NENA believes that the possibility of more spectrum (beyond the presently allocated 24 MHz) for public safety at 700 MHz -- albeit subject to further legislation -- is a reason worth some delay in the auction. We would not wish to put the already-allocated 24 MHz at risk, but so far as we can tell, it is already at risk of tardy availability, given the slow pace of DTV implementation.

Spectrum for public safety is hard to find. The FCC's Public Safety Wireless Advisory Committee ("PSWAC") estimated in 1996 that nearly 100 MHz would be needed by 2010.⁴ Since that forecast, the 24 MHz reserve has been legislated in former UHF TV spectrum, subject to broadcaster clearance by 2006 and dependent on DTV implementation. This leaves some 75 MHz still to be identified and allocated -- particularly for video and high-speed data applications.⁵

² Letter of April 10, 2002 from Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, to Thomas E. Wheeler, President and CEO, CTIA, 2.

³ A House bill calling for indefinite delay is said to have more than 50 cosponsors (Application, 4), but the sentiment is not unanimous. On April 29th, Reuters reported that Senator Stevens of Alaska is contemplating a bill to keep the auctions on their present schedule.

⁴ Final Report, September 11, 1996.

⁵ See generally, Petition for Rulemaking of the Public Safety Wireless Network, September 14, 2001; *Alternative Frequencies for Use by Public Safety Systems*, NTIA Special Publication 01-48, Department of Commerce, December 2001. Whether the recent allocation of 50 MHz for short-range, broadband use at 4.9 GHz should count toward the total we leave to other authorities. Even if does, the need for public safety spectrum remains urgent.

With the Administration, the Congress and the FCC all recognizing that there are reasonable arguments for delay, it is unseemly and unnecessary for this issue to remain unresolved beyond the May 8th deadline for submission of notice of intent to bid at auction, the more so if the matter continues in limbo even closer to the June 19th start of bidding. Congress should act now. If it cannot, or will not, the Commission should explore informally with lawmakers the extent of the agency's flexibility to defer the auctions, on its own motion, under Section 309(j).

Beneath the arguments over money and restraint of trade (Application, 2-3, note 6), there are lives and property at stake in the issues of how best to accommodate the spectrum needs of public safety radio. The questions are too serious for this continuing brinksmanship. The decision on conducting or deferring the auction should be made before May 8th.

Respectfully submitted,

NENA

By _____

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May 1, 2002

ITS ATTORNEY

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The foregoing Comments of NENA were served by e-mail attachment today upon Michael F. Altschul, Senior Vice President and General Counsel, CTIA.

May 1, 2002

James R. Hobson