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ShawPittman LLP

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David D. Oxenford
202.663.8128
david.oxenford@shawpittman.com

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 7, 2002

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VIA HAND DELIVERY AND FACSIMILE

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Re: Nextel Proposal to Realign 800 MHz Spectrum

Dear Chairman Powell:

Currently, the Commission has before it a proposal submitted by Nextel Communications, Inc. ("Nextel") principally designed to realign the 800 MHz land mobile radio band in order to resolve potential interference issues between commercial and public safety users in that spectrum.[1] Among the actions suggested by this proposal is the use of the 700 MHz Guard Band licenses held by Nextel in order to make spectrum available for the relocation of commercial users displaced from the 800 MHz spectrum. Pegasus Guard Band, LLC ("Pegasus") understands that there may be an imminent issuance of a Notice of Proposed Rulemaking regarding the Nextel Proposal. As the licensee of 34 Guard Band authorizations in the 700 MHz, Pegasus believes that it is essential for the Commission to consider the impact that its actions could have on the recently created 700 MHz Guard Bands as it considers the issues raised by Nextel's proposal, and for the Commission to include in its Notice of Proposed Rulemaking an inquiry into the future of the Guard Band frequencies in the event of the adoption of some form of the Nextel Proposal.

Accordingly, if the Commission commences a rulemaking proceeding on the Nextel Proposal, it is essential that the NPRM include a request for comments assessing

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[1] "Promoting Public Safety Communications," Nextel Communications, Inc., submitted November 21, 2001 (hereinafter, "*Nextel Proposal*").

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the impact that the proposal will have on the 700 MHz Guard Band licenses, and whether changes in the rules governing those licenses would be in order if Nextel's Proposal is adopted. While Pegasus does not now take a position on Nextel's proposal, Pegasus does recognize the substantial impact that the proposal will have on the 700 MHz Guard Bands.

Nextel's proposal has the ability to substantially alter the development of the Guard Bands in a way never contemplated by the Commission when it allocated the 700 MHz spectrum, promulgated the rules governing the Guard Bands, and auctioned the Guard Band licenses to the highest bidder. Among other things, adoption of Nextel's proposal would fundamentally change the technology that is developed for the Guard Bands and alter the supply of equipment developed for use in the spectrum. Moreover, the reallocation of a portion of the Guard Bands to Business Radio and Industrial/Land Transportation Radio users may fundamentally alter the demand for services from the 700 MHz Guard Band managers, which would of course affect the business plans of the auction winners. Thus, if the Commission issues a rule making proceeding based on the Nextel Proposal, it is it is essential that the Commission solicit comments on the potential impact that the proposal will have on the 700 MHz Guard Bands and solicit proposals for any modification of the rules governing those Guard Band licenses that may be necessary to protect the business plans and interests of the Guard Band managers and to allow for the effective and efficient use of the 700 MHz Guard Band spectrum in the public interest.

If you have any questions regarding this matter, please contact the undersigned.

Respectfully submitted,

David D. Oxenford

cc (via facsimile): Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Thomas J. Sugrue
Robert Pepper

Donald Abelson
Bruce A. Franca
Julius Knapp
Kathleen O'Brien Ham
D'wana Terry
Michael J. Wilhelm
Peter A. Tenhula
Robert S. Foosaner
Lawrence R. Krevor

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Accordingly, if the Commission commences a rulemaking proceeding on the Nextel Proposal, it is essential that the NPRM include a request for comments assessing

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