Before the

Federal Communications Commission

Washington, DC 20554

In the Matter of	)	
	)	
Improving Public Safety Communications in the 800 MHz Band	)	
	)	
	)	WT Docket No. 02-55
Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels	)	
	)	

To: The Commission

COMMENTS OF AVR, INC.

AVR, Inc. ("AVR") is a major supplier of ready-mixed concrete in the Minneapolis/St. Paul area. As such, AVR relies heavily on its 800 MHz radio system to dispatch vehicles, coordinate potentially hazardous industrial operations, and provide a reliable means of communications during emergency situations. AVR operates two conventional channels from Albertville, MN (WZS610 and WPPW999), two trunked channels from Arden Hills, MN (WNBG519), and a five-channel trunked system from Brunsville, MN (WNJV747). The base station infrastructure supports over 600 mobile units. Thus, AVR has a direct interest in the outcome of the above proceeding.

AVR appreciates that interference to public safety licensees is an intolerable situation. However, public safety, business, industrial/land transportation, and conventional SMR users are not the cause of the interference problem. The problem, as the NPRM correctly concludes, is the cellular-like technology being employed by

licensees such as Nextel. AVR finds it difficult to understand why the Commission would look beyond Nextel to solve the problem. If Nextel were not in the 800 MHz band, there would be no interference problem to be resolved. It therefore makes no sense for the Commission to disrupt all of the innocent users of the band to accommodate a cellular-like technology that is problematic.

If the Commission were to force AVR either to change channels within the 800 MHz band or move to 700 MHz or 900 MHz, the costs and inconvenience would be excessive. AVR anticipates that replacement of the base station infrastructure could cost well over $200,000 and replacement of the mobile and portable units would add at least another $420,000 to the cost, not even including installation costs. By the time labor costs are included, any rebanding process could easily be in excess of $750,000. AVR has built its fleet over a number of years. A requirement for an immediate outlay of $750,000 to $1,000,000 to modify the radio system would likely mean that AVR could not continue maintaining its radio system.

Additionally, during any transition, AVR believes that it would have to build and maintain a separate, parallel radio system to prevent a loss of communications to at least some of its vehicles and personnel. This would mean adding new antennas and equipment to sites that are already at capacity. It is unclear how any transition could occur that would not be highly disruptive to AVR's operations.

AVR recommends that the Commission look to Nextel and other cellular-like SMR operators to solve their own problems. That may mean employing alternative technology or utilizing other RF engineering techniques to limit the potential for

interference. If the interference cannot be resolved, then Nextel should go off the air or move to another band, not the other licensees in the 800 MHz band.

AVR has learned that Nextel, as a part of its original waiver request, stated that it could implement its technology, "without interference to existing SMR stations (or other 851-869 MHz stations)."[1] It goes on to say, "isolated cases of interference can be resolved by utilizing a number of difference techniques ***at the ESMR base station*** …" [emphasis added]. The Commission clearly had to rely on this assertion by Nextel in deciding to grant the waiver relief that was being requested. Surely the Commission would not have allowed Nextel to move forward if it had suggested that it was going to wipe out public safety communications in the 800 MHz band. If Nextel was wrong in its original assumptions, then Nextel should pay the price for its mistakes at this time, not all of the other occupants of the 800 MHz band.

Even if rechanneling at 800 MHz or rebanding to 700 MHz or 900 MHz could solve the interference problem, and AVR is doubtful that it could, the Commission must not transfer the responsibility for resolution of the problem to licensees who are not part of the problem. AVR urges the Commission to look for a solution to place technical restrictions on expansion of cellular-like systems and hold the cellular-like operators solely responsible to resolve all instances of interference, even if the solution is shutting down cellular-like transmitters. In the alternative, if any licensee is to move out of the

[1] *See,* Engineering Report by Moffet, Larson, & Johnson, Inc., an attachment to the Fleet Call (now Nextel) waiver request, dated April 5, 1990, and filed by Robert S. Foosaner, Esq., of Jones, Day, Reavis & Pogue, at paragraph 37. AVR finds it ironic that Mr. Foosaner is now an employee of Nextel and is the very person requesting the relief proposed in Nextel's White Paper.

800 MHz band, it should be Nextel and any other cellular-like operators who cannot keep their interference under control. The burden of solving the interference problem should be on those causing it, even if a solution exists that could involve other 800 MHz licensees.

Respectfully submitted,

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