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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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	)	

COMMENTS OF THE BERGEN COUNTY POLICE DEPARTMENT

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COMMENTS OF THE BERGEN COUNTY POLICE DEPARTMENT

The County of Bergen, New Jersey, through its Police Department and Special Counsel, submits these Comments in response to the Commission's Notice of Proposed Rulemaking (Notice) entitled *In the Matter of Improving Public Safety Communications in the 800 MHz Band and Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels,* WT Docket No. 02-55, FCC 02-81 (Released March 15, 2002).

SUMMARY

In the Notice, the Commission presents a tangible opportunity to substantially improve public safety communications. Beyond considering proposals of several entities to remedy intolerable interference to public safety communications in the 800 MHz Band, the Commission invites comment as to whether it should do more to improve the severe environment public safety communications face. Bergen County urges the Commission to lead this challenge. The September 11, 2001 attack and the Nation's continuing vulnerability to terrorism requires such. Bergen County stresses that a

comprehensive solution encompassing contiguous clean spectrum and the availability of resources to permit public safety agencies to move to an entirely new environment is the only alternative in providing public safety a critical instrument in carrying out its heightened responsibilities—quality ubiquitous communications capability. Bergen County urges the Commission to pursue its leadership role as the guardian of the Nation's radio spectrum.

BERGEN COUNTY, NEW JERSEY

Bergen County is New Jersey's largest county. The County operates radio systems on low band, high band UHF, T band and a mobile data system on 800 MHz. It is a member of the New York Metropolitan Advisory Committee (NYMAC), a cooperative effort among public safety agencies in the New York area whose goal is to improve the effectiveness and efficiency of all public safety communications.[1]

In response to the September 11, 2001 attack, Bergen County has commenced a new and substantial capital project to modernize its communications systems to provide all county agencies the ability to communicate with one another. With corporate headquarters, major transportation facilities, a major sports venue (Giants Stadium, Continental Airlines Arena and the Meadowlands Ractrack) and industrial plants all located in the County, emergency service response to its residential and commuter population presents substantial challenges. Its emergency service responsibilities have faced significant increased demands since September 11, 2001. Its ability to provide response, rescue, recovery or other emergency assistance remains severely challenged because of inadequate quality spectrum. While the

[1] NYMAC's member agencies include the New York City Police Department, Fire Department, Department of Corrections, Parks and Recreation, Department of Information, Technology and Telecommunications, and the Department of Transportation, the New York City Transit Authority, the Yonkers Police Department and Fire Department, the New Rochelle Police Department, the Nassau County Police Department, the Suffolk County Police Department, the Elmont, New York Fire District and the Bergen County Police Department.

County's capital project will improve the ability of the County to communicate dependably from person to person, the lack of quality spectrum tempers significantly its potential.

THERE IS A SUBSTANTIAL RECORD QUANTIFYING PUBLIC SAFETY'S SPECTRUM REQUIREMENTS

In paragraphs 5 and 29 of the Notice, the Commission seeks information regarding spectrum requirements of public safety agencies, stating that it needs quantitative information regarding public safety's needs. In 1995, the Commission established the Public Safety Wireless Advisory Committee (PSWAC) and instructed it to detail and recommend the spectrum requirements of public safety. On September 11, 1996, the PSWAC filed a detailed report setting forth those requirements, which recommended an immediate 2.5 MHz, 25 MHz within 5 years, and an additional 70 MHz over the next 15 years.[2] The Commission should accept and implement the PSWAC recommendations addressing the spectrum requirements of public safety agencies without further delay.

The September 11, 2001 attack emphasized how those requirement have not been met, it is not a reason for yet another examination of what the requirements are. There are undoubtedly additional uses and services that public safety could pursue with additional spectrum. Yet the reality remains that in all metropolitan areas in the United States there is a critical shortage of spectrum for normal operational voice and data communications. Responding to this demand must be the primary objective, for until and unless this foundation is established, the range of advanced technologies cannot start to

[2] See Letter of Philip L. Verveer, Chairman Public Safety Wireless Advisory Committee, to the Honorable Reed Hundt, Chairman, Federal Communications Commission and The Honorable Larry Irving, Assistant Secretary and Administrator, National Telecommunications and Information Administration, Department of Commerce, dated September 11, 1996, as set forth in the record of the Commission's proceeding *In the Matter of The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010,* WT Docket 96-86.

evolve.

Bergen County disagrees with the premise that commercial services have alleviated public safety requirements or will in the near future. Commercial services cannot provide the redundancy, diversity, security and communications priority that are the fundamentals of public safety communications. The September 11, 2001 attack brought this to the forefront.[3] Additionally, neither spectrum refarming or narrowband digital technology has provided any relief. The Commission must recognize that the lack of equipment and advanced technology is entwined with a diverse and bifurcated public safety market that habitually lacks resources.

THE INTERFERENCE ENCOUNTERED BY PUBLIC SAFETY COMMUNICATIONS IN THE 800 MHz BAND REFLECTS THE NEED FOR A COMPREHENSIVE REMEDY NOT LIMITED TO 800

Bergen County agrees with the Commission's tentative conclusion that CMRS interference to public safety presents a serious problem that must be solved. Bergen County also agrees that limited band reconfiguration is not an adequate remedy. Proposals submitted by private entities, which are at the center of the Commission's Notice, present a positive direction to the critical need to provide a remedy. Most notably, the proposal of Nextel Communications (Nextel) recognizes one of the crucial elements of any remedy -- providing resources so public safety agencies can relocate to the new spectrum. Solving this challenge is integral to any solution.

Yet, the remedies proposed by the parties and discussed by the Commission are stop-gap measures that themselves will lead to future interference environments. It embarks the various interests on yet another round of seemingly intractable interference

[3] See Statement of Ari Wax, Deputy Commissioner, Police Department of the City of New York, before the National Coordination Committee, November 16, 2001, set forth in the record of the Commission's proceeding *In the Matter of The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010,* WT Docket No.96-86.

detection situations. For example, within the Nextel proposal is the ability of incumbents in the Business, Industrial/Land Transportation and conventional SMR systems to remain in the 800 MHz band on a secondary basis to public safety. Nextel proposes that these stations be allowed to evaluate the local spectrum environment to determine if they cause interference or relocate to spectrum in the 700 MHz band Nextel will make available. One of the substantial burdens encountered by public safety agencies, and symbolized by the 800 MHz context, is that in encountering interference from CMRS providers, the personnel and technical resources devoted to determining the degree of interference, the source of the interference, presenting the circumstances to the source and the Commission and seeking a remedy from the Commission to halt the interference are enormous. The record should be clear that the process is neither efficient nor effective. To purport to provide a remedy, yet leave it to incumbents in the Industrial/Land Transportation and Business Pool Channels, who have no incentive to move, to determine whether there is interference will embark all the interests, the incumbents, public safety and the Commission on another chapter of seeking to solve interference.

Bergen County urges the Commission to pursue a comprehensive remedy that encompasses all public safety, not just one that related to the 800 MHz band. The objective must be to remedy the reality that no major metropolitan area has adequate quality spectrum for public safety communication technologies. The range of locations of public safety frequencies and the commercial demand for this spectrum presents an intractable clash that neither good intentions nor the laws of physics will resolve. From this fundamental clash results not only the interference but the lack of equipment and technology choice that

pervades the public safety sector. Relocating public safety to a contiguous band of spectrum must emerge as the Commission's goal

Bergen County urges the Commission to go much beyond the range of issues surrounding the 800 MHz band and move public safety to a new environment. Specifically, the potential presented by the scheduled auction of fertile spectrum at 700-800 MHz, combined with those frequencies already allocated to public safety in the band, is an opportunity that if let pass, will not return. The proposed auction should be delayed as part of the Commission's Homeland Security Initiatives.[4] The Commission should present to the Congress a proposal that relocates public safety to this band and a means to pay for it. The proposal should draw on the Commission's market direction by placing those frequencies occupied by public safety at 800 MHz, 400 MHz, and 500 MHz up for competitive bid and directing the revenues to the costs of relocating public safety.[5]

ADEQUATE RESOURCES ARE CRUCIAL

The Commission, in paragraph 47 of the Notice, links the revenues from auctioning recovered public safety spectrum to relocating public safety agencies to new spectrum. The Commission's embrace of such a funding structure is commendable and crucial. The Commission should present to the Congress a comprehensive structure that uses auction revenues for all the costs of relocating public safety to new spectrum.[6] The Commission's discussion, however, in the context of the Nextel proposal, attempts to delineate the myriad of costs related to relocation, equipment, engineering, technical and legal. Such delineation will

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[4] See Letter of the Honorable Donald L. Evans, Secretary of Commerce to the Honorable Michael Powell, Chairman of the Federal Communications Commission, recommendation a delay in the auctions, dated April 18, 2002.

[5] See also Letter of Brian F. Fontes, Vice President, Cingular Interactive, to Ms. Marlene H. Dortch, Secretary of the Federal Communications Commission, May 3, 2002 at 5, contained in the record of this docket.

[6] On May 2, 2002, the Committee on Energy and Commerce of the House of Representatives reported H.R. 4560, which would eliminate the statutory deadlines related to scheduled auctions for spectrum in the 700 MHz band.

only stifle the relocation. There is not adequate funding across public safety community to absorb any cost. Bergen County urges the Commission not to delineate the costs of relocation.

The danger of another attack and the need to improve the Nation's readiness is the foundation of the Administration's policy and the cornerstone of the President's fiscal year 2003 Budget request. In this regard, enormous resources are committed to improving public safety communications.[7] The Congress is exploring numerous initiatives to improve communications capability across all levels of government. Yet, these resources cannot begin to meet the need if frequency resources are inadequate.

Bergen County's own experience affirms the extent of the responsibility and the challenge presented. On September 11, 2001, as part of the emergency response Bergen County Police officers were deployed to the George Washington Bridge and surrounding roadways because of the threat to this critical infrastructure and the tragic deaths of Port Authority officers at the World Trade Center. That deployment lasted for three months. During that time period not only was there no ability to speak to other public safety agencies without a special infrastructure, but Bergen County's own frequencies were inadequate to communicate on a secure basis, with more than one incident of a response being intercepted and the operation potentially compromised. The subsequent bomb and anthrax scare incidents across the country were replicated in Bergen County and the inability to communicate with area hospitals and other public safety agencies to coordinate response and more vitally, to share known information, was detrimental to carrying out these vital public safety responsibilities.

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[7] *The Budget Message of the President- The Budget for Fiscal Year 2003- Protecting the Homeland*, February 4, 2002 at 17.

Bergen County believes that the Commission should raise the goal of the proceeding from one of remedying the serious interference circumstances in the 800 MHz band to a broad based initiative responding to the demands of Homeland Security. The September 11, 2001 attack demonstrated the strength and vulnerabilities of the Nation's public safety infrastructure. At the foundation is a critical need to improve public safety communications at the federal, state, and local level. There must be adequate funding to support this important goal.

CONCLUSION

Bergen County comprehends the depth of the challenge it presents to the Commission. It sincerely believes, based on it own hard experience, that to do otherwise will miss the opportunity that presents itself at a time when the Nation's security is so severely challenged.

Respectfully Submitted,

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May 6, 2002

Certificate of Service

On May 6, 2002, I caused to be delivered the attached Comments of the Bergen County, New Jersey Police Department via First Class Mail, except where noted:

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