

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)
)
Consolidating the 900 MHz Industrial/Land)
Transportation and Business Pool Channels)
)

WT Docket No. 02-55

Comments of Florida Power & Light Company

Florida Power & Light Company ("FPL") is an electric power utility that serves more than seven million people in 34 counties across the State of Florida. FPL utilizes a 900 MHz private land mobile communications system to maintain its power generation and distribution facilities. While FPL does not have any 800 MHz licenses, FPL is responding to the Commission's specific request in this docket¹ for comment concerning various proposals to reconfigure the 800 MHz band, some of which include the potential for relocation of 800 MHz licensees to the 900 MHz band. FPL is also responding to the Commission's request for comment concerning the suggestion that 900 MHz private licensees be permitted to transfer their licenses to commercial entities. The Commission has also inquired whether critical infrastructure operators, such as power utilities, should be allocated separate spectrum within the 900 MHz band, and FPL strongly supports such a proposal.

¹ Improving Public Safety Communications in the 800 MHz Band, Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels, *Notice of Proposed Rule Making*, WT Docket No. 02-55, FCC 02-81 (released March 15, 2002) (hereafter, *800 MHz NPRM*).

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Given the congestion that FPL has directly experienced in the 900 MHz band, FPL respectfully objects to suggestions that 800 MHz licensees should be relocated to the 900 MHz band, and that 900 MHz private licensees should be allowed to transfer their licenses to commercial entities. Instead, FPL supports 800 MHz band plans, such as that publicly proposed by the Industrial Telecommunications Association, Inc. (“ITA”), that identify solutions to the interference experienced by 800 MHz public safety licensees within the 800 MHz band itself. FPL is also concerned that permitting private licensees in the 900 MHz band to transfer their licenses to commercial entities will exacerbate congestion in the 900 MHz band, to the detriment of critical infrastructure entities such as electric power utilities.

I. Background

FPL’s expansive service territory covers approximately 27,650 square miles, primarily along the eastern seaboard and southern third of the State of Florida. FPL relies extensively on its wireless radio facilities, in various bands, to communicate with field personnel and to monitor and maintain its power distribution system. The core of FPL’s communications network is its 900 MHz private land mobile system, which FPL uses throughout its service area to assure the safe and efficient generation and distribution of electric power.

Although FPL does not have any 800 MHz radio station licenses (due in part to the existing congestion in the band), FPL has found that the 900 MHz band is already exhibiting earmarks of the 800 MHz band. Specifically, FPL itself has experienced increased incidences of interference, increased requests for short-spacing to shoehorn additional stations into the band, and a frequent inability to relocate or modify stations, even slightly, due to the number of applicants and licensees in the 900 MHz band.

FPL uses its 900 MHz facilities to safely dispatch crews and assure continued delivery of electric power throughout its service territory. FPL generates and supplies power to many entities that provide vital public services, such as telecommunications companies, government agencies, and transportation providers, including mass transportation systems and airports. FPL's 900 MHz facilities are used for voice communications within its power plant sites, as well as on utility trucks. FPL's reliance on its 900 MHz system is particularly acute during emergencies, such as hurricanes, when wireline communications systems are unavailable, and commercial wireless systems are congested and unable to handle the large volume of calls.

FPL's wireless systems are also used within its nuclear power plants, both by personnel within the plants, and by field teams during times of emergency. FPL's security personnel also use these wireless facilities to communicate amongst themselves and with local law enforcement agencies. As a critical infrastructure operator, FPL has a duty to the public to maintain its ability to respond rapidly, and appropriately, to security threats and other crises.

Increasingly, FPL is concerned, and even alarmed, by the congestion it is directly experiencing in the 900 MHz band. While the focus of this docket is the 800 MHz band, the Commission has raised certain issues—such as relocating 800 MHz licensees to the 900 MHz band; permitting 900 MHz private licensees to transfer their licenses to commercial entities; and allocating separate 900 MHz spectrum to critical infrastructure operators—that would directly affect FPL's 900 MHz operations, for the better, and for the worse.

II. FPL Supports Proposals for Resolving Interference in the 800 MHz Band within the 800 MHz Band Itself

FPL believes that the answer to public safety entities' interference problems in the 800 MHz band lies within the 800 MHz band itself. FPL is concerned that proposals to relocate 800

MHz band licensees to the 900 MHz band simply shift the problem to another locale, rather than presenting a long-lasting solution. In particular, ITA has publicly suggested a plan that would redistributed public safety, private industry, and commercial licensees to their own blocks of spectrum within the 800 MHz band. Plans such as ITA's will provide greater protection from harmful interference to all 800 MHz licensees, without increasing the chances of harmful interference to the 900 MHz band.

FPL questions proposals to relocate some 800 MHz band licensees to the 700 MHz band. If the proposed 700 MHz spectrum is clear of incumbents, and relocation costs are appropriately accounted for, then such a proposal could be part of the solution. However, there appear to be a variety of hurdles to such suggestions, and therefore, FPL believes that the answer to the interference within the 800 MHz band lies within the 800 MHz band itself.

III. 800 MHz Licensees Should Not Be Relocated to the 900 MHz Band; the 800 and 900 MHz Bands Should Not be Consolidated into a Single Pool

FPL cannot support proposals to relocate 800 MHz licensees to the 900 MHz band. As a 900 MHz band licensee, FPL can attest to the sharp increase in congestion in the band. In Florida, FPL often cannot request simple modifications to its 900 MHz stations, such as slight relocations or the additional of a single channel or two for increased capacity. FPL believes that in many regions, it will be physically impossible to relocate 800 MHz licensees to the 900 MHz band, regardless of a desire to do so. Such proposed relocations would likely be much more costly and burdensome, in any event, than reassigning 800 MHz licensees to new blocks of 800 MHz spectrum. Relocating 800 MHz licensees to the 900 MHz band would cause more difficulties than it would resolve, and therefore, such proposals would not serve the public interest.

FPL also respectfully objects to proposals to consolidate the 800 and 900 MHz into a single private land mobile pool.² Implementing this proposal likely will increase greatly the congestion 900 MHz licensees are currently experiencing in that band. As a critical infrastructure operator, clear communications are essential to FPL's protection of life, health, and property in daily and emergency operations. As discussed in greater detail below, FPL believes that critical infrastructure operators should be allocated their own spectrum in order to ensure protection from harmful interference, and thus the Commission should avoid consolidating the 800 and 900 MHz bands as against the public interest.

IV. The Commission Should Not Permit 900 MHz Private Licensees to Transfer Their Licenses to Commercial Entities

The Commission has requested comment on whether it should permit 900 MHz private licensees to transfer their licenses to commercial entities, who would otherwise have been ineligible for the licenses in the first instance. This idea has been proposed in the interests of "regulatory symmetry" with the 800 MHz band.³ The Commission has asked whether this suggestion would create such a spectrum shortage in the 900 MHz band that the needs of displaced licensees for the 900 MHz spectrum could not be adequately met.

FPL strongly believes that permitting 900 MHz private licensees to indiscriminately transfer their private licenses to commercial entities would exacerbate the existing spectrum shortage FPL has encountered in the 900 MHz band. FPL does not use its spectrum to generate a profit. FPL also cannot turn to commercial entities to obtain communications services that appropriate address its internal critical infrastructure maintenance obligations.

² *Id.* at ¶¶ 83-85.

³ *Id.* at ¶ 86.

Although there have been recent proposals, such as priority access, that are intended to provide additional communications to entities such as public utilities, priority access is currently voluntary, and no Florida commercial wireless service provider has stepped forward to provide priority access to public safety and public utility entities. FPL is also highly skeptical that priority access would fully meet its needs in the event of a natural disaster, threat of sabotage, or other emergency. FPL has specifically studied the feasibility of utilizing commercial service as a replacement for its 900 MHz facilities. Unfortunately, while the public no doubt places a high priority on maintaining the provision of power during and immediately after emergencies, FPL has found that it cannot be assured the capacity and service reliability over commercial facilities necessary to respond effectively to power outages. FPL believes that permitting private licensees to transfer their licenses to commercial entities will only serve to exacerbate spectrum shortages in the 900 MHz band, and commercial systems are no substitute for FPL's private, internal communications system.

V. The Commission Should Allocate Separate Spectrum in the 900 MHz Band for Critical Infrastructure Operators

Working around electrical and nuclear facilities requires meticulous attention to the safety of FPL personnel *and* the general public. FPL uses its 900 MHz communications system to meet this obligation as it maintains critical infrastructure during emergencies and security threats. FPL strongly supports proposals⁴ to allocate separate spectrum to critical infrastructure operators such as power utilities.

⁴ *Id.* at ¶ 37 (“we seek comment on whether it would be feasible or desirable to effect a [critical infrastructure] set-aside were we to adopt other band plans.”)

The Commission's request for comment on allocating spectrum in the 900 MHz band for critical infrastructure purposes has been presented in the context of proposals to relocate 800 MHz licensees to the 900 MHz band (which FPL opposes). Nevertheless, FPL believes that a separate allocation is necessary to protect critical infrastructure communications. There is no room for error in responding to emergencies at nuclear power plants and around electric power facilities. Security threats to these facilities are very real, as recent events in our nation attest. Natural disasters, including hurricanes and tornadoes, require critical infrastructure personnel to brave the elements in order to restore power and protect the safety of the public at large.

While FPL recognizes that spectrum is a scarce and valuable resource, FPL questions whether it is worth the risk to our nation's critical infrastructure, and consequently, to the public, to permit wireless stations to be tightly packed in the 900 MHz band. Increasingly, FPL has witnessed the request for waivers of the Commission's rules to permit new stations to be short-spaced with existing licensees. Given the flat terrain and ubiquitous bodies of water in Florida, FPL has grave concerns that permitting more and more stations to be shoehorned into the 900 MHz band will create the problems that the Commission is seeking to resolve for 800 MHz licensees. If the Commission is to permit short-spacing in the 900 MHz band on a regular basis, FPL believes there is no means for assuring that nuclear power stations and electric power personnel have clear communications without allocating separate spectrum for critical infrastructure operators.

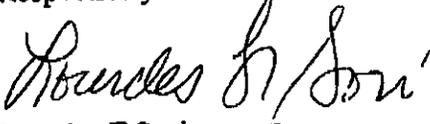
VI. Conclusion

FPL supports proposals, such as ITA's, that seek to resolve interference issues in the 800 MHz band through the reorganization of the 800 MHz band, rather than through relocation of these licensees to other bands. FPL respectfully submits that relocation of 800 MHz licensees

(or licensees from any other band, for that matter) to the 900 MHz band would cause far more problems than such a proposal would purport to resolve. Similarly, consolidating the 800 and 900 MHz bands into a single private land mobile pool would only serve to increase existing congestion in the 900 MHz band.

FPL also supports proposals to create a separate allocation for critical infrastructure providers. FPL is gravely concerned that increased congestion in the 900 MHz band is infringing its ability to communicate without harmful interference in times of emergency and crisis. FPL does not believe it is worth the risk to the public to crowd stations into the 900 MHz band by granting waivers of the Commission's short-spacing rules. The only other solution appears to be separate allocations for critical infrastructure providers, in order to ensure that reliable wireless communications will be available for response to natural disasters and threats to security.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lourdes F. Sori".

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