BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Spectrum Policy Task Force Seeks	)	ET Docket No. 02-135
Comment on Issues Related to	)	
Commission's Spectrum Policies	)	
	)	

To: Spectrum Policy Task Force

REPLY COMMENTS OF SOUTHERN LINC

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TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. MARKET-ORIENTED ALLOCATION AND ASSIGNMENT POLICIES 4

- A. The Commission Should Not Adopt A "One-Size-Fits-All" Spectrum Policy For The Many Different Uses Of Spectrum 4
- B. The Commission Should Auction New CMRS Spectrum Bands In Two Stages To Alleviate Small And Regional Carriers' Equipment Concerns 5
- C. The Commission Should Continue To Auction Certain Amounts Of Spectrum In Small Licensing Areas 7
- D. The Commission Should Preserve The Degree Of Certainty Inherent In Exclusive License Allocations 9
- E. The Commission Should Heighten The Degree Of Flexibility Granted To Licensees 10

III. INTERFERENCE PROTECTION 12

- A. The Commission Should Adopt A Defined Process For Licenses to Privately Address Cases Of Interference As They Occur 12

IV. PUBLIC SAFETY AND CRITICAL INFRASTRUCTURE INDUSTRY COMMUNICATIONS 14

- A. The Commission Should Reallocate the 700 MHz Band For Use Primarily By Public Safety Licensees 14
- B. The SPTF Should Take Into Consideration The Fact That Under Certain Circumstances, Commercial Providers Can Serve As Viable Substitutes For Private Public Safety And Critical Infrastructure Industry Systems 17

V. CONCLUSION 19

EXECUTIVE SUMMARY

In this proceeding, the Spectrum Policy Task Force ("SPTF") is seeking comment on a wide range of spectrum management issues. It will use the comments and reply comments, as well as other sources of information, to provide the Commission with an evaluation of existing spectrum policy and recommendations for potential improvements. The wireless industry and interested persons responded enthusiastically to this proceeding, with over 130 parties filing comments.

As a regional Commercial Mobile Radio Service ("CMRS") provider seeking development and growth, Southern LINC ("Southern") has a strong interest in spectrum policy. Its Reply Comments are derived from its experience in providing over 250,000 customers with combined dispatch and interconnected service in Georgia, Alabama, the southeastern quarter of Mississippi, and the panhandle of Florida. Southern's perspective is shaped, in part, by the nature of its subscriber base: public utilities, public safety agencies, school districts, local governments, emergency services, and a wide variety of commercial entities.

In regard to market-oriented allocation and assignment policies, Southern strongly agrees with commenters that contend that, due to the differences between different types and uses of spectrum, the Commission must implement specific spectrum policies for specific uses. Southern also expresses its concern that small and regional CMRS providers cannot create the economies of scale necessary to spur equipment manufacturers to develop new equipment for new spectrum bands. (This is the case both with spectrum acquired through auction and spectrum acquired on the secondary market.) To alleviate that concern, the Commission should auction new spectrum bands in two tiers: one consisting of allocations for large carriers, and a second consisting of allocations for small and regional carriers that would be auctioned several

years later, after the carriers can be assured that equipment is being manufactured for the spectrum.

Southern also supports the continuation, at each auction, of auctioning several blocks of spectrum in small licensing areas so as to preserve the ability of smaller and rural carriers to effectively bid for spectrum. Additionally, Southern agrees with commenters that believe that exclusive license allocations should continue to represent a high degree certainty; the rights embodied in such licenses when they are obtained should not be substantially modified in the future. However, the Commission should heighten the degree of flexibility currently enjoyed by licensees, thus simplifying undertakings such as leasing and sharing.

Southern concurs with commenters that seek the adoption of a defined process for privately addressing cases of interference as they occur. In that manner, interference can be addressed and alleviated only when necessary, without the undue burden of artificial standards and benchmarks that may or may not indicate harmful interference in a particular situation. Additionally, the Commission's intervention would be necessary only if the parties are unable to arrive at a mutually agreeable solution.

In regard to public safety and critical infrastructure industry communications, Southern believes that to assure that the public safety community has an adequate amount of suitable, interoperable, and largely interference-free spectrum, the Commission should reallocate the 700 MHz band primarily for public safety licensees and relocate existing licensees to that band. Also, Southern emphasizes that commercial providers can, under certain circumstances, serve as viable substitutes for private public safety and critical infrastructure industry systems.

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REPLY COMMENTS OF SOUTHERN LINC

Pursuant to Section 1.415 of the Rules of the Federal Communications Commission, Southern Communications Services, Inc., d/b/a Southern LINC ("Southern LINC" or "Southern"), by its attorneys, respectfully submits these Reply Comments in response to the initial comments filed in the above-captioned matter.[1]

I. INTRODUCTION

In this proceeding, the Spectrum Policy Task Force ("SPTF") is seeking comment on a wide range of spectrum management issues. The SPTF plans to use these comments, along with other sources of information, to provide the Commission with an evaluation of its existing spectrum policies and recommendations as to potential improvements. Southern LINC commends the Commission and SPTF for undertaking this important and challenging task, and is pleased to offer these Reply Comments.

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[1] Spectrum Policy Task Force Seeks Public Comment on Issues Related to Commission's Spectrum Policies, ET Docket No. 02-135, *Public Notice*, DA 02-1311, 17 FCC Rcd 10560 (2002) *("Public Notice")*.

As a regional Commercial Mobile Radio Service ("CMRS") provider, Southern has a strong interest in spectrum policy. Southern operates a digital 800 MHz SMR system that utilizes Motorola's Integrated Digital Enhanced Network ("iDEN") technology to provide both dispatch and interconnected service with the same handset. Its service territory comprehensively covers 127,000 square miles in Georgia, Alabama, the southeastern quarter of Mississippi, and the panhandle of Florida, and it serves over 250,000 customers. In part because of its expansive and highly reliable coverage, Southern is widely used by public utilities, public safety agencies, school districts, local governments, emergency services, and a wide variety of commercial entities. For example, Southern is the primary mobile communications provider for Southern Company's five utility operating companies[2] and provides wireless communications for approximately 3,000 public safety entities (for a total of over 30,000 public safety users).[3]

Southern's Reply Comments focus on three areas: (1) Market-Oriented Allocation and Assignment Policies; (2) Interference Protection; and (3) Public Safety and Critical Infrastructure Industry Communications. With regard to market-oriented allocation and assignment policies, Southern strongly agrees with commenters that assert that a "one-size-fits-all" spectrum policy is not possible. Rather, the Commission must implement specific policies for specific uses of spectrum. Also, in recognition of the fact that small and regional CMRS providers cannot create the economies of scale necessary to spur equipment manufacturers to develop new equipment for new spectrum bands, the Commission should auction new spectrum bands in two tiers. One tier would consist of allocations for large carriers and would be auctioned first. The other tier would

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2 Georgia Power Company, Alabama Power Company, Mississippi Power Company, Gulf Power Company, and Savannah Electric and Power Company.

3 This includes entities eligible for licensing in the Commission's Public Safety Radio Services as well as federal government entities.

consist of allocations for small and regional carriers and would be auctioned several years later, after they can be assured that equipment is being manufactured for the spectrum.

Southern also supports commenters that advocate the continuation, at each auction, of auctioning several blocks of spectrum in small licensing areas so as to preserve the ability of smaller and rural carriers to effectively bid for spectrum. Additionally, Southern supports the numerous commenters that advocate preserving the degree of certainty inherent in exclusive license allocations. Holders of such licenses should be entitled to expect that the rights embodied in the licenses at the time they were obtained will not be substantially modified in the future. At the same time, the Commission should heighten the degree of flexibility currently enjoyed by licensees; for example, it should be easier for them to lease or otherwise voluntarily share their spectrum.

As for interference protection, Southern concurs with commenters that seek the adoption of a defined process for privately addressing cases of interference as they occur. Such a process could require the parties to work together outside of the Commission to alleviate the interference, and provide for the Commission's intervention only if the parties are unable to arrive at a mutually agreeable solution.

With regard to public safety and critical infrastructure industry communications, Southern is highly supportive of their needs and, as noted above, provides mobile communications for Southern Company's utility operating companies and over 30,000 public safety users. To assure that the public safety community, in particular, has an adequate amount of suitable, interoperable, and largely interference-free spectrum, Southern supports reallocating the 700 MHz band primarily for public safety licensees and relocating existing licensees to that band. Also, Southern emphasizes that commercial providers can, under certain circumstances, serve as viable substitutes for private public safety and critical infrastructure industry systems.

II. MARKET-ORIENTED ALLOCATION AND ASSIGNMENT POLICIES

A. The Commission Should Not Adopt A "One-Size-Fits-All" Spectrum Policy For The Many Different Uses Of Spectrum

One of the fundamental questions raised in the "Market-Oriented Allocation and Assignment Policies" portion of the *Public Notice* was whether spectrum allocation and assignment policies should be different for different sections of the spectrum.[4] Several different types of commenters emphatically stated that given the distinctions between different uses of spectrum, policies must vary for different sections of the band.[5] This point was succinctly made by Boeing, which stated that "Radiocommunications spectrum is beneficially used in a vast variety of ways, all of which have been deemed by Commission to provide specific public interest benefits to consumers."[6] Regulating these different uses pursuant to a single set of policies "would undermine the Commission in its critical statutory obligation to use its technical expertise to . . . manage spectrum resources in ways that serve the public interest, convenience, and necessity."[7]

Southern strongly supports this position. In the terrestrial wireless arena in which Southern operates, commercial services' spectrum acquisitions are directly correlated to revenues, profit-motives, and a desire to increase subscribership. They are thus well suited for the broad coverage areas and multiple channel allocations afforded by geographic area allocations, and the auctioning of such allocations generally assures that they go to the licensee

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4 *Public Notice* at 2-3.

5 *See, e.g.,* Comments of Cingular Wireless at 16, 48-49; Comments of American Petroleum Institute at 5-6; Comments of Motorola at 8; Comments of Comsearch at 4; Comments of Boeing at 3-4. Unless otherwise indicated, all comments cited or otherwise referenced in these Reply Comments were filed on July 8, 2002 in ET Docket No. 02-135.

6 Comments of Boeing at 3.

7 Comments of Boeing at 3-4.

that values them the highest. Non-commercial services, on the other hand, acquire spectrum for internal needs that do not directly generate revenue. Their coverage and spectrum needs are usually much more limited than the wide coverage and multiple frequencies afforded by a geographic license. As such, they are best suited to smaller, non-auction, site-by-site allocations that are closely-tailored to their precise coverage and spectrum needs.

B. The Commission Should Auction New CMRS Spectrum Bands In Two Stages To Alleviate Small And Regional Carriers' Equipment Concerns

A significant theme that emerged in the comments was the concern of rural carriers that they have been poorly served by the Commission's spectrum policies over the past several years.[8] Southern understands those concerns, and contends that in many respects they extend beyond rural carriers. Specifically, Southern believes that small and regional carriers in general have not been well-served by the Commission's policies. A primary problem with the Commission's policies has been that they do not recognize that small and regional carriers cannot create the economies of scale necessary to spur equipment manufacturers to develop new equipment for new spectrum bands. As such, those carriers cannot be assured, prior to bidding on new spectrum or seeking spectrum through the secondary market, that equipment will eventually be made available for it. To address that problem, for all future auctions of new CMRS spectrum bands, the Commission should auction CMRS bands in two tiers. The first tier would consist of allocations for large carriers. The second tier would consist of allocations for small and regional carriers and would be auctioned several years after the first tier spectrum, when carriers can be assured that the necessary equipment is being manufactured.

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8 Comments of National Telecommunications Cooperative Association at 1, 3-4; Comments of Rural Telecommunications Group at 2; Comments of Blooston, Mordkofsky, Dickens, Duffy & Prendergast at 4 (filing on behalf of sixteen rural telephone companies).

Auctioning spectrum in two tiers would be consistent with the Communications Act of 1934 and could be done within the Commission's Rules. Sections 309(j)(3) and (4) of the Communications Act, as amended, mandate that in designing competitive bidding methodologies and in establishing regulations, the Commission must broadly disseminate licenses such that small and rural carriers have meaningful opportunities to obtain them.[9] Also, Commission Rule Section 1.2110(d) provides that "[t]he Commission may set aside specific licenses for which only eligible designated entities, as specified by the Commission, may bid."[10] The Commission utilized a tier structure in 2000, in Auction No. 35 for C and F Block PCS licenses.[11] It observed that such a structure "satisfies our objectives under Section 309(j)" by making available a sufficient amount of spectrum for "open" bidding in highly populous markets while still giving smaller carriers a meaningful opportunity to compete.[12]

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9 In the Matter of Amendment of Part 1 of the Commission's Rules - Competitive Bidding Procedures, WT Docket No. 97-82, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, 15 FCC Rcd 15293, 15321 (2000).

10 47 C.F.R. § 1.2110(d) (2001).

11 In the Matter of Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, WT Docket No. 97-82, *Sixth Report and Order and Order on Reconsideration*, 15 FCC Rcd 16266, 16276 (2000).

12 *Id.*

C. The Commission Should Continue To Auction Certain Amounts Of Spectrum In Small Licensing Areas

In numerous auctions, including auctions for broadband PCS and SMR, the Commission has auctioned spectrum only in large areas such as Major Trading Areas ("MTAs") and Economic Areas ("EAs").[13] Several rural carrier associations and individual rural carriers filed comments discussing the near impossibility of small and rural wireless providers successfully bidding on spectrum that is auctioned in such large areas.[14] They note that such spectrum has become the nearly exclusive domain of national carriers, as those carriers are capable of bidding far more for it than small and rural carriers.[15] Additionally, many small carriers who may need only a relatively small geographical portion of, for example, an MTA, do not have the resources to sufficiently build out the entire license.[16]

Rural carriers asserted that in contrast to spectrum auctioned in large blocks, they are far better served by smaller frequency assignments such as Rural Services Areas.[17] To that end, they noted that in 2000, the Commission issued a report and order regarding competitive bidding in which it recognized that Section 309(j) of the Communications Act of 1934, as amended, requires it to broadly disseminate licenses such that small and rural carriers have meaningful

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13 *See, e.g.,* Auction No. 4 for broadband PCS (Auction of 800 MHz Specialized Mobile Radio Licenses, *Public Notice*, DA 97-1672, Aug. 6, 1997) and Auction No. 16 for 800 MHz SMR (Auction of 800 MHz Specialized Mobile Radio Licenses, *Public Notice*, DA 97-1672, Aug. 6, 1997).

14 Comments of National Telecommunications Cooperative Association at 3-4; Comments of Rural Cellular Association at 2-3; Comments of Rural Telecommunications Group at 3-4; Comments of Blooston, Mordkofsky, Dickens, Duffy & Prendergast at 4-5.

15 Comments of National Telecommunications Cooperative Association at 3-4; Comments of Rural Telecommunications Group at 3-6.

16 Comments of Blooston, Mordkofsky, Dickens, Duffy & Prendergast at 4.

17 Comments of National Telecommunications Cooperative Association at 4-5; Comments of Rural Cellular Association at 4; Comments of Rural Telecommunications Group at 5-6; Comments of Blooston, Mordkofsky, Dickens, Duffy & Prendergast at 5.

opportunities to obtain them.[18] That recognition came to fruition for Auction No. 44 for the Lower 700 MHz Band.[19] Although Auction No. 44 has been delayed, the Commission planned to distribute the licenses in relatively small blocks termed Metropolitan Statistical Areas ("MSAs") and Rural Services Areas ("RSAs").[20] The Commission also used utilized RSAs for Auction No. 45 for cellular licenses in several rural areas.[21]

The rural carriers urged the Commission to continue licensing spectrum in smaller blocks for future auctions,[22] and Southern strongly supports this concept. As explained by The Rural Telecommunications Group, the auctioning of only large license areas "favors nationwide business plans over all other plans."[23] Because the Commission should not favor certain business plans over others, it should auction spectrum in smaller licensing areas that enable the development of both nationwide and regional plans. Southern, for one, has demonstrated that regional networks are economically viable and, more importantly, valuable to the public interest. For example, Southern's regional network is designed to comprehensively cover its 127,000 square mile service territory, meaning that, unlike national carriers, it covers everything from rural areas to small towns to large cities. This density of coverage has resulted in subscribership

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18 In the Matter of Amendment of Part 1 of the Commission's Rules - Competitive Bidding Procedures, WT Docket No. 97-82, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, 15 FCC Rcd 15293, 15321 (2000).

19 Auction of Licenses in the 698-746 MHz Band Scheduled for June 19, 2002, *Public Notice*, DA 02-200 (Jan. 24, 2002).

20 *Id.*

21 Auction of Cellular Licenses for Rural Service Areas Scheduled for May 29, 2002, *Public Notice*, DA 02-265 (Feb. 5, 2002).

22 Comments of National Telecommunications Cooperative Association at 4-5; Comments of Rural Cellular Association at 4; Comments of Rural Telecommunications Group at 5-6; Comments of Blooston, Mordkofsky, Dickens, Duffy & Prendergast at 5.

23 Comments of Rural Telecommunications Group at 5.

not by only businesses, but also by public safety agencies, emergency services, utilities, local governments, and school districts. Continuing to auction spectrum in small licensing areas will enable Southern to develop and expand its valuable and differentiated service.

D. The Commission Should Preserve The Degree Of Certainty Inherent In Exclusive License Allocations

A significant concern among commenters is that the Commission may gravitate towards a spectrum policy in which holders of licenses providing exclusive spectrum allocations may be subject to losing much of the certainty currently inherent in those licenses.[24] Such losses could come in the form, for example, of being required to share previously exclusive frequencies with other entities.[25] Among other detrimental effects, forced sharing could result in unexpected interference to the original licensee, who may have expended a considerable sum of money purchasing its license at auction and, even if not purchased at auction, dedicated substantial resources to building out the license.[26]

Southern firmly agrees with those commenters that assert that the Commission must preserve the degree of certainty that is currently inherent in exclusive license allocations, and not allow new licensees to encroach on those allocations. Current licensees purchased, built out, or otherwise invested in their licenses in accordance with the firm expectation that they alone would have access to the frequency or frequencies covered by the license. It would be fundamentally inequitable for the Commission to shatter those investment-backed expectations mid-stream, thus

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24 *See, e.g.,* Comments of Cingular Wireless at 8-9; Comments of Sprint Corporation at 6-9; Comments of Ericsson at 3; Ex Parte Comments of AT&T Wireless Services at 5 (filed July 12, 2002).

25 *See, e.g.,* Comments of Cingular Wireless at 19-20; Comments of Sprint Corporation at 8, 17-21.

26 *See, e.g.,* Comments of Cingular Wireless at 20; Comments of Sprint Corporation at 8.

obliterating the value of the licenses themselves and subjecting the holders' carefully constructed systems to untold amounts of interference.

Also, as explained by Cingular, sharing of previously exclusive spectrum will not encourage efficient use of spectrum because if it is readily available on a common basis, "licensees [will] have little incentive to implement new technologies that will reduce the amount of spectrum they need to provide service."[27] Cingular also noted that broadly allowing licensees to share spectrum will require the Commission to undertake the extraordinarily difficult task of determining in advance the interference that will be created and whether such interference will be tolerated.[28] Even if the Commission undertook such an analysis, Southern is certain that, despite the Commission's best efforts, substantial interference would inevitably result.

E. The Commission Should Heighten The Degree Of Flexibility Granted To Licensees

In the *Public Notice*, the SPTF asked whether "current, restrictive service and operating rules applicable in many bands [should] be changed to provide licensees with greater flexibility."[29] Numerous commentators responded that a high degree of flexibility is clearly warranted.[30] The Cellular Telecommunications & Internet Association ("CTIA") noted that flexibility in technical service rules has fostered innovative, state-of-the-art service by enabling wireless carriers to deploy new technologies without the burden of seeking waivers.[31] Cingular voiced a similar sentiment that indicated more flexibility is still needed:

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27 Comments of Cingular Wireless at 19.

28 Comments of Cingular Wireless at 20.

29 *Public Notice* at 2.

30 *See, e.g.,* Comments of Cingular Wireless at 21-24; Comments of Qualcomm at 7; Comments of United Telecom Council ("UTC") at 4-5; Comments of Comsearch at 2.

31 Comments of CTIA at 7-8.

> The Commission's experience to date demonstrates that strict, service-specific rules for commercial services may artificially constrain the ability of interested parties to put spectrum to the highest and best use. Service rules lag well behind technological advances and, thus, parties must often seek waivers or rule changes to deploy new and innovative services.[32]

Southern also believes that licensees should have a high degree of flexibility and, additionally, that the Commission should increase licensees' ability to use their spectrum in the manner they feel is most beneficial. To that end, in addition to continuing to permit technical flexibility, the Commission should allow for greater flexibility in using spectrum for purposes other than for which it was originally assigned, within reasonably defined usage categories. For example, a terrestrial mobile licensee would be allowed to share its spectrum with, or assign/transfer it to, a party that would also use it for terrestrial mobile purposes. However, that same licensee would not be permitted to share its spectrum with a party that would use it for broadcast purposes. Also, the heightened flexibility would have to be tempered by rules reasonably designed to prevent interference and market-damaging behavior such as license trafficking.

The Commission should also increase licensee flexibility be easing the ability of parties to develop and participate in a robust secondary market for spectrum. This is a step the Commission can take immediately by issuing an appropriate report and order in its secondary markets proceeding, which was initiated in November 2000.[33] The development of vibrant secondary markets is also supported by Sprint, which asserts in this proceeding that "[l]icensees are in a far better position that a regulatory agency to gauge whether assigned spectrum can be

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32 Comments of Cingular Wireless at 22.

33 In the Matter of Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, WT Docket No. 00-230, *Notice of Proposed Rulemaking*, 15 FCC Rcd 24203 (2000).

used more intensively or efficiently."[34] Cingular also advocates the concept, maintaining that the current burdensome approval process for leasing, assigning, and transferring spectrum "disserves the public interest because it places obstacles in the way of spectrum being utilized in the manner than best responds to public demand for spectrum-based services."[35]

III. INTERFERENCE PROTECTION

A. The Commission Should Adopt A Defined Process For Licensees to Privately Address Cases Of Interference As They Occur

One of the principle questions asked by the SPTF regarding interference protection is whether there are "processes that the Commission could consider that would allow private parties to more expeditiously resolve interference issues and disputes."[36] A well-designed process would enable licensees themselves to ascertain what appears to constitute interference between their particular systems and directly eliminate or alleviate such interference without the involvement of the Commission. The merits of a process of this nature were recognized by BellSouth, which observed that "[p]rivate discussions and negotiations often facilitate the more rapid deployment of solutions to interference issues to the mutual benefit of the parties and the Commission. . . . [T]he Commission should consider implementing such negotiated resolutions through rules and policy statements."[37] Privately resolving interference disputes was also alluded to by the United Telecom Council ("UTC"), which recommended that the Commission

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34 Comments of Sprint Corporation at 9.

35 Comments of Cingular Wireless at 25; *see also* Ex Parte Comments of AT&T Wireless Services at 12 (filed July 12, 2002) ("Secondary spectrum markets will not become a truly useful tool until the Commission [removes] superfluous regulatory barriers.").

36 *Public Notice* at 4.

37 Comments of BellSouth Corporation at 13. *See also* Comments of Ericsson at 6 ("[T]he Task Force . . . should endorse conflict resolution schemes that . . . allow commercial entities . . . to negotiate, among themselves, appropriate mitigation measures for unacceptable interference.").

"adopt specific guidelines and procedures for the resolution of interference disputes, including assignment of burdens, timelines for resolution and mandatory use of alternative dispute resolution."[38]

Southern strongly supports resolving interference disputes through largely private means. In the pending rulemaking addressing interference to public safety entities in the 800 MHz band, Southern submitted Comments in which it outlined a proposal for rules requiring parties to identify and resolve interference disputes on their own, with intervention by the Commission only as a last resort.[39] Southern incorporates those Comments and that proposal herein, and asks the SPTF to recommend that the Commission adopt rules and policies in accordance with that proposal.[40] In brief, the proposal advocates the implementation of rules that would enable a licensee experiencing interference to require the interferor to promptly eliminate it using technical or market-based solutions.[41] If mutual agreement as to interference mitigation could not be reached, either party could initiate binding arbitration by an independent arbitrator.[42] If necessary, the arbitrator's decision could be appealed to the Commission.[43]

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38 Comments of UTC at 9.

39 In the Matter of Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Comments of Southern LINC*, pp. 16-27 (May 6, 2000).

40 The Comments address interference in the context of non-public safety licensees causing interference to public safety licensees, but they can generally be applied to any interference situation.

41 In the Matter of Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Comments of Southern LINC*, pp. 23-25 (May 6, 2002).

42 *Id.* at pp. 25-26.

43 *Id.* at p. 27.

IV. PUBLIC SAFETY AND CRITICAL INFRASTRUCTURE INDUSTRY COMMUNICATIONS

A. The Commission Should Reallocate the 700 MHz Band For Use Primarily By Public Safety Licensees

In the *Public Notice*, the SPTF requests comment on how the Commission can "ensure the availability of dependable, interoperable, and cost-efficient" wireless communications for the public safety community.[44] Southern believes that goal can best be met by reallocation of the 700 MHz band primarily for public safety use and relocation of 800 MHz public safety licensees to the 700 MHz band. CTIA supports a plan of that nature in its Comments, stating that the Commission needs to move most public safety licensees to the 700 MHz band (and presumably reallocate the 700 MHz band primarily for public safety use).[45] CTIA maintains that pursuant to such a move, "[f]ederal and state public safety agencies could benefit from a harmonized block of spectrum to alleviate congestion and interference, provide interoperability and support advanced services such as mobile data."[46]

Moving public safety licensees to the 700 MHz band also found support in the public safety community. Bergen County, referring to the 700 MHz band, asserts that "[r]elocating public safety to a contiguous band of spectrum must emerge as the Commission's goal."[47] Bergen County is located in New Jersey in the New York City metropolitan area.[48] With over 884,000 residents, it is the most populous county in New Jersey and, in fact, one of the most

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44 *Public Notice* at 6.

45 Comments of CTIA at 14-15.

46 Comments of CTIA at 15.

47 Comments of Bergen County at 6.

48 Comments of Bergen County at 2.

populous counties in the United States.[49] In light of those facts, public safety communications factor highly in Bergen County's needs; it would not lightly advocate relocating public safety to the 700 MHz band, and the SPTF should accord its comments significant weight.

Relocation of public safety to the 700 MHz band was also advocated by over twenty commenters in the pending rulemaking addressing interference to public safety entities in the 800 MHz band.[50] That included many large industry associations, including CTIA, PCIA, ITA, FIT, SBT, NAM, and AAR.[51] It also included AT&T Wireless, Cingular Wireless, Alltel Corporation, FIRSTCellular, and Nokia.[52] RCC Consultants, an international consulting and engineering firm that works with public safety agencies, among other entities, contended that relocating public safety licensees to the 700 MHz band is the best solution to public safety interference problem.[53] Likewise, Boeing characterized such relocation as "[w]ithout question,

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49 Comments of Bergen County at 6; web site for National Association of Counties, "General Information/Characteristics" page, http://www.naco.org/counties/general/chars.cfm.

50 In the Matter of Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55: Comments of CTIA at 9; Comments of Private Wireless Coalition at 6-11; Comments of Boeing at 17; Comments of Motient Communications Inc. at 16-17; Comments of Bergen County Police Department at 6; Snohomish County Emergency Radio System at 3; Madison County East Transit District at 9; Comments of Jamestown Communications and Midwest Management at 6; Comments of Cingular Wireless and Alltel Communications at 16-19; Comments of AT&T Wireless Services at 7-14; Comments of Southern LINC at 27-30; Comments of Skitronics at 40; Comments of Kenwood Communications Corporation at 11-12; Comments of Coupe Communications at 3; Comments of Fisher Wireless Services at 3, 9-10; Comments of Lockheed Martin Corporation at 5; Comments of South Plains Communications at 2; Comments of RCC Consultants at 4-5; Comments of Blooston, Mordkofsky, Dickens, Duffy & Prendergast at 6-10.

51 Comments of CTIA at 9; Comments of Private Wireless Coalition at 6-11 (PCIA, ITA, AAR, FIT, SBT, NAM, and AAR filed jointly as the "Private Wireless Coalition").

52 *See* Letter from the Commission by the Coalition for Constructive Public Safety Interference Solutions to Commission Chairman Michael K. Powell, dated April 26, 2002.

53 Comments of RCC Consultants at 4-5.

the simplest and most effective approach that has been developed to resolve interference to Public Safety services in the 800 MHz band."[54] Motient Communications Inc. stated that "[o]f the proposals Motient is aware of, the 700 MHz proposal would best meet all the proposed goals of the Commission."[55]

Public safety and quasi-public safety entities also supported relocation of public safety licensees to the 700 MHz band in the public safety interference rulemaking. Bergen County registered its strong support.[56] Also, the Snohomish County Emergency Radio System stated that "the potential auction revenue generated from vacated 800 MHz spectrum, combined with the clear public benefit of creating a dedicated block of public safety spectrum from 746 to 806 MHz" may warrant giving "serious consideration" to relocation.[57] Also, Madison County East Transit District, a municipal transportation quasi-public safety entity, stated that relocation of 800 MHz public safety licensees to the 700 MHz band is "quite attractive and must be seriously considered by the Commission."[58]

Southern strongly supports reallocation of the 700 MHz band primarily for public safety use and relocation of 800 MHz public safety licensees to the 700 MHz band. Relocation of 800 MHz public safety entities to the 700 MHz band would eliminate interference to them from 800 MHz licensees. It would also consolidate them with the already allocated 700 MHz public safety frequencies, thus providing excellent opportunities for interoperability. Additionally,

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54 Comments of Boeing at 17.

55 Comments of Motient Communications Inc. at 16-17. Motient Communications Inc. is a provider of wireless data services throughout the United States and Puerto Rico with coverage in all cities with population greater than 50,000 people.

56 Comments of Bergen County Police Department at 6.

57 Comments of Snohomish County Emergency Radio System at 3.

58 Comments of Madison County East Transit District at 9.

reallocation of the 700 MHz band would provide the public safety community with an additional 20.5 MHz of public safety spectrum. The cost of the relocation could be partially funded by auctioning the newly vacated 800 MHz frequencies.

B. The SPTF Should Take Into Consideration The Fact That Under Certain Circumstances, Commercial Providers Can Serve As Viable Substitutes For Private Public Safety And Critical Infrastructure Industry Systems

Several commenters discuss whether public safety and critical infrastructure industry ("CII") entities can utilize commercial systems instead of private systems, thus relieving them of the burden of finding and building out appropriate available spectrum.[59] APCO is concerned that commercial services do not have coverage that is comprehensive enough and systems that are reliable enough to adequately meet public safety needs.[60] As such, it would limit their use to secondary roles or for administrative purposes.[61] Similarly, with regard to CII entities, UTC is concerned that most commercial carriers cannot provide the level of service and particular features that CII entities need.[62]

On the other hand, BellSouth indicates that commercial systems are capable of playing a prominent role in public safety communications, stating that their use by public safety agencies is growing and that there are "strong economic forces that will push for continuation of this trend."[63] BellSouth explains that "as CMRS systems expand, technologies advance, and economies of scale in the production of terminal equipment increase, the shared networks offered by CMRS service providers will become increasingly attractive to the public safety community -

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59 Comments of APCO at 5-7; Comments of UTC at 5-6; Comments of BellSouth Corporation at 16-17; Comments of Ericsson at 9-10.

60 Comments of APCO at 6.

61 Comments of APCO at 5-6.

62 Comments of UTC at 5-6.

63 Comments of BellSouth Corporation at 17.

both in terms of cost and capabilities."[64] Ericsson noted the potential of commercial services for adding an enhanced interoperability component to existing public safety systems.[65]

Southern agrees that most commercial carriers' systems are not currently adequate to meet all the wireless needs of public safety and CII entities. However, the SPTF should not overlook the fact that it is possible for commercial systems to be built out and configured to meet the needs of public safety and CII entities. Southern itself is an example of such a system. Although it is a commercial carrier that provides service to numerous non-public safety and non-CII subscribers, it also provides wireless communications for approximately 3,000 public safety entities (for a total of over 30,000 public safety users)[66] and is the primary mobile communications system for Southern Company's five utility operating companies.[67]

The structure of Southern's system can serve as a model for the criteria needed to meet the requirements of public safety and CII users. In that regard, the essential elements of Southern's system are ubiquitous coverage of its service territory, a highly reliable network, and the provision of true dispatch service. Specifically, Southern covers its 127,000 square mile service area comprehensively, enabling use of its service in rural and remote areas as well as urban locales and major highways. In terms of reliability, Southern's network has a very high degree of built-in redundancy at its towers to withstand harsh weather conditions such as hurricane-force winds and significant ice loading. With regard to features, Southern offers true dispatch capability (in addition to interconnected service), which operates independently of the

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64 Comments of BellSouth Corporation at 17.

65 Comments of Ericsson at 9-10.

66 This includes entities eligible for licensing in the Commission's Public Safety Radio Services as well as federal government entities.

67 Georgia Power Company, Alabama Power Company, Mississippi Power Company, Gulf Power Company, and Savannah Electric and Power Company. In total, these operating companies provide service to nearly 4 million customers.

public switched telephone network and enables virtually instant one-to-one and one-to-many communications.

V. CONCLUSION

WHEREFORE, THE PREMISES CONSIDERED, Southern LINC respectfully asks the Commission to act in the public interest in accordance with the proposals set forth herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, John R. Delmore, do hereby certify that on this 23rd day of July 2002, the foregoing "Reply Comments Of Southern LINC" were electronically filed with the Federal Communications Commission using the Commission's Electronic Comment Filing System and sent via U.S. Mail to the following:

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