

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

REPLY COMMENTS OF SAIA COMMUNICATIONS, INC.

Saia Communications, Inc. (“Saia”), by its counsel, and pursuant to Section 1.415 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”) and the invitation extended by the Commission in the Notice of Proposed Rule Making (“NPRM”)^{1/} in the above referenced proceeding, hereby submits its reply comments responsive to the comments of others that addressed the FCC’s proposals on how best to remedy interference to 800 MHz public safety systems.

I. Background

Saia is a 900 MHz Specialized Mobile Radio (“SMR”) licensee serving the Buffalo, New York area. Saia holds two 900 MHz SMR licenses, under call signs KNNY224 and KNNY225. Saia has already satisfied the FCC’s three-year construction deadline and expects to satisfy the

^{1/} *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, *Notice of Proposed Rulemaking*, FCC No. 02-81 (rel. March 14, 2002) (“NPRM”). The Commission extended the deadline for the submission of reply comments in this proceeding to August 7, 2002. *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, *Order Extending Time for Filing of Reply Comments*, DA-02-1523 (June 27, 2002).

FCC's five-year construction deadline as well. Saia, like many providers of wireless services, faces spectrum constraints, and is eager to expand the capacity of its system. Saia is a member of the Ad Hoc Wireless Alliance ("Alliance") that submitted initial comments in this proceeding and Saia has otherwise participated in matters before the FCC involving the use of 900 MHz channels designated for use in the Business and Industrial/Land Transportation ("B/ILT") frequency "pools". As one of the predominant provider of two-way radio sales and service in western New York state, Saia is generally interested in all of the issues raised in the NPRM. It submits these reply comments in particular, however, to address the FCC's request that interested parties comment on whether B/ILT channels should be made available for entities that wish to provide commercial mobile radio service ("CMRS").

II. Reply Comments

As the Alliance noted in its initial comments, the FCC should permit 900 MHz B/ILT spectrum to be converted for CMRS use. Few other entities addressed this issue in their comments. Nextel Communications, Inc. ("Nextel") argued that these channels should be made available for commercial use if they are not required as part of Nextel's 800 MHz realignment process.^{2/} Saia believes that the 900 MHz B/ILT channels should be made available for commercial operations regardless of whether 800 MHz realignment occurs.

If, as Nextel suggests, traditional SMR licensees and other 800 MHz users are relocated to the 900 MHz SMR spectrum now held by Nextel, that spectrum will effectively become a "mixed use" band in any event. That is, some former 900 MHz SMR spectrum will be used by relocated B/ILT licensees, while other former 900 MHz SMR spectrum will be used by displaced 800 MHz SMR licensees. Presumably, the 800 MHz B/ILT licensees relocated to the

^{2/} Nextel Comments at 64-65.

900 MHz band would be permitted to convert the band to its original, commercial, use. If the FCC permits this conversion, then it would unreasonably discriminate against incumbent 900 MHz B/ILT licensees that may also wish to convert the use of their spectrum.^{3/} Moreover, if this conversion occurs, the distinction between the pools at 900 MHz will have effectively been eroded in any case. The perpetuation of certain distinctions and not others is not in the public interest.

If 800 MHz licensees are not relocated to 900 MHz spectrum, then there is less reason still for the FCC to retain the artificial boundaries between the 900 MHz pools. Although the few private land mobile radio (“PLMR”) entities that addressed this issue claim that permitting CMRS operations on B/ILT 900 MHz spectrum will diminish PLMR capacity^{4/}, spectrum management trends strongly disfavor a continuation of artificial distinctions. For the reasons stated in the Alliance’s initial comments Saia believes that the FCC should reject arguments that the 900 MHz B/ILT spectrum should continue to be reserved for private entities. Moreover, Saia notes that the FCC recently issued a Staff Report that, while noting the important activities in which the so-called “critical infrastructure industries (“CII”)” are engaged, urged the CII to, among other things, investigate the use of commercial systems to meet their communications requirements.^{5/} It is not in the public interest for the FCC to continue to hold in reserve spectrum

^{3/} There would be no logic to prohibiting this conversion because the spectrum was originally allocated for commercial use.

^{4/} See Comments of Florida Power and Light and the Boeing Company in this proceeding. In addition to Nextel, this position is opposed by Cascade Two Way Radio.

^{5/} *FCC Staff Report on NTIA’s Study of Current and Future Spectrum Use by the Energy, Water, and Railroad Industries Submitted Pursuant to Public Law No. 106-553, 25 (July 30, 2002).*

for entities that have had nearly twenty (20) years to seek the use of that spectrum to meet their communications requirements.

III. Conclusion

Saia Communications, Inc. hereby submits the foregoing reply comments and urges the Commission to act in a manner consistent with the recommendations made herein.

Respectfully submitted,

Saia Communications, Inc.

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CERTIFICATE OF SERVICE

I, Carly B. Tolchin, hereby certify that on the 7th day of August 2002 a copy of the foregoing "Reply Comments of Saia Communications, Inc.," was filed electronically on the Commission's ECFS System, and copies were served via the methods noted below on the following:

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