

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

To: The Commission

REPLY COMMENTS

Palomar Communications, Aeronautical Radio, Inc., Ragan Communications, Inc., United Airlines, Inc., Bell Interconnect, Inc., Northwest Airlines, Inc., Skyline Communications, Inc., North Sight Communications, Inc., Motient Communications, Inc., JPJ Electronic Communications, Inc., Commtronics Of Virginia, Inc., Sid Richardson Energy Services Company, Western Communications, Inc., Intel Corporation, WS Electronics, Inc., New York Communications Company, G & P Communications, SR Communications Associates, KLL Wireless, Inc., Communications And Industrial Electronic Corporation, CNY, Inc., William J. Young, Wecom, Inc., and Pete’s Communications, Inc. (the “Joint Commenters”), through counsel, hereby respectfully submits their Reply Comments in the above-captioned proceeding.

I. BACKGROUND

In their initial Comments, the Joint Commenters submitted an extensive analysis of interference being caused to private wireless systems from cellularized systems in the 800 MHz band. In addition, the Comments included a thorough analysis of legal responsibility for

resolving interference. The Joint Commenters, however, stated their support of the Private Wireless Coalition (“PWC”) 800 MHz Re-banding Plan.

Since the initial Comments were filed, the Joint Commenters have worked, as part of the PWC, with all impacted parties, in order to reach a mutually satisfactory resolution. The PWC Reply Comments, which the Joint Commenters fully support, represents the culmination of this work. The extensive effort made to create the document should not be minimized, it is the result of intensive efforts by a number of parties to resolve issues not of their making. Every signing party has recognized that, as users of the electromagnetic spectrum, it is their responsibility to work to resolve interference issues, and therefore each party has been required to make significant compromises in order to reach an acceptable conclusion to this proceeding. It should also be noted that the Joint Commenters represent the entire spectrum of impacted parties: (1) EA licensees that will be required to accept different assignments if the PWC plan is adopted (Motient and Western); (2) EA licensees that will remain with their existing allocations (North Sight, for example); and (3) 800 MHz licensees that are experiencing interference, and will need to relocate to new channels (New York Communications, for example).

II. REPLY COMMENTS

In this proceeding, the Commission has received comments from an extremely wide spectrum of interested parties: every type of 800 MHz licensee; 700 MHz incumbent licensees; Nextel competitors; and parties trying to protect their own portion of other spectrum. As a result, the Commission has been placed in a difficult position of weighing a multitude of factors which have little to do with the *raison d’etre* for this proceeding -- resolving 800 MHz interference.

The Joint Commenters would be pleased if each and every one of these agendas could be accommodated. However, since these agendas are often directly apposite, it simply cannot be

done. Therefore, the Joint Commenters, again by participating with the Private Wireless Coalition (“PWC”), have sought to reach a compromise which will solve the interference problem, while having the least impact on those licensees receiving interference, and the least impact on those licensees not causing interference. In doing so, the PWC has attempted to forge a compromise which is as competitively neutral as possible. The Joint Commenters believe that what has been accomplished, the filing of a plan supported by an incredibly diverse spectrum of 800 MHz parties, is remarkable.

A. The Private Wireless Coalition Compromise Is The Best Solution For All

While it can be argued that the ultimate compromise filed today is not totally satisfactory to any one group, perhaps it is also the compromise’s greatest strength - each party suffers some. But in return, each group at 800 MHz receives something for their pain. Public Safety licensees will need to re-tune to different 800 MHz spectrum, but in return receives: (1) compensation; (2) some short-term relief from interference, and significant long-term relief; and (3) the potential of some new spectrum in the band. Private wireless entities: (1) do not need to move out of the band to 900 MHz (but rather will be given incentives to do so); (2) will be compensated for re-tuning; (3) will not lose spectrum already used; and (4) will also receive similar short-term and long-term interference relief. Nextel must engage in an extremely expensive spectrum change for its own operations, as well as pay for the retuning of other incumbents, but in return Nextel receives contiguous spectrum, a huge plus for its operations, without the fear of continual interference nightmares at the end of the process.

The PWC plan being submitted today is the least expensive and least burdensome spectrum re-banding proposed by any party in this proceeding. The plan leaves the greatest number of incumbent licensees possible on their original channels. The plan enables the

cheapest radio modification possible, the slight re-centering of the pass band on the front-end radio filter, to have the greatest impact on reducing interference from cellularized systems going forward. In doing so, it is possible that existing radios could be inexpensively modified during the re-tuning process to become more interference resistant than a mere re-banding could accomplish.

The Joint Commenters appreciate the concerns of those parties that the PWC approached, and were unable to bring into the fold. There are parties that believe that giving Nextel spectrum around the 2 GHz band is a huge spectrum give-away. They argue that Nextel received its current spectrum for free, and the government should not be involved in making that free spectrum even more valuable. However, the Joint Commenters would suggest that Nextel has paid handsomely for most of the spectrum which it holds, either by paying extremely significant dollars to buy-out incumbent licensees, and/or by purchasing spectrum in public auctions where any entity could participate. There can be no doubt that Nextel acquired a significant amount of spectrum through mere application, but most of these spectrum grabs were in smaller markets. A resolution to interference cannot be based merely upon how much Nextel acquired its existing spectrum for, because Nextel played by the rules established at that time by the Commission,¹ just as initial cellular licensees paid little other than application-related fees for their authorizations, or had an additional cost of a FCC hearing which pales in comparison to the value of that same spectrum today.

¹Certainly, some of the Joint Commenters opposed some of those Commission Rules in both creation and execution, but the reality is that those were battles have been fought and decided. However, the Joint Commenters do not wish for further diminution of spectrum available for private wireless use, and while they have cooperated in seeking a resolution to

What is, then, Nextel's responsibility in this proceeding? As with any other licensee, Nextel must cure interference which it is causing. This is a bedrock principle of the Joint Commenters, discussed more fully in our initial Comments. This interference was entirely predictable, and Nextel will pay in very substantial, monetary ways to cure the interference. The Joint Commenters are not shy about demanding that Nextel compensate them for any re-banding that the Joint Commenters may be forced to make as a result of the outcome in this proceeding. However, the Joint Commenters also do not believe that needlessly ramping up those same costs, merely to exact an ounce of competitive revenge, is either necessary or beneficial to the industry.

Further, all incumbent licensees must be made whole in a re-banding, and channels must be exchanged on a one-for-one basis, regardless of whether that channel is a type site-by-site license, or an EA license. As a result, it may be necessary for Nextel to make extraordinary efforts (including purchases of some incumbent licensees to clear spectrum for others) in order to accommodate every licensee that wishes to remain in the band. However, the Joint Commenters do not expect Nextel to be required to accommodate 800 MHz licensees with authorizations "on the books," but not in operation. Therefore, the Joint Commenters are wholly supportive of a "spectrum audit" by the Commission, similar to its 150/450 MHz effort, to determine actual 800 MHz spectrum utilization.²

B. Interference In The Band Must Not Be Permitted To Re-Occur

interference in this proceeding, the Joint Commenters are determined not to stand idly by while there is a potential for a further reduction of private spectrum.

²The Joint Commenters would also encourage the Commission to request information on the use of multi-frequency transmitters, often called "channel savers." This equipment is typically used to nominally meet the Commission's construction requirements. In reality, it only results in spectrum hoarding.

The interference issue is larger than just Nextel. Merely making Nextel cure the interference which it is causing alone will not address the core issue, which is that cellularized systems do not inter-mix well with non-cellularized systems. Thus, although the Commission may address the interference caused by Nextel in a variety of ways, it will be valueless if the same situation may be re-created in the band by another entity. Further, the Commission must address this situation immediately, and not wait until another entity in the band begins significant low-site, large frequency operation.

It is for this reason that the Joint Commenters are adamant that the Commission must ban all cellularized systems (as defined in the PWC Comments and Reply Comments) in the 851 MHz through 860 MHz band. To do otherwise would make this proceeding a significant waste of time and resources.

C. 800 MHz Incumbent Licensees Must Not Be Forced To Move To 700 MHz

It has been suggested (and the Joint Commenters have been significantly involved in discussing with numerous entities) that all public safety systems be moved to 700 MHz. Other than the obvious issues of when the spectrum will be available, and the prospect of paying for entirely new equipment, there are other issues which make this option un-palatable for the Joint Commenters.

First, moving public safety systems to 700 MHz will not solve the interference being experienced by private wireless systems. As documented in our initial Comments, as well as those by other parties, private wireless systems are also receiving significant interference from cellularized systems. Further, and as documented in our initial Comments, many of these private

systems have true public safety users operating on the systems. Interference must be resolved for all incumbent licensees.

If the answer to solving private wireless interference is by making significant technical restrictions on cellularized systems in the band, then there was no reason to move public safety users to 700 MHz. Either these technical restrictions resolve the problem for all incumbents, or it resolves the problem for none.

Further, moving public safety users to 700 MHz may actually increase the potential of interference to private wireless users. Specifically, what is proposed for the 800 MHz spectrum abandoned by public safety? If this spectrum is proposed for auction, then there will more cellularized systems in the band, with an increase in interference potential. If it is proposed that re-banding most take place in the band to separate cellularized and non-cellularized systems, then again there was no need to move public safety out of the band. Quite simply, if some user must be moved out of the band, it certainly makes more sense, technically, financially and logistically, for that user to be Nextel.

Moving public safety to 700 MHz will also have the impact of reducing the size of the equipment market for 800 MHz, non-cellularized radios. Thus, the prospect of private wireless users buying reasonably-priced, limited front-end radios evaporates, because there will never be enough market-share in the band to make affordable equipment available. Finally, splitting public safety and private wireless into incompatible bands reduces the tremendous service, interoperability and affordability gains which have been made over the past several years in shared public safety/non-public safety

systems.³

³Moving all 800 MHz non-cellularized users would be an even worse “solution.” This concept makes the price-tag the most expensive of anything yet proposed, in addition to the logistical problems. The Joint Commenters believe that this idea takes the anti-competitive Nextel pleas to an absurd extreme.

III. CONCLUSION

The Commission must look carefully at the motives behind any proposal submitted in this proceeding, and must test each proposal against the following criteria: (1) does it resolve interference, both short-term and long-term (with the implementation of new equipment); (2) does the plan have a reasonable price tag (or is it designed merely to extract every dollar possible from Nextel); (3) what is the implementation timing; and (4) is it spectrum neutral (or potentially a public safety gain without a private wireless loss).

WHEREFORE, the premises considered, it is respectfully requested that the Commission act in accordance with the views expressed herein.

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WS ELECTRONICS, INC.
G & P COMMUNICATIONS
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UNITED AIRLINES, INC.
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NORTH SIGHT COMMUNICATIONS, INC.
JPJ ELECTRONIC COMMUNICATIONS, INC.
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