

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

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

**REPLY COMMENTS  
OF THE OFFICE OF THE CHIEF TECHNOLOGY OFFICER,  
GOVERNMENT OF THE DISTRICT OF COLUMBIA**

The Office of the Chief Technology Officer of the Government of the District of Columbia (“OCTO”) is pleased to present these reply comments to the Notice of Proposed Rule Making (“Notice”) in the captioned proceeding, FCC 02-81, released March 15, 2002. OCTO is operating 800 MHz Public Safety Networks in the District of Columbia and therefore has direct interest in the support and outcome of this proceeding.

**Introduction.**

The urgency expressed by impacted parties, particularly Public Safety entities, in resolving the detrimental interference conditions now existing in the 800 MHz band, and very likely to become exacerbated if left unabated, has stimulated an abundance of technical discussions and solutions tendered, opinions, experiences, recommendations and generally, thoughtful concern and ideas for realigning the band to achieve the primary objective of eliminating harmful interference to Public Safety wireless operations.

This proceeding has generated extensive interest from all factions of Public Safety, Commercial Mobile Radio Service (CMRS) and beyond since all have a vested stake in the outcome of the proceedings. There is general consensus from commenters that interference mitigation is a complicated regulatory process based on realistic proposals and expectations offered and satisfied in the final analysis. This proceeding is about ensuring that Public Safety entities, under financed and in need for additional radio spectrum, are provided “Zero Tolerance” protection from harmful interference.

All commenters recognize that such an objective can only be achieved through a realignment of this extremely convoluted spectral band. Therefore, the path to the solution requires fair and equitable channel/spectrum swaps, trades and realignment. The proceeding is not about “MHz-for-MHz” reconciliation if realigned contiguous spectrum provides equal or enhance traffic capacity, and while OCTO supports a fair and equitable settlement for all radio spectrum traded to achieve the best final realignment plan, the valuation of the traded spectrum must be equalized to valuations based on similar national commercial spectrum auction results, and the actual cost of spectrum exchanged. This approach will ensure that a fair market value is achieved in the exchange. All proceeds should be provided to Public Safety in support of the extensive cost to achieve channel retuning. This funding, and any other funds required to support the realignment, will be used to procure infrastructure, retune radio channel and affected equipment. Additionally, all costs associated with spectrum coordination and migration planning, equipment enhancement and additional engineering, operational and administrative cost associated with the effort will be covered. OCTO believes that this approach will ensure that competing fraction concerns are

equitably managed and that a fair settlement process results in sufficient realignment program funding to support the process.

OCTO would like to take this time to express our sincere gratitude directly to the Federal Communications Commission (“FCC”) staff for their dedication and efforts to bring timely resolution to these critical Public Safety proceedings. It is also noteworthy to acknowledge the individual and collective contributions of Public Safety agencies throughout the country. These agencies clearly stated their concerns regarding interference protection from the CMRS industry, with particular emphasis on digital SMR carriers; they emphasized the requirement for additional Public Safety radio spectrum; tendered creative alternatives for achieving the final objective for interference management through band alignment at no additional cost to Public Safety; and generally dedicated considerable time and energy to this emotional proceeding since unwarranted interruption to Public Safety wireless communications is extremely detrimental to their mission to protect and safeguard life and property.

OCTO also expresses its gratitude to the Industrial/Land Transportation (B/ILT), the CMRS commenters, and the various associations that represent these industries and Public Safety for their contributions and efforts in support of the proceedings. Individually and collectively these commenters have further advanced the overall success.

Regarding the recent comments filed collectively by a coalition of associations, both the “Public Safety Associations” and the “Private Wireless Coalition”, together with Nextel Communications, Inc., who have recently filed a compromise plan and reply comments as “Joint

Commenters”, it is important to note that the views and comments of this coalition may not directly represent the views and wishes of Public Safety operating entities in this proceeding. The opinions of the Joint Commenters have not received sufficient individual Public Safety agency analysis and review due to the manner in which they have been conceived and the timeframe in which they have been tendered in this proceeding. OCTO has had insufficient time to thoroughly consider and comment on the thrust of the compromise. Alternatively, the OCTO opinions expressed within the reply document represent our current views on these matters.

### **Near Term Approach to Band Realignment**

While it may be in the best overall interest of all parties to agree upon a realignment solution, the sheer complexity of this proceeding may be best served as a two-stage process or at minimum that an additional of support regulatory actions be taken prior to, or in conjunction with this effort. In any event, OCTO encourages the Commission to consider near term regulatory actions in this proceeding as follows:

- OCTO fully agrees with both the New York State Office for Technology<sup>1</sup> and with the State of Florida, State Technology Office, Bureau of Wireless Communications<sup>2</sup> that narrow banding of Public Safety 800 MHz spectrum from 25 kHz to 12.5 kHz should be realized in the current and future 800 MHz allocation throughout all 800 MHz Public Safety channels to further enhance capacity for Public Safety.
- The FCC seriously considers imposing a temporary moratorium on the acquisition of additional radio channels by cellular digital SMR operators until the results of this

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<sup>1</sup> Comments of the New York State Office for Technology, pp. 13-14.

<sup>2</sup> Comments by the State of Florida to the Notice of Proposed Rule Making, p.3.

proceeding are finalized. The adoption of this temporary regulation will slow the spread of interference to Public Safety even if only with minor results.

- The FCC support efforts, such as those recommended by OCTO<sup>3</sup> and those of The San Diego County – Imperial County Regional Communications System (RCS)<sup>4</sup> whereby a “Public Safety Communications Surcharge” would be collected by CMRS operators from their customers and provide to Public Safety entities in direct support of Public Safety wireless communications system operation. Access to ongoing funding sources will ensure that Public Safety radio system are modernized and achieve performance and features commensurate with the demands of Public Safety.
- Immediately establish a cross-industry 800 MHz band realignment committee to continue the efforts begun in this proceeding and to offer unbiased administrative support and technical research to the FCC and the industry in preparation for implementing the outcome of these proceedings. Independent of the final realignment regulatory environment, there are significant impartial activities that can be immediately begun, including program implementation and channel coordination, the determination of a viable process for distribution of funds to Public Safety in support of channel tuning, and other direct functions that will lead to a more expeditious program implementation. This committee should be chaired by Public Safety and membership inclusive of all impacted parties but weighted in the favor of Public Safety.

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<sup>3</sup> Comments of the Office of the Chief Technology Officer, Government of the District of Columbia, p. 11.

<sup>4</sup> Comments of San Diego County – Imperial County: Comments to WT Docket No. 02-55, Improving Public Safety Communications in the 800 MHz Band, p. 4.

- Support and implement a recommendation to promptly change the rules affecting Public Safety and other wireless industry group access to the 700 MHz spectral band. The current loophole preventing assured timely access to this spectrum must be altered in both support of this proceeding and generally, providing spectral relief for Public Safety entities who are seriously under channelized today. Changes of this ruling will also result in a more robust opportunity to value the spectrum and to proceed with 700 MHz auctions to generate much needed revenue for the general treasury of the United States. Revenue that could also be allocated to this proceeding in the event that insufficient funds are generated from the participants.

### **Longer Term Approach to 800 MHz Band Realignment**

OCTO generally stands by its opinions filed during the initial comments proceeding but has been persuaded by 1) alternative, innovated band plans, submitted during the comments period; 2) detailed technical insight regarding the source of interference and best solutions tendered for resolving Public Safety harmful radio interference. Many Public Safety commenters were strenuously opposed to any plan forcing them out of the NPSPAC band and OCTO acknowledges this position, which was not considered in the original OCTO band plan<sup>5</sup>. A number of persuasive arguments and band plans were offered by commenters presenting a unique challenge for the FCC and the industry in achieving consensus on the best plan or combination of plans to adopt.

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<sup>5</sup> Comments of the Office of the Chief Technology Officer, Government of the District of Columbia, pp. 6-11.

The most recent compromise, submitted by a coalition of associations, both the “Public Safety Associations” and the “Private Wireless Coalition”, together with Nextel Communications, Inc., the “Joint Commenters”, gave the impression that consensus was achieved as a result of that compromise plan. OCTO anticipates that a alternative iteration of that plan will be filed by the Joint Commenters during this reply comments period. OCTO has not had sufficient time to study, and hence report on the benefits of that plan since it was only recently tendered and is expected to be further refined. We withhold judgment and on that compromise plan at this time but may be compelled to file Ex Parte comments as appropriate.

OCTO believes there is merit to a couple of new band plan recommendations, further explored below and while implementation of the primary plan will be challenging in consideration of the intense lobbying efforts of Nextel and others. This plan is worthy of greater consideration by Public Safety since it removes all digital cellular SMR operators from the 800 MHz band and relocates them to the 700 MHz band.

OCTO support the proposed band plan of the State of Maryland, Department of Budget and Management, Office of the Information Technology<sup>6</sup> which delivers a compelling plan for removing the primary source of interference to Public Safety, for allocating currently uncontentious spectrum to digital cellular SMR operators at no resulting cost to retune or interruption in service to existing Public Safety operators. Public Safety would also be entitled to additional 800 MHz spectrum, badly needed at this time, while impacted CMRS operators would be rewarded with a sufficient contiguous block of spectrum in compensation for

surrounding their 800 MHz allocation. Additionally, B/ILT operators will not be required to vacate the 800 MHz band and can gradually migrate as required.

The merits of this plan are clear to OCTO. In place of literally 1,000's of Public Safety and B/ILT operators affected in the recent compromise plan and all previous plans tendered, including that of OCTO, this plan impacts fewer operators and results in **no operational impact to Public Safety entities and requires that no additional, at risk funding, for Public Safety to achieve the objectives of this rule making.** This same statement is true for all B/ILT operators. Additional spectrum can also be allocated to Public Safety through this viable plan in near term, a critical objective for Public Safety.

Nextel would greatly benefit from this plan through the receipt of sufficient contiguous radio spectrum; by eliminating interference now attributed to their operations; and from partial infrastructure funding obtained from the realignment funds previously offered to Public Safety. The burden of planning and coordination for achieving this migration would reside where it can be best managed, in the hands of a few operators in place of the 1,000's of Public Safety and B/ILT operators.

Congress has the authority to mandate that 700 MHz spectrum be released by the broadcast industry in support of this plan and we encourage the FCC and commenters to look seriously at the merits of this option. This primary issue has to be addressed both here and for future Public Safety access to this critical spectrum.

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<sup>6</sup> Written Ex Parte Presentation: Comments of the State of Maryland, Department of Budget,

**Conclusions**

OCOT fully recognizes the complexity of competing factions and opinions presented in this proceeding and commits to lend its full support to the successful conclusion of realigning the band to the mutual benefit of all effected parties, particularly of those of Public Safety. We recognize that the Commission will act in the best interest of all parties and we encourage the Commission to carefully evaluate “The Maryland Plan” as a practical solution and to work with Congress to change and/or enact legislation in support of this plan. Alternatively, if the implementation of this plan becomes impractical, we encourage the Commission to stand by the methods for spectrum valuation proposed herein to ensure that fair and equitable payments are being made for traded spectrum. We also request the Commission to further safeguard Public Safety and ensure that all reasonable realignment costs to Public Safety be covered and that the final plan results in no interruption to the critical services delivered by Public Safety agencies.

Respectfully submitted,

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