



American Water Works Association

Dedicated to Safe Drinking Water

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September 23, 2002

Acting Secretary, William F. Caton
Office of the Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

RE: Request for Public Comment, Improving Public Safety Communications in the 800 MHz Band and Consolidating the 900 MHz Industrial / Land Transportation and Business Pool Channels (DA 02-2202)

Dear Secretary Caton:

On April 5, 2002, the Federal Communications Commission (FCC) published a Notice of Proposed Rule Making entitled Improving Public Safety Communications in the 800 MHz Band and Consolidating the 900 MHz Industrial / Land Transportation and Business Pool Channels. Copies of AWWA's comments in response to the above referenced public notice seeking comment on the consensus plan filed by the Private Wireless Coalition *et al.* are attached.

The American Water Works Association (AWWA) is a member of United Telecommunication Council (UTC) and the Critical Infrastructure Coalition (CIC) and endorses the comments submitted by UTC in response to this public notice.

Please contact me or Steve Via at (202) 628-8303 if you would like to discuss the attached.

Best regards,

Thomas W. Curtis
Deputy Executive Director

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

In the Matter of

**Improving Public Safety Communications in
the 800 MHz Band and Consolidating the
900 MHz Industrial / Land Transportation
and Business Pool Channels**

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**DA 02-2202
re: WT Docket No. 02-55**

To: The Commission

COMMENT

American Water Works Association
Thomas W. Curtis
Deputy Executive Director
1401 New York Avenue, N.W., Suite 640
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Dated: 23 September 2002

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Introduction

The American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to the improvement of drinking water quality and supply. Founded in 1881, the Association is the largest organization of water supply professionals in the world. Our 57,000 plus members represent the full spectrum of the drinking water community: treatment plant operators and managers, environmentalists, scientists, academicians, and others who hold an interest in water supply and public health. Our membership includes approximately 4,300 water systems that supply water to roughly 80 percent of the people in the nation.

AWWA's utility members rely on wireless, internal communication systems to operate effectively and efficiently and to ensure the public's health and safety by providing drinking water that meets or surpasses federal drinking water quality standards and by providing water for fire suppression, sanitation, and commerce. Some of AWWA's members are licensees within the Business, Industrial & Land Transportation, and Public Safety allocations in the 800 MHz band.

AWWA has commented previously to the Agency on the lack of available spectrum for critical voice and data systems used by drinking water suppliers, the critical infrastructure in ensuring public safety, and interference affecting critical infrastructure systems.

Need for Restructuring

As evidenced by the comments and reply comments submitted to the FCC in WT Docket 02-55 there are A large percentage of the commenters in this proceeding disagrees with Nextel.s and other's quick conclusion that re-banding is the only solution to the problem of interference. AWWA does not believe the conclusion that band restructuring is a necessary or sound solution for interference occurring in the 800 MHz band. There was ample examples provided in the body of comments to WT Docket 02-55 that restructuring will not address interference in the band.

AWWA remains concerned that the Agency is setting an unacceptable precedent by allowing Nextel, the admitted source causing interference, to fail to meet its duty under existing Part 90 regulations and the private land mobile community's long standing practice of operated under a

.first-in-time policy whereby the party coming to a frequency (or presumably, making major changes to its operations such as replacing an analog with a cellularized digital system), must bear the financial and general responsibility for eliminating any interference it causes to an existing station. Nextel has a duty to resolve the interference it is causing; the FCC's first and foremost responsibility is to hold Nextel accountable to make necessary changes to resolve interference not impose significant burdens on other users in the band.

Consensus Band Plan

The consensus band plan does not achieve many of the objectives critical to resolution of interference in the 800 MHz band. As noted previously, the proposed band plan will not eliminate interference. The proposed rebanding solution relies in part on the codification of best practices from the 700 MHz plan. AWWA defers to comments made by the United Telecommunication Council (UTC) as to which technical rules are the critical elements in preventing Nextel and other cellularized operations from interfering with other users in the band.

AWWA's members are drinking water utilities and as such a component of critical infrastructure and public safety radio users. Drinking water utilities like police, fire, and rescue services are essential to emergency response (providing water, equipment and personnel in the event of an emergency). Drinking water utilities are also critical to the day-to-day well being of the community by provide adequate and safe drinking water. Like public safety users, drinking water utilities are local in nature and operate under significant fiscal pressure. Drinking water utilities plan capital changes on extremely long time periods. The current band plan would effectively have all drinking water incumbents retune / relocate to partially remediate an interference resulting from Nextel. Drinking water utilities cannot afford to retune / relocate their critical radio systems when other users are unwilling to meet their obligations to manage interference.

AWWA noted in its initial comments to WT Docket 02-55 that relocation would impose unfair and inappropriate burdens. These initial comments are true of the consensus plan proposal:

Any restructuring of the band will take time, but resolution of interference is needed immediately suggesting that timely technical solutions pose a more effective means of reducing not only implementation burden but also, the time required to achieve

resolution.. Also, without designation of a pool of spectrum outside the band for relocation, many systems would find themselves moving multiple times to achieve the final band plan. Such a process would be disruptive and confusing and ultimately reward licensees and coordinators whose actions are the reason for the interference currently experienced.

The proposed band plan will involve relocation of many incumbents. Those relocations will take place based upon the relocation of other incumbents. Consequently there will be an extended period of instability during which AWWA's members, who are responsible for services critical to the health of the local community and demonstrate fiscal prudence to that same community, will not be able to reliably make decisions on maintenance and continued development of their radio systems. For our members, these decision making processes will entail considerations that bear on local emergency responder radio users and use of other bands. As a consequence the proposed band plan will delay remediation of the harm being caused by Nextel for years, when Nextel if held accountable for the interference it is causing could make corrections immediately.

AWWA is opposed to restructuring the 800 MHz band at this time. Restructuring will disrupt many more systems than those that are currently impacted by interference. There are technical solutions that Nextel can use to eliminate interference. If there are areas where interference is resulting from a multiple licensees, such as in the interleaved 25 MHz channels between 809.75 and 861 MHz, the FCC should initiate an open technical dialogue with equipment manufacturers, licensees, and spectrum coordinators to arrive at practical means of enhancing current technical standards.

Funding

The consensus plan proposal gives the impression that adequate resources are being provided to incumbents, particularly traditional public safety users, to ameliorate any fiscal harm caused by the proposed band plan. This impression is false, with the reply comments submitted to the WT Docket 02-99, the record illustrates that the funds offered by Nextel are inadequate to fund relocations associated with the band plan. The consensus plan is blunt in the exclusion of costs for relocation of business and industrial / land transportation licenses to 700 MHz or 900 MHz band spectrum. While failing to pay for the cost of

relocation where the plan would encourage these users to move, the consensus plan would assign BI/LT users secondary, non-interfering status in the 800 MHz channels cleared for public safety. The consensus plan is less transparent in its treatment of traditional public safety users, which after setting aside an inadequate level of funds to pay for necessary relocations, imposes a time clock on the availability of those funds. It is untenable that the consensus plan shield Nextel from its obligation to not interfere with other users; it would be irresponsible of the FCC to compound this wrong by adopting a plan that does not allow incumbents an opportunity to move on a schedule that is consistent with the entity's own business plans and that allows Nextel to forgo payment for expenses imposed by the band plan on any affected incumbent within any timeframe.

Coordination

Any serious consideration of a re-banding plan by the Commission should be preceded by a serious technical discussion of that plan and reasonable alternatives to it. To-date such a discussion has not been facilitated by FCC. AWWA, UTC and others have suggested in previous comments that management of the 800 MHz band would benefit from such a discussion. This public notice for comment further illustrates that need.

If the FCC were to make the unfortunate decision of pursuing a re-banding plan that mandates incumbent systems retune to new frequencies, it is essential that all certified 800/900 MHz frequency coordinators must be included in the coordination process, and in any industry group formed to carry out this complex undertaking. Specialized user groups, including critical infrastructure entities like drinking water utilities, rely on certain coordinators to understand their needs and to ensure that their interests are represented. All PLMR industry groups must be included in a non-discriminatory coordination/retuning/re-engineering process should the Commission decide to require it.