

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

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
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)	

COMMENTS OF THE CITY OF NEW YORK

INTRODUCTION

The City of New York (“City”) hereby submits the foregoing comments in response to the Federal Communications Commission’s (“Commission”) September 6, 2002 Public Notice requesting comments on the “Consensus Plan” (“Plan”).¹ In the City’s view, the Plan provides a useful, albeit somewhat general, framework for improving public safety communications in the 800 MHz band. However, the Plan also begs essential questions

¹ The Consensus Plan was submitted as Reply Comments to *Improving Public Safety Communications in the 800 MHz Band and Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, WT Docket No. 02-55, FCC No. 02-81, Notice of Proposed Rulemaking (rel. Mar. 14, 2002) (*Improving Public Safety in 800 MHz Notice*), by Aeronautical Radio, Inc., the American Mobile Telecommunications Association, the American Petroleum Institute, the Association of American Railroads, the Association of Public Safety Communications Officials – International, Forest Industries Telecommunications, the Industrial Telecommunications Association, Inc., the International Association of Chiefs of Police, the International Association of Fire Chiefs, the International Municipal Signal Association, the Major Cities Chiefs Association, the Major County Sheriffs Association, the National Sheriffs Association, Nextel Communications, Inc., the Personal Communications Industry Association, the Taxicab, Limousine and Paratransit Association and the National Stone, Sand and Gravel Association.

that must be addressed a part of a comprehensive resolution of the critical issues at stake in this proceeding.

To endorse the Consensus Plan, the City requires more detailed information, and specific commitments in the areas set forth below. Most importantly, the City requires a much higher level of comfort with respect to the treatment of public safety systems currently residing in the proposed 814-816/859-861 MHz guard band. The City presently operates trunked voice and mobile data public safety systems in the 809-816/854-859 MHz band, with 40% of the City's 800 MHz channels falling in the 814-816/859-861 MHz band. The City's channels within the 814-816/859-861 MHz frequencies support, among other critical functions, the City's Fire Department and Office of Emergency Management.²

To summarize the City's concerns, the Consensus Plan would apparently permit non-NPSPAC public safety licensees in the proposed 814-816/859-861 MHz band to relocate, on a channel-for-channel basis,³ to the 809-814/854-859 MHz band.⁴ First, the City desires an explicit commitment that relocation of non-NPSPAC public safety licensees would receive the same priority treatment, as to both the timing and funding of such relocation, as NPSPAC public safety licensees. Indeed, with respect to funding, the City strongly advocates that the total cost of both NPSPAC and non-NPSPAC public safety

² New York City's systems in the 814-816/859-861 MHz band, including those of the Fire Department and Office of Emergency Management, are operated by the City's Department of Information Technology and Telecommunications.

³ In this context, the City reiterates its initial Comments in this proceeding, that the City's 800 MHz public safety resources are stretched to the limit. With approximately 8,000 radios operating on 15 channels, the City's core public safety system considerably exceeds the FCC's recommended loading criteria of 100 radios per channel. Nor does this take into account new needs in the wake of the September 11, 2001 terrorist attack. *See Comments of the City of New York's Comments, WT Docket No. 02-55* at 4.

⁴ *See Consensus Plan*, at iv.

relocation be determined, and specific funding sources be identified, as a prerequisite to relocation by either group.

The City is further concerned about the potential for interference in the 809-814/854-859 MHz band emanating from the new “campus-style” system in the proposed 814-816/859-861 MHz guard band. Finally, the City requires further assurance that public safety systems will remain 100% operational during every phase of any transition period.

I. INTERFERENCE ELIMINATION

A. In General: Elimination vs. Mitigation

New York City’s public safety frequencies are plagued with interleaving and interference problems caused by commercial carriers. The record to date strongly suggests that while a channel reshuffling may well mitigate interference, reshuffling alone is unlikely to eliminate interference.⁵ Accordingly, the City proposes that the Commission consider undertaking its own engineering analysis of the 800 MHz environment to determine more definitively the sources of interference and help inform the range of possible solutions, including, but not limited to, channel reshuffling.

⁵ *See id.* at 23.

B. Interference Specifically: Interference Issues in the Proposed 814-816/859-861 MHz Guard Band.

The Consensus Plan proposes that a guard band be established in the 814-816/859-861 MHz frequency range. However, of looming concern to the City, is the threat of interference from the guard band to public safety operations in the 809-814/854-859 MHz band.⁶ The City is, specifically, wary about how the guard band would be developed. Campus-style systems can have properties in common with low-power cellular sites. Implementation of a campus-style system could potentially expose public safety entities in the 809-814/854-859 MHz band to debilitating interference similar to that which the community is currently experiencing from Nextel. Any system operating in the proposed guard band should be explicitly required to employ technologies that will not cause interference to public safety licensees in the neighboring 809-814/854-859 MHz band.

Under the Consensus Plan, public safety entities remaining in the proposed 814-816/859-861 MHz guard band would be required to do so at their own risk. The Plan warns that public safety entities “should be cognizant of the lack of spectral separation from cellularized systems and further recognize that the only response to future interference will be through case-by-case resolution.”⁷ Public safety entities in the proposed 814-816/859-861 MHz guard band would, thus, have little choice but to relocate. However, without an explicit prohibition against the deployment of cellular-like technologies in the proposed 814-816/859-861 MHz guard band that could interfere with public safety

⁶ *Id.* at 12.

⁷ *Id.*

operations who have opted to move to the 809-814/854-859 MHz band, this amounts to a Hobbesian choice.

II. FUNDING

The City requires that funding be identified up-front, before the relocation process begins. The City has consistently made clear that its endorsement of any proposal depends on the identification of appropriate external sources to fully fund relocation and all other costs directly associated with implementing such plan.⁸ The Consensus Plan gives no estimate of the total cost for implementing the Plan, but acknowledges that the \$500 million pledged by Nextel will in no way cover the costs of public safety relocation.⁹ Regrettably, however, the Plan only vaguely addresses the question of how relocation would then be funded. Specifically, it does not tackle the difficult question of which funding sources would “kick-in” once the \$500 million contribution earmarked by Nextel runs out.¹⁰ As long as the City and, presumably, other public safety entities continue to be faced with the prospect of prohibitively burdensome relocation costs, this “loose-end” will continue to be the source of much unease.

⁸ See *Comments of the City of New York*, WT Docket No. 02-55 at 3. The City outlined some these cost elements in its initial Comments. See *Id.* at 7-10.

⁹ “Sources of funding will include, but should not be limited to, Nextel’s pledge of \$500 million.” *Consensus Plan*, at 20.

¹⁰ The Plan suggests that “CMRS and cellular operators benefiting from the realignment should contribute to public safety’s relocation expenses.” *Id.* at 5.

III. CONCLUSION

The City commends the Commission and the drafters of the Consensus Plan for addressing the 800 MHz interference problem head-on. The City, nonetheless, remains concerned that any final “resolution” of the problem will inevitably result in unforeseen financial, logistical and operational risks. Any final resolution must not place a disproportionate burden on public safety entities in addressing these potential risks.

Respectfully submitted,

/s/ _____

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