

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C.

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

COMMENTS OF
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

The San Francisco Bay Area Rapid Transit District (BART) is a heavy rail transit district organized under the California Public Utilities Code. BART operates a 39-station, 95 mile electrically powered rail system serving approximately 3.1 million people in the San Francisco Bay Area. BART is governed by an elected Board of Directors and as such is considered "Local Government" by the FCC. BART maintains a police department comprised of approximately 200 sworn police officers. On a typical day, 320,000 people use BART for a portion of their transportation needs.

BART is an owner and operator of an 800 MHz trunked radio system on the NPSPAC frequency band. BART has 2,650 radios distributed among 3,500 employees in the counties of Alameda, Contra Costa, San Francisco and San Mateo. BART is therefore directly affected by the proposals set forth in this NPRM.

Last May, BART commented upon the proposed rulemaking released March 15, 2002, and voiced objections regarding the relocation of present NPSPAC operators from their current licensed frequencies.

BART has reviewed the Reply Comments, including the Consensus Plan, submitted on August 7, 2002 by a group of seventeen entities representing holders of licenses in the impacted spectrum at 800 MHz. BART is a member of certain of the submitting entities, and BART employees are individual members of several of the submitting entities. Although BART concurs with the Consensus Plan, it appears that certain issues need to be resolved prior to implementation of the Consensus Plan, as follows:

1. Proposed migration from present frequencies will be an onerous task. Expenses will be incurred well in advance of any physical movement of a licensee. It should be noted that to date BART has already incurred significant expenses in maintaining and protecting its system from interference caused by CMRS operations.

Maintaining radio operations while migrating to another frequency set is a complicated undertaking. Each migration step must be well planned, adequately designed and built for each particular need, and understood by the user community. There undoubtedly will be some temporary reduction in radio service, with consequential impact on the level of service, public safety and otherwise, that BART will be able to provide. Therefore, this impact should also be considered a legitimate expense. As each planned step in the migration process is undertaken, expenses that do not directly result from tuning changes will be incurred. BART is concerned that the amount of these expenses will be great. Compensation for these expenses must also be made, and made prior to their occurrence. Therefore, any action taken as a result of the Consensus Plan must include funding of the physical act of migration, and also make a reasonable allowance for cost items that may not be directly included in “turning the screws”.

It should also be noted that, after migration is completed, new interference problems will likely result due to the migration.

2. It is anticipated at this time that the costs of compliance with the Consensus Plan for BART will be in the range of three to five million dollars. It appears that the nationwide costs for this proposed migration would greatly exceed the fund proposed by Nextel. In addition, migration will likely take several years to complete. During the course of migration, it is submitted that new issues will develop, e.g. the line between migration costs and enhancement costs will blur. This will complicate audits of allocated payments. Procedures should be prepared to clarify these issues.

3. Funding of any proposed private “super fund” to make payments to affected entities must be guaranteed by the federal government, and accordingly the payment procedure must be acceptable to the federal government as well as affected entities.

CONCLUSION

Assuming that relocation to a different set is required of NPSPAC operators, there is no guaranty the desired results will be fully achieved. The interference mechanisms are many and dynamic, and each operator’s migration will necessarily be tailored to its needs. Extensive “clean-up” efforts will undoubtedly be necessary, further extending the day when the desired results are obtained. These clean-up efforts are legitimate costs associated with the migration and must be included within the scope of the funding program.

The full cost of migration, while touched on in the Consensus Plan, must be fully

addressed, as set forth in these comments.

Respectfully submitted,

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