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COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

November 18,2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

RE: Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55
EX PARTE

Dear Ms. Dortch:

This is to inform you that on November 14, 2002 representatives of Cingular Wireless met in separate meetings with each Commissioner's wireless Legal Advisor and also with members of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, to discuss issues related to the above referenced proceeding.

The attached documents were used for discussion purposes. Please associate this notification and the accompanying materials with the referenced docket proceeding.

The list of attendees for each meeting is also provided as an attachment. If there are any questions concerning this matter, please contact the undersigned.

Sincerely,

Ben G. Almond

Ben G. Almond
Vice President-Federal Regulatory

Attachments

Cc: See Attachment

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List ABCDE

Meetings – Attendees

RE: Improving Public Safety Communications in the
800 MHz Band, WT Docket No. 02-55, **EX PARTE**
November 14,2002

Representatives for Cingular Wireless in each meeting

Brian Fontes
Jim Bugel
Andrew Clegg
Carl Povelites
Ben Almond

First Meeting

Paul Margie, Spectrum and International Legal Advisory, Office of Commissioner Michael J. Copps

Second Meeting – Members of the Public Safety and Private Wireless Division

Michael J. Wilhelm
Karen D. Franklin
Brian Marenco
Tim Maguire

Third Meeting

John Branscome, Acting Legal Advisor, Office of Commissioner Kathleen Q. Abemathy

Fourth Meeting

Sam Feder, Legal Advisor on Spectrum and International issues, Office of Commissioner Kevin J. Martin

800 MHz Public Safety Interference

The Nextel/Consensus Plan (NCP):

- Broadly, the Nextel plan Rcbands the 800 MHz band by:
  - Moving the NPSPAC to 806-809/851-854 MHz
  - Moving Ncxtel out ofthe 809-8161854-861 MHz band leaving public safety, B/ILT, and high-site SMR in the 809-814/854-859 MHz band; public safety and "campus" systems in the 814-816/859-861 MHz band.
  - Nextel would get 16 MHz ofcontiguous spectrum in 816-824/861-869 MHz.
  - Nextel would give up its 700 MHz guardband spectrum and 900 MHz spectrum.
  - Nextel would receive 10 MHz ofcontiguous nationwide spectrum at 1910-1915/1990-1995 MHz.

The NCP is self-servine spectrum grab by Nextel:

- 800 MHz holdings:
  - The Commission must not be misled by Nextel's "running averaged – Nextel appears to overstate its spcctrum holdings.
    - Due to restrictions on 800 MHz channel use in border areas as well as spectrum holdings by other ESMR providers, particularly in the southeast, Nextel's calculations are suspect.
    - Running average of 18.5 MHz is misleading as it is the median (using Nextel's own numbers) not an average. The average using its numbers is 17.8 MHz.
    - There is considerable variation of Nextel's holdings and it certainly doesn't have greater than 16 MHz nationwide.
    - In a vast majority of markets, Nextel does not have more than a 2x5 MHz block of contiguous spcctrum.
      - The Commission has recognized that contiguous spectrum is more valuable than interleaved spectrum.
      - Nextel on this issue is disingcnuous. One the one hand, Nextel says that the Commission lacks the methodology for assessing a variety of economic factors in order to determine whether Nextel would he obtaining a windfall. On the other hand, as it relates to public safety, Nextel argues that any transition problems that may be encountered in implementing the NCP are far outweighed by the benefits of reduced interference and access to additional, contiguous spectrum. (pg. 33)

- 700 MHz holding:
  - The guard bands cannot be used for CMRS – in fact, cellular architecture is not allowed in the guard bands.
  - Band managers are required to lease out 50% of capacity to non-affiliated entities.
  - Significant restrictions and operating parameters on the use of the band (e.g., out-of-band emission limits)
  - Nextel does not hold licenses nationwide.

- 900 MHz holding:
  - Again, the Commission must not be misled by Nextel's "running averages" – Nextel appears to overstate its spectrum holdings.
  - iDEN equipment has only recently been made to operate in the 900 MHz band.
  - Little, if any, of the spectrum is contiguous.
  - Spectrum holdings are not nationwide.

And, interference to public safety will not be eliminated.

The NCI' does not solve interference:

- Receiver overload is not addressed. Under the NCP, Nextel's band and a portion of the cellular bands would still be within the public safety receiver's filter bandpass. Unless public safety obtains new receivers, receiver overload will not be mitigated.
  - The NCP discourages public safety from obtaining new receivers.
- Intermodulation will be somewhat mitigated by the slight increase in spectral separation proposed by the plan - but at a tremendous cost.
  - By increasing the distance between public safety and CMRS, a reduction in the intermodulation products being generated that interfere with public safety is possible. The amount of reduction, however, cannot be quantified, and intermodulation will not be eliminated. The cost for relocating 800 MHz licensees, including public safety in the hope of reducing intermodulation will be tremendous.
  - As Nextel points out, intermodulation could be further mitigated if public safety receivers had narrower front-ends; again, however, the NCP discourages new public safety receivers.
- Transmitter sideband noise would be eliminated to the extent that Nextel is no longer operating in interleaved channels.
- Even Nextel admits that the majority of interference cases can be mitigated case-by-case. (pg. 40)
- Therefore, the NCP will impose significant costs, cause enormous disruption, and take years to implement -- all without resolving interference.

The NCP discourages public safety from getting new receivers:

- Public safety radios and systems are unsuitable for the environment in which they are operating.
  - The next generation dual-band public safety radios will be even worse.
- Nextel's *$500* million contingent "commitment" would only pay for retuning costs. All equipment that can be retuned must be retuned rather than replaced. New equipment or system enhancements are at the expense of public safety.
- Therefore, the NCP does not provide incentives for public safety to acquire new receivers, thus perpetuating interference to public safety at a tremendous cost.

Nextel is the primary cause of interference to public safety

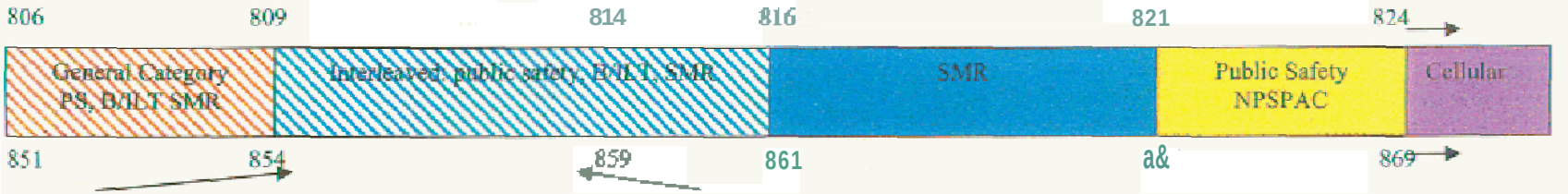
- A majority of those commenting in the proceeding, B/ILT, SMR, public safety and cellular carriers recognized Nextel as the primary, and almost exclusive, cause of interference to public safety.
- Despite the empirical data and recognition by nearly all commenting parties that Nextel is the primary cause of interference to public safety systems, all other non-public safety licensees operating in the band are expected to assist in solving the "Nextel problem" at considerable cost.

Other issues reeardine the NCP:

- If the FCC adopts this plan, Legg Mason predicts it would increase Nextel's asset value between $1.2 billion to $4.8 billion.
- It will take a minimum of 3 **to** 4 years **to** implement after the FCC issues a ruling and all appeals arc complete – assuming that all appeals, both FCC appeals and court appeals, fail.
- 309 (j) is implicated: Disproportionately benefits Nextel; such a disproportionate exchange is contrary to section 309(j) and FCC policy of not favoring one competitor over others.
- No public safety entity would be required to relocate unless costs for conversion are covered by a third party and all new NPSPAC channels are made available. When would Nextel get the 1.9 GHz band? Could they get it and never have **to** move **out** of lower 800?
- Nextel's ability to procure spectrum where it does not currently hold a license is questionable.
- There is more than one request for the 1910-1915 MHz / 1990-1995 MHz blockofspectrum.
- **700 MHz and 900 MHz portion ofthe plan will have no impact on interference – it will not do anything to resolve interference.**

IMPLEMENTATION OF THE PROPOSED NEXTEL PROPOSAL:

Current 800 MHz:



First Public safety in 806-809/851-854 MHz or 814-816/859-861 MHz **swaps** with channels with Nextel for one in the 809-814/854-859 MHz band.

Second Site-licensed B/ILT and SMR in 806-809/851-854 relocate to vacated PS or Nextel spectrum in 814-816/859-861 or vacated spectrum in 809-814/854-859.

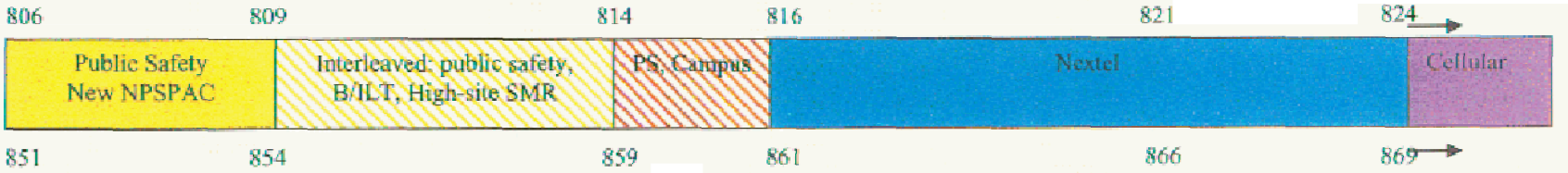
Third, EA licensees will also move out of 806-809/851-854 MHz to 809-816/854-861 MHz (after 12/20/03)

At the end of these three steps, Nextel will have all 806-809/851-854 MHz band.

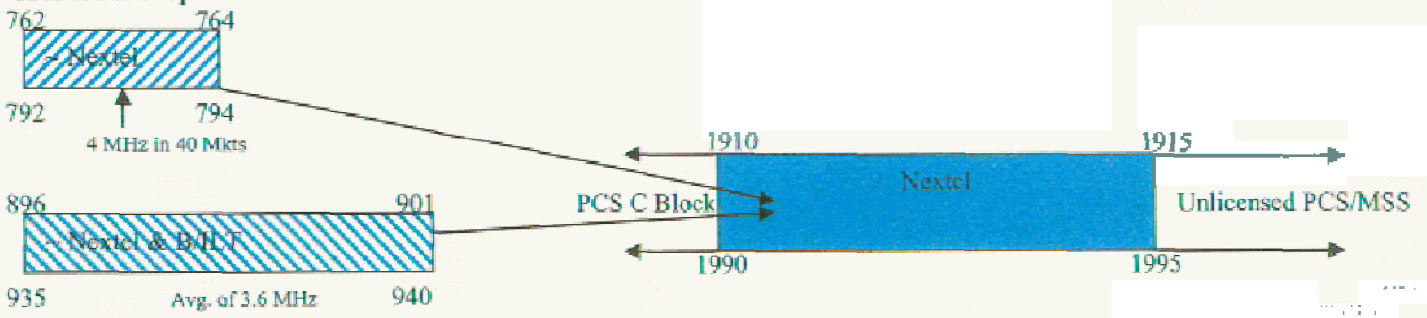
Fourth, the NPSPAC licensees relocate from 821-824/866-869 MHz to 806-809/851-854 MHz swapping with Nextel.

Fifth, Nextel clears out of 809-816/854-861 MHz.

800 MHz band after:



Additional Proposal:



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