

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

In the Matter of)
)
Improving Public Safety Communications in the)
800 MHz Band)
) WT Docket No. 02-55
Consolidating the 900 MHz Industrial/Land)
Transportation and Business Pool Channels)
)
To: The Commission

COMMENTS OF THE NATIONAL LEAGUE OF CITIES,
NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS,
NATIONAL ASSOCIATION OF COUNTIES, AND
UNITED STATES CONFERENCE OF MAYORS

The National League of Cities (“NLC”), the National Association of Telecommunications Officers and Advisors (“NATOA”), the National Association of Counties (“NACo”), and the U.S. Conference of Mayors (“USCM”) hereby submit the following in response to the Commission’s *Public Notice*, DA 03-19 (released January 3, 2003), seeking comments regarding the “Supplemental Comments of the Consensus Parties” filed in the above-captioned proceeding on December 24, 2002.

The National League of Cities is the oldest and largest national organization representing municipal governments throughout the United States. Working in partnership with 49 state municipal leagues, NLC serves as a national resource to and an advocate for the more than 18,000 cities, villages, and towns it represents.

The National Association of Telecommunications Officers and Advisors (NATOA) is a national association that represents the telecommunications needs and interests of local governments, and those who advise local governments. NATOA's membership is predominately composed of local government agencies, local government staff and public officials, as well as consultants, attorneys, and engineers who consult local governments on their telecommunications needs.

The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. NACo's membership totals more than 2,000 counties, representing over 80 percent of the nation's population.

The U.S. Conference of Mayors is the official nonpartisan organization of cities with populations of 30,000 or more. There are 1,183 such cities in the country today.

The joint commenters collectively represent the interests of almost every municipal or county government in the United States. The 800 MHz frequency band plays a critical role in the public safety communications systems of cities and counties across the nation. Many of these systems are used for wide-area, multi-agency radio operations that greatly enhance interoperability among law enforcement, fire, EMS, and other critical public safety agencies. Unfortunately, the 800 MHz band currently faces serious interference problems, often caused by the operations of Nextel Communications. The Consensus Parties, who include Nextel, major private wireless organizations, and leading public safety organizations such as APCO, IAFC, and IACP, have developed a comprehensive plan to address these interference problems. We support the recently supplemented "Consensus Plan," in so far as it provides for a rapid and equitable process to substantially reduce the potential for interference, while also providing some additional spectrum relief for public safety agencies.

The Consensus Plan does require some state and local government agencies to shift radio frequencies. However, the plan provides for Nextel to pay the cost of those frequency shifts, and ensures that no state or local government agency will be required to expend their own resources to implement the Plan. It is critical that local governments are provided the assurances as stated in the Plan that "no public safety licensees will be required to move without full compensation," and further that there is a "requirement that funding be secured to move an entire NPSAPC Region before any moves are initiated in that Region." As stated in the summary to the Plan, these "factors assure that no public safety incumbent will be required to relocate should Nextel's commitment prove inadequate."

The Consensus Plan also includes proposed rules that, for the first time, will establish clear obligations for Nextel and other commercial wireless operators to correct interference to public safety radio systems that may occur after the plan is implemented. During the interim, it is important that the Commission not ignore the on-going concerns of local government as interference issues continue to arise.

It is important that in all respects the Consensus Plan respects the critical need for and importance of public safety spectrum and its uses. Where the Consensus Parties have pointed to the role of state and local governments in the cooperation necessary to effectuate such a plan, they have requested only that local governments act expeditiously when addressing siting issues resulting from the implementation of the plan.¹

¹ We note that such a request is consistent with the agreement between the Federal Communications Commission's Local State Government Advisory Committee and the related wireless associations, the Cellular Telecommunications Industry Association (CTIA), the Personal Communications Industry Association (PCIA) and the American Mobile Telecommunications Association (AMTA). See <http://wireless.fcc.gov/siting/local-state-gov.html>.

We also believe that it is critical that the individuals who will be administering the Consensus Plan are those with the greatest expertise and ability to effectuate the necessary changes within the critical time paths identified. The formation of the Relocation Coordination Committee (RCC) and complementary Phase I and Phase II planning committees is critical to its success. The joint commenters believe, however, that the ultimate oversight must remain within the Commission, and that sufficient safeguards must be put into place to ensure that final authority is safeguarded. Further, while we applaud the work of the Consensus Group and its resulting Plan, we are concerned that the estimates on which Nextel proposes its \$850 million fund do not adequately address the costs and expenses of the RCC itself and any arbitration necessitated as a result of the implementation of the Plan.² The joint commenters request the Commission obtain assurances that those costs are adequately addressed without negatively impacting the funding promised to the affected parties.

Finally, the Consensus Plan will open additional 800 MHz band radio frequencies for public safety use. State and local government agencies need this additional radio spectrum for new and expanded radio systems that will greatly improve public safety communications capabilities. Many existing systems need additional capacity to address their expanded “Homeland Security” responsibilities, to reduce channel congestion, to add new communications tools such as mobile data, and to incorporate additional agencies to improve efficiency and interoperability. New 800 MHz radio systems are also needed, especially in areas in which public safety agencies currently operate on separate, incompatible frequency bands.

² While we note that all estimates include the costs of legal and consultative fees, it is unclear that the costs of the RCC and arbitration are contemplated as part of these estimates. If such costs are inclusive, our concerns would

Therefore, we urge the Commission to move quickly to adopt appropriate rules to address and implement the Consensus Plan for the 800 MHz frequency reallocation.

Respectfully submitted,
Libby Beaty on behalf of the



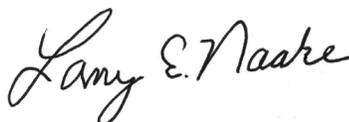
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therefore be addressed.