

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

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**

Respectfully submitted,

SMARTLINK COMMUNICATIONS  
RAGAN COMMUNICATIONS, INC.  
BELL INTERCONNECT, INC.  
SKYLINE COMMUNICATIONS, INC.  
MOTIENT COMMUNICATIONS, INC.  
COMMTRONICS OF VIRGINIA, INC.  
WESTERN COMMUNICATIONS, INC.  
WS ELECTRONICS, INC.  
G & P COMMUNICATIONS  
KLL WIRELESS, INC.  
CNY, INC.

PETE'S COMMUNICATIONS, INC.  
WECOM, INC.  
WILLIAM J. YOUNG  
NORTH SIGHT COMMUNICATIONS, INC.  
JPJ ELECTRONIC COMMUNICATIONS, INC.  
RACOM CORPORATION  
INTEL CORPORATION  
NEW YORK COMMUNICATIONS COMPANY  
SR COMMUNICATIONS ASSOCIATES  
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## SUMMARY

JPJ Electronic Communications, Inc., Racom Corporation, Intel Corporation, New York Communications Company, North Sight Communications, Inc., KLL Wireless, Inc., G & P Communications, SR Communications Associates, CNY, Inc., Communications and Industrial Electronic Corporation, Wecom, Inc., Ragan Communications, Inc., William J. Young, Ka-Comm, Inc., WS Electronics, Inc., Western Communications, Inc., Commtronics Of Virginia, Inc., Motient Communications, Inc., Smartlink Communications, Pete's Communications, Inc., Skyline Communications, Inc. and Bell Interconnect, Inc. (the "Joint Commenters") hereby respectfully submit their Comments in response to the Supplemental Comments filed by the Consensus Parties in the above-captioned proceeding.

In this proceeding, the Joint Commenters have filed Comments supporting the work of the Private Wireless Coalition ("PWC"), which consists of trade associations which include the Joint Commenters in their membership. Most significantly, on September 23, 2002, the Joint Commenters submitted Comments supporting the Consensus Proposal filed by the PWC, in conjunction with Nextel and the Public Safety community.

The Joint Commenters feel confident that the Consensus Plan is fair, reasonable and appropriate. The Consensus Plan truly represent the "best efforts" of all involved, and each should be commended for their efforts. To date, no other participant in this proceeding has produced any other proposal which does not require legislation, resolves interference, creates a measurable protection standard, provides a funding mechanism without legislation, and is fair to all parties.

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**COMMENTS**

JPJ Electronic Communications, Inc. (“JPJ”), Racom Corporation (“Racom”),<sup>1</sup> Intel Corporation (“Intel”), New York Communications Company (“NYCOMCO”), North Sight

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<sup>1</sup>Racom has not previously participated in this proceeding, as Racom was involved in complex negotiations with Nextel regarding the relocation of Racom’s Upper 200 Channels. Having reached an agreement with Nextel regarding these channels, Racom is now well positioned to add its expertise in the relocation process to the record in this proceeding. Racom operates over 80 ESMR sites throughout Iowa, Nebraska, South Dakota, and parts of Minnesota, Wisconsin and Illinois. Racom serves approximately 10,000 users with over 60% being actual public safety agencies. Another 25% are utility operators, with the remaining users being transportation/industrial units.

All of the Racom sites are connected together with T1 circuits, providing wide area coverage and complete interoperability between all 10,000 users. The network is designed and built to exacting Public Safety standards and offers 8 levels of priority usage. Over 25 million transactions are handled each month with over 6 million of those being mobile data. Several public safety agencies who have their own licensed 800 MHz channels and site equipment are seamlessly interconnected into the Racom Network. These agencies utilize their own channels, first and exclusively, and "roll-over" to Racom's ESMR channels automatically as the instant critical need arises. Racom acts like a Multi-State interoperable network that encompasses the whole range of First-Responders in any emergency; including many Federal Agencies also brought together within this system. Thus, any action considered by the Commission must also consider the impact on these public safety users, which have an equal right to public safety system licensees to an interference-free operating environment.

Communications, Inc. (“North Sight”), KLL Wireless, Inc. (“KLL”), G & P Communications (“G & P”), SR Communications Associates (“SRCA”), CNY, Inc. (“CNY”), Communications and Industrial Electronic Corporation (“CIEC”), Wecom, Inc. (“Wecom”), Ragan Communications, Inc. (“Ragan”), William J. Young (“Young”), Ka-Comm, Inc. (“Ka-Comm”), WS Electronics, Inc. (“WS”), Western Communications, Inc. (“Western”), Commtronics Of Virginia, Inc. (“Commtronics”), Motient Communications, Inc. (“Motient”), Smartlink Communications (“Smartlink”), Pete’s Communications, Inc. (“Pete’s”), Skyline Communications, Inc. (“Skyline”) and Bell Interconnect, Inc. (“Bell”)(the “Joint Commenters”) hereby respectfully submit their Comments in response to the Supplemental Comments filed by the Consensus Parties in the above-captioned proceeding.<sup>2</sup>

## **I. BACKGROUND**

Each of the Joint Commenters is a licensee or service provider in the 800 MHz band (and in some cases 900 MHz). The group represents a cross-section of commercial and private radio interests impacted in this proceeding. The Joint Commenters include internal user licensees (Intel), SMR operators who have been relocated pursuant to the Commission’s “Upper 200” SMR channel proceeding (Racom, JPJ, KLL, G & P, Ragan, Young, SRCA, CNY, Wecom, Skyline, WS, and NYCOMCO), Economic Area Licensees in the “Lower 80” SMR channels (Western, Ragan, SRCA,

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<sup>2</sup>Wireless Telecommunications Bureau Seeks Comments On “Supplemental Comments of the Consensus Parties” Filed in the 800 MHz Public Safety Interference Proceeding, WT Docket No. 02-55, DA No. 03-19 (WTB Jan. 3, 2003); Order Extending Time For Filing Of Comments, WT Docket No. 02-55, DA 03-163 (PSPWD Jan. 16, 2003).

Motient and WS), EA Licensees in the Upper 200 SMR frequencies (North Sight), EA Licensees in the General Category SMR Channels (Motient, Western), and incumbent SMR operators and system managers throughout the band (Commtronics, Ragan, Motient, Racom, WS, Smartlink, CIEC, Pete's, Bell, Wecom, Young, Western, IE, JPJ and NYCOMCO). The group includes both urban (Intel, Motient, NYCOMCO, Smartlink, Bell) and rural (JPJ, Western, Richardson, Racom, etc.) operations. Most importantly, the group include licensees who have experienced interference from Nextel and/or cellular companies. Thus, the Joint Commenters represent the entire panoply of 800 MHz non-public safety licensees who are impacted in this proceeding.

In this proceeding, the Joint Commenters have filed Comments supporting the work of the Private Wireless Coalition ("PWC"), which consists of trade associations which include the Joint Commenters in their membership. Most significantly, on September 23, 2002, the Joint Commenters submitted Comments supporting the Consensus Proposal filed by the PWC, in conjunction with Nextel and the Public Safety community.

## **II. COMMENTS**

### **4. Reaching A Consensus Position**

As the Commission is aware, in May of 2002 the Joint Commenters filed the most exhaustive examination of interference in the 800 MHz band. The Joint Commenters made it clear that Commission precedent demonstrated that the parties causing interference (primarily CMRS operators) were responsible for curing that problem.

The problem, however, is that the Commission has heretofore not defined what is "harmful interference" in the band (other than co-channel interference). There are no Part 90 Commission

Rules which can be pointed to which discuss what level of protection an 800 MHz licensee can expect from intermodulation interference (“IM”).

On this basis, and upon the specific request of Commission personnel, the Joint Commenters, through counsel, participated in a process to attempt to reach a compromise which, while not entirely satisfactory to any one party, is nevertheless fair to all parties. This is the nature of compromise, defined as “[a] settlement of differences in which each side makes concessions.”<sup>3</sup> This is why the Consensus Plan itself cannot be a “pick and choose” of different elements. Business entities will not agree to moving without full funding, Nextel will not agree to fund others’ retuning without replacement spectrum for what it is giving up, etc.

Thus, to the extent that some negative parties with responses of “why should we.....”, the answer is that, given the Commission’s proposal to relocate 800 MHz Business/Industrial/SMR licensees to 900 MHz at the licensees’ own expense, a compromise was reached which provides that: (1) over seventy percent of 800 MHz Business, Industrial and SMR licensees do not need to move to different frequencies and do not need to make any changes to their system; (2) the thirty percent of 800 MHz Business, Industrial and SMR licensees that will be relocated to different frequencies maintain their authorizations within the 800 MHz band; (3) all 800 MHz licensees moving to different frequencies will have their relocation work fully funded; (4) all 800 MHz licensees will enjoy specific, measurable IM interference protection incorporated into the Commission’s Rules; (5) there will be a significant interference reduction versus today’s operating environment; (6) licensees willing to move to 900 MHz will have the opportunity to double their available spectrum; (7) 800 MHz licensees will no longer be subject to interference from new

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<sup>3</sup>American Heritage Dictionary, Third Edition (1994).

“cellularized” systems in the non-cellularized band; and (8) there will be additional public safety 800 MHz spectrum.

The Joint Commenters do not mean to minimize the effort required to retune a radio system. Several of the Joint Commenters have been through this process once already (including JPJ, Ragan, NYCOMCO, Skyline, Wecom, Young, KLL, Western and CNY), and they are well familiar with the process. Thus, the Joint Commenters do not lightly suggest that others should engage in the same process (and some of the Joint Commenters will have to retune again), however it must be recognized that the gains to be realized by going through the process, and the problems which be resolved, far outweigh the pain.

Failure by the Commission to adopt this proposal puts the parties back to where they started: continued interference to 800 MHz Public Safety and Private systems, and puts the Commission in the position of making an even more difficult decision, which is to significantly burden Public Safety and Private licensees with costs they cannot bear, or burden Nextel with a cost which may put them out of business, or burden Nextel and cellular operators with operational limitations which might be untenable for their operations. Ultimately, the years of litigation which would result from either decision means that interference is not resolved for anyone for many, many years. While the Joint Commenters recognize that such a result would delight some of Nextel’s competitors, the Joint Commenters do not believe that this is an outcome which is in the public interest.

**B. Incorporation Of Views Into The Consensus Plan**

In attempting to develop a proposal which was as fair as possible to all 800 MHz licensees, representatives of the Joint Commenters spent many, many hours meeting with various parties in

a legitimate attempt to incorporate their views into the Plan.<sup>4</sup> Regardless of whether the entity or group would ultimately endorse the Plan, the Joint Commenters and their representatives wanted to ensure that the proposed Plan would be as comprehensive as possible. Details of these efforts are as follows:

1. Utilities Telecommunications Council

Below-signed counsel personally met with representatives of UTC, in an attempt to incorporate as many of their positions as possible into the Plan. UTC raised two important technical issues: (1) will licensees the Guard Band be entitled to less interference protection than they enjoy today; and (2) what happens when, and if, interference still occurs?

With regard to the first question, the PWC has made it clear to everyone that Guard Band licensees should not have “lesser rights” than they enjoy today. In fact, the Consensus Plan significantly strengthens those protections for all incumbent 800 MHz licensees by incorporating a specific interference standard.<sup>5</sup> With regard to the second question, the Joint Commenters are in

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<sup>4</sup>This clearly demonstrates the fallacy of the Small Business In Telecommunications (“SBT”) statement in its January 10, 2003 Comments that the Consensus Plan was developed in “private meeting without input from the Commission, non-members or the public.” To the contrary, below-signed counsel has repeatedly sought input from and had numerous meetings with UTC, individual utilities, Southern Company, the Commission, Public Safety licensees, MRFAC, Boeing, Coors, etc. etc. The Joint Commenters are aware that ITA, Nextel and Public Safety interests have done the same. It is interesting to note that SBT’s January 10, 2003 filing makes a litany of charges which were apparently no problem for SBT when SBT was a signatory to the PWC proposal. Indeed the only material changes from the document that SBT signed to the current proposal is that: (1) the PWC has agreed to a 1.9 GHz allocation for Nextel; (2) Nextel will pay for all relocations, instead of the PWC seeking funds from Congress; and (3) there is now a proposed rule for measuring, and protecting from, IM interference. Along with the numerous errors in SBT’s filing (the allegation of no support from the airline industry and the use of pre-Consensus Proposal cost estimates) SBT’s repeated questioning of the integrity of PWC participants is not only inappropriate, but offensive.

<sup>5</sup>It is recognized that there is a “sliding scale” in interference protection, depending on a

total agreement with UTC that there must be specific technical rules which define interference protection levels. In developing these standards, below-signed counsel requested (and received) from UTC specific technical recommendations.

Ultimately, UTC's concerns (shared by the Joint Commenters) resulted in the negotiation and creation of Appendix F of the Consensus Plan. As discussed below, Appendix F represents what might be considered the most important achievement of the Consensus Plan, which is industry agreement on reasonable protection from IM interference.

## 2. Southern Company

The Joint Commenters (along with the PWC, Public Safety and Nextel) also made significant efforts (through a series of meetings, e-mails and telephone conference calls) to incorporate Southern Company's concerns into the Consensus Plan. Southern's concerns can essentially be boiled down to ensuring the Southern's technology is not orphaned, that its future options are not limited, and that it not be treated differently from Nextel in terms of its CMRS operations. In this regard, Southern has represented that it is not causing interference to other licensees in its current "high site" implementation, and that it believes that it can operate in a "cellularized" format without causing interference.

On this basis, and because of Southern's unique position in this proceeding, the only step that Southern would have to take under the Consensus Proposal is to move its operations out of the

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system's adjacency to cellularized operations. However, even the most limited of protection detailed in Appendix F is a significant improvement from the total lack of specified IM protection in today's Rules.

851-854 MHz band (the same as any other non-Public Safety licensee), just as Nextel and all other non-Public Safety licensees presently operating at 851-854 MHz must move. Southern's move out of the 851-854 MHz band would be fully funded by Nextel.

The only operating requirement on Southern, going forward, is Southern's compliance with the IM interference rules proposed in Appendix F of the Supplemental Filing. In this regard, Southern would be treated, as requested, exactly as Nextel (and other CMRS providers) are treated. The Consensus Plan therefore accomplishes all of Southern's requests.

Further, for any other licensee in the band (other EA licensees, Boeing, etc.) with a desire to operate in a "cellularized" format in the non-cellularized block, this serves as a guideline for their operations (consistent with the filing of a Waiver Request). In other words, the primary, simple requirement for any licensee seeking to operate in a "cellularized" format in the band will be in compliance with Appendix F. Through Appendix F, traditional licensees in the band will have assurance that the interference problems experienced to date will not be revisited by the operations of other licensees.

### 3. Boeing

The Joint Commenters have made significant efforts to incorporate Boeing's positions in this proceeding into the positions taken by the Joint Commenters. In the beginning of this proceeding, Boeing (as part of NAM/MRFAC), proposed that NPSPAC licensees move to 851-856 MHz, and Business licensees would retune out of 851-856 MHz. Nextel would then utilize the NPSPAC frequencies.<sup>6</sup> The NAM/MRFAC proposal did not include any funding mechanism, and did not treat licensees in Canadian or Mexican Border regions differently than non-border licensees.

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<sup>6</sup>See, Ex Parte Presentation of NAM/MRFAC dated December 21, 2001.

Subsequently, members of the PWC met with NAM/MRFAC and put “meat on the bones” with regard to the original NAM/MRFAC plan. Below-signed counsel spent a significant amount of time discussing the issues raised by the plan with members of the Board of Directors of MRFAC (including Boeing) in multiple telephone conference calls.

The outcome of these meetings and telephone calls was the submission of a joint PWC Plan, which was supported by NAM/MRFAC. The PWC Plan added one important element missing from the NAM/MRFAC Plan, a cost reimbursement mechanism for retuning licensees. Unfortunately, this cost mechanism required legislation (as did the proposal to allocate 700 MHz spectrum for Public Safety licensees).

After the PWC Plan was submitted, it was recognized that there was little chance of achieving legislation for cost reimbursement, and after consultation with Commission personnel it was determined that a more global compromise was needed. The compromise, now presented to the Commission, differs from the original NAM/MRFAC Plan in four important areas: (1) Nextel agreed to fully fund Business/ILT/SMR re-tuning; (2) it was proposed to allocate to Nextel spectrum at 1.9 GHz in exchange for spectrum which Nextel was surrendering; (3) 800 MHz Business/ILT/SMR licensees could double their spectrum if they agreed to move to vacated 900 MHz spectrum; and (4) Public Safety licensees get “first crack” at unused 800 MHz spectrum vacated by Nextel.

Now, however, Boeing and NAM/MRFAC find problems with their own proposal.<sup>7</sup> Since the only material change from the original NAM/MRFAC proposal which could be considered negative to any private radio interest is the proposed allocation of spectrum at 1.9 GHz, it is clear

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<sup>7</sup>See, Ex Parte Presentation of Border Area Coalition dated December 19, 2002; Ex Parte Presentation of NAM/MRFAC dated October 3, 2002.

that this new opposition from Boeing and NAM/MRFAC is solely with regard to the issue of the 1.9 GHz band.

3. The Proposed 1.9 GHz Allocation

Boeing has represented to the Commission that it seeks to “... provide aeronautical communications and navigation services” in this band.<sup>8</sup> Skipping the issue of whether this service is desired by the airline industry (or whether the airline industry could afford the service if available), the fact is that the specific five MHz of spectrum sought by Nextel and presently allocated for mobile satellite service (“MSS”) is not presently allocated to any particular licensee. Rather, it is expansion spectrum if the services to be offered in the band are successful. This particular spectrum is not necessary to the provision of mobile satellite service.<sup>9</sup> Further, in a separate proceeding, the Commission has now decided that this portion of spectrum will not be used for MSS operations.

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<sup>8</sup>See, Ex Parte Presentation of Boeing Company dated January 14, 2002.

<sup>9</sup>It should also be noted Boeing and NAM/MRFAC have claimed that allocating a portion of the 1.9 GHz band to Nextel would be a “windfall of spectrum far more valuable than the spectrum it holds today.” Ex Parte Presentation of NAM/MRFAC dated October 3, 2002. However, while Nextel is “giving up” as part of the proposal spectrum for which it paid a very significant amount of money, Boeing has not suggested that Boeing should pay anything for its “windfall” of the very same spectrum which it seeks to prevent Nextel from acquiring.

Further, some PCS providers have expressed concerns that MSS operations would cause interference to adjacent PCS operations. While Nextel disagrees with this assessment,<sup>10</sup> it is important to note that Nextel is willing to locate in this spectrum and provide a 5 MHz “buffer” between MSS and PCS operations.

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<sup>10</sup>See, Ex Parte Presentation of Nextel Communications, Inc. in IB Docket No. 01-185, ET Docket No. 00-258 dated January 23, 2003.

The Joint Commenters are also aware that some critics have complained that the spectrum that Nextel is receiving is more valuable than the spectrum that Nextel is returning to the Commission. Other than the fact that it is virtually impossible to accurately value the spectrum,<sup>11</sup> these critics repeatedly fail to look at all of the costs to be borne by Nextel in this spectrum trade. In addition to the mere “value” of the spectrum (whatever that is), Nextel must: (1) pay for Public Safety retuning; (2) pay for Business/Industrial/SMR retuning; (3) pay for microwave incumbent retuning from the Unlicensed PCS Band; (4) pay for Broadcast Auxiliary Licensee retuning from the MSS Band; and (5) pay for their own multiple retunes, eventually totally out of all spectrum below 861 MHz.

#### 4. Appendix F

The Joint Commenters believe that the most important part of the Supplemental Comments is Appendix F. The rules proposed in Appendix F, if adopted, would provide measurable IM protection for 800 MHz licensees for the first time.<sup>12</sup>

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<sup>11</sup>What methodology would one use to value this spectrum, since the MSS spectrum has not been auctioned? So-called experts disagree, and the estimate changes daily as the economy and the telecommunications sector changes. Cellular operators received their spectrum for free (or near free for those that went through comparative hearings), so it’s a little disingenuous to now complain when it is clear that Nextel is giving up very valuable spectrum, and spectrum that they paid significantly for. The constant value fluctuation placed on the spectrum originally auctioned to Nextwave demonstrates that this valuation argument is a fruitless pursuit and distracts from the core mission in this proceeding. Further, if the mental gymnastics are truly necessary, the Commission can merely view any perceived difference between what the value of the spectrum which Nextel is surrendering, and the value of the 1.9 GHz spectrum, as money which goes to Public Safety to give Public Safety entities more spectrum at 800 MHz (an extremely worthy trade), as well as spectrum that will be available for private, internal use systems at 900 MHz.

<sup>12</sup>It has been remarked to the Joint Commenters that it might not be abundantly clear that Appendix F applies to both Public Safety and non-Public Safety systems. As one of the drafters of the document, and particularly the Appendix F, it can be affirmatively stated that all of the

The primary reason for the delay by the Consensus Parties in filing the Supplemental Comments was the time necessary to negotiate and work through the nuances of creating an IM protection rule. Engineers representing Nextel, Public Safety and other incumbents worked tirelessly to create a rule which is: (1) sufficiently protective of “non-cellularized” licensees; (2) achievable; (3) reasonably easy to measure; and (4) not unfairly punishing to Nextel and cellular licensees.

5. Cost Estimates

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Consensus Parties intended Appendix F to apply to all 800 MHz incumbents. Further, the “Best Practices Guide” should be equally applied to 900 MHz systems, which ultimately could experience similar types of interference.

The Joint Commenters are aware of concerns that the amount of money pledged by Nextel for relocation will be insufficient in practice. As discussed above, the Joint Commenters are very familiar with the costs of retuning, as many of the Joint Commenters have already been through the process once at 800 MHz. Therefore, independent of Nextel's estimates, the Joint Commenters engaged in their own analysis of the potential costs of retuning non-Public Safety incumbent licensees. In order to accomplish this task, the Joint Commenters created a list of all existing 800 MHz licensees that would be required to be retuned.<sup>13</sup> Further, the Joint Commenters contacted many of the largest 800 MHz licensees individually, in order to determine the make-up of their systems and assist in the creation of assumptions. Then, using rates of compensation from the most expensive retune experienced by the Joint Commenters, retuning costs were estimated.

In order to make its analysis a "worst-case" scenario, the Joint Commenters made the following assumptions: (1) all incumbent licensees were fully constructed and operational; (2) all incumbent licensees (other than utilities and manufacturing plants) operated with seventy units per licensed channel per licensed site (even for licensees on shared channels);<sup>14</sup> (3) all utility and manufacturing plants operated with one hundred twenty mobile per licensed frequency per licensed

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<sup>13</sup>It should be noted that some non-Public Safety licensees presently located in what is to be designated the "Guard Band" will be offered the opportunity to move to lower frequencies. However, these entities will be required to pay for their own retuning, assuming that they would not otherwise need to be retuned. In other words, a non-Public Safety licensee which is presently licensed for both "Guard Band" and General Category frequencies will have their mobile unit reprogramming paid for.

<sup>14</sup>This estimate includes calculation of mobile units associated with frequencies which would not need to be retuned. To illustrate, assume that an incumbent (which is not a utility or manufacturing plant) licensee has a ten channel authorization, with five General Category frequencies and five Business Pool frequencies. The Business Pool frequencies would not be retuned under the Consensus Plan. However, in assigning a mobile count to this system, it was assumed that there were 700 units (10 frequencies times 70 units) that needed to be retuned.

site; (4) one half of all utility and manufacturing plant radios would have to be retuned twice; (5) all mobile units could not be retuned “over the air”;<sup>15</sup> and (6) all mobile units are hard mounted in vehicles, requiring installation and removal time (i.e., the units are not portable units).

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<sup>15</sup>Many current generation units are in radio systems where, for example, if two of the control channels for the system are not retuned, the mobile units do not need to be “touched.”

With this methodology, the Joint Commenters came to what it believes is a “worst-case” situation. The money pledged by Nextel exceeds this figure by a significant amount.<sup>16</sup> Further, as stated in the Supplemental Filing, no licensee will be required to retune without full funding. Therefore, the Joint Commenters are comfortable that Nextel’s pledge is sufficient, and safeguards are built into the system if for any reason any of the estimates fail.<sup>17</sup>

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<sup>16</sup>SBT claims at page 20 of its January 10, 2003 Comments that rebanding would cost 19 non-Public Safety commenting parties in this proceeding \$522,000,00, well over the amount pledged by Nextel for non-Public Safety systems. However, the cost estimates submitted to the FCC by each entity were made BEFORE the Consensus Proposal, and were made by those parties assuming that they would be forced to move to 900 MHz! The parties were counting on all new equipment, and a complete system change out. Their costs, if any, under the Consensus Plan are but a fraction of those figures. For example, Intel, one of the Joint Commenters, will not have to move a single frequency under the Consensus Plan. Similarly, East River Electric Power Cooperative will only have to retune three of its channels. However, these three channels are Upper 200 channels, part of the earlier proceeding. Thus, none of East River’s retuning costs (for only three channels) would be attributable to the Consensus Plan.

<sup>17</sup>It should also be noted that, in the unlikely event that the pledged amounts are exhausted and retuning stops at any point, Nextel (as well as other “cellularized” licensees) will

### **III. CONCLUSION**

The Joint Commenters feel confident that the Consensus Plan is fair, reasonable and appropriate. The Consensus Plan truly represent the “best efforts” of all involved, and each should be commended for their efforts. To date, no other participant in this proceeding has produced any other proposal which does not require legislation, resolves interference, creates a measurable protection standard, provides a funding mechanism without legislation, and is fair to all parties.

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still be bound by the IM restrictions proposed in Appendix F. Therefore, even if some interleaving remains, Nextel would still have to protect incumbent licensees to the same extent as it would if it did complete the retune. Because this will be a very difficult level of protection for Nextel to achieve without significantly damaging its operational mode, Nextel is given more than sufficient incentive to complete the work by contributing more than the pledged amount.

WHEREFORE, the premises considered, it is respectfully requested that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

SMARTLINK COMMUNICATIONS  
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