

**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)	

REPLY COMMENTS OF THE CITY OF PHILADLEPHIA

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Dated: February 25, 2003

REPLY COMMENTS OF THE CITY OF PHILADLEPHIA

The City of Philadelphia ("City") submits these Reply Comments in response to Comments filed in the above captioned proceeding on the December 24, 2002 "Supplemental Comments" of the self-designated "Consensus Parties".¹ The City has previously articulated its concerns regarding proposals for realignment of the 800 MHz band in individual Comments, including Comments filed February 10, 2003 on the proposals described in the "Supplemental Comments," and in Comments filed jointly with members of the group of jurisdictions known as the Public Safety Improvement Coalition ("PSIC").

Based on the record, including the Comments submitted in response to the Supplemental Comments, it is clear that the plan presented in the Supplemental Comments is not the right plan to eliminate Commercial Mobile Radio Services ("CMRS") interference with public safety radio. Should the plan remain under consideration for implementation, public safety agencies and not commercial users should receive priority representation in the realignment process, and the Commission should increase its role in the oversight of commercial users of the 800 MHz band. The realignment plan in the Supplemental Comments is not the best plan, or even an adequate plan considering the nearly certain threat of post-realignment interference. The City urges the Commission to require the following as part of any realignment program: 1) development and adoption of a step-by-step plan guaranteeing no system degradation or disruption during the transition process; and 2) development and adoption of a security plan that limits access and safeguards information provided on public safety systems during the realignment process.

¹ By Public Notice DA 03-19 dated January 3, 2002, the Commission invited comments and reply comments on the realignment plan proposed in the Supplemental Comments filed by the self-designated "Consensus Parties" on December 24, 2002. The time was extended for Comments and Reply Comments until February 10, 2003 and February 25, 2003, respectively, by Order of the Commission, DA 01-163, released January 16, 2003.

Because the "Consensus Parties" plan fails in these and other respects, the Commission should consider alternative plans for 800 MHz realignment.

We urge the Commission to provide public safety agencies with a strong voice in the oversight of the realignment process. Under the plan proposed in the Supplemental Comments, the Commission would leave the correction of the CMRS-public safety interference problem to be administered by private parties guided by their commercial interests. This is clearly unacceptable, because the operation of many of these private parties is the source of the problem. Many Comments submitted by commercial entities involved in the realignment process were dominated by "turf-war" issues and overtones, evidencing a competitive motive rather than the objective of preserving the integrity of public safety communications in a realignment process. The process needs effective oversight from public safety agencies and the Commission to act as "watch-dogs" of the public safety interest. Lives are at stake here, and public safety concerns must be paramount. Commercial entities historically have not placed, and cannot realistically be expected to place, the public interest and public safety ahead of their respective commercial interests.

Further, we agree with and support Comments from the PSIC that call for the Commission to institute an "anticipatory process" by which steps should be taken to mitigate interference prior to its occurrence. By requiring CMRS providers to engage proactively in preventative measures to avoid interference with the public safety band before an upgrade, the Commission would properly place the burden of compliance in the hands of the commercial entity threatening the integrity of a public safety radio system. Proactive prevention will also prevent interference before it can disrupt communications to the point of jeopardizing the safety of the public or emergency responders.

In this regard, we support the position of the Michigan Department of Information Technology that questions whether the plan in the Supplemental Comments is the best plan given the certainty of post-realignment interference. The plan in the Supplemental Comments is a complex, costly and burdensome solution for public safety users that is unlikely to eliminate the interference problem. Continuing modification of the cellular and low-site CMRS systems after realignment will create continued interference. This is unacceptable given the magnitude of the realignment process. The Supplemental Comments admit that all post-realignment interference will not be eliminated, and the group relies on ad hoc attempts to resolve interference as problems become manifest. Given this admission that post-realignment interference is inevitable, the financially and administratively onerous plan described in the Supplemental Comments is clearly not the best plan.

While the Supplemental Comments promise a seamless transition without interruption or degradation, they propose no mechanism for implementing this "seamless transition." The public has good reason to be skeptical of any realignment plan that does not spell out a detailed transition scheme that assures minimal or no interruption in public safety radio communications. Many of the public safety users, including the City, believe that the transition will be plagued by problems. If spectrum realignment must occur, it is only reasonable to require that the realignment plan outline a step-by-step procedure that assures minimal risk of system degradation. In this regard, the Supplemental Comments are manifestly deficient.

We also agree with Comments addressing the absence of security measures to protect information that would be provided to the Relocation Coordination Committee under the plan proposed in the Supplemental Comments. Detailed knowledge of a public safety communication

system would be an invaluable resource to a terrorist element and should be accessible to individuals only on a "need to know" basis. This information should be classified and protected accordingly. We agree with Comments from the Michigan Department of Information Technology that access protocols must be established and penalty mechanisms instituted for both criminal and commercial misuse of the information. Additionally, we agree with the suggestion by Motorola that a federal governmental agency is the proper entity to administer the safeguarding of this valuable information.

Finally, we urge the Commission to resist moving hastily towards a realignment plan. After reviewing the Comments on the plan proposed in the Supplemental Comments, we perceive consistent apprehension over flaws in the plan and concern regarding the dominant role of self-interested commercial parties. While it would be ideal to select a plan that is quick to implement, it is more important for the Commission to adopt a plan that effectively resolves interference while at the same time protects public safety radio communications. Before any realignment plan is adopted, the Commission should institute measures to mitigate current interference in the public safety band, including requiring CMRS providers to work proactively with public safety radio users to identify and resolve interference issues before they become serious. This will give the Commission, the providers, and public safety agencies the time necessary to develop and institute a realignment plan that will both eliminate interference and

minimize the potentially enormous technical and monetary burdens on public safety providers that appear likely under the scheme proposed in the Supplemental Comments.

Dated: February 25, 2003

Respectfully submitted,
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