

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

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 ACCESS SPECTRUM, LLC

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Table of Contents

I. INTRODUCTION AND SUMMARY 1

II. PUBLIC SAFETY INTERFERENCE CAN BE RESOLVED AT THE LOCAL
LEVEL WITH MINIMAL DISRUPTION TO PUBLIC SAFETY AND
OTHER 800 MHz LICENSEES.....5

III. NEXTEL’S “SPECTRUM EXCHANGE” PROPOSAL IS UNNECESSARY
AND ANTICOMPETITIVE AND SHOULD BE REJECTED.9

IV. CONCLUSION.....13

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Access Spectrum, LLC (“Access Spectrum”) hereby submits its Reply Comments in response to the comments generated by the Supplemental Comments of the Consensus Parties (“*Supplemental Comments*”) filed on December 24, 2002, in the above-captioned proceeding.¹ As further described below, Access Spectrum continues to strongly support alternative solutions to the 800 MHz interference predicament that minimize the disruption to existing licensees and that avoid any unjust enrichments to an individual licensee or class of licensees.

I. INTRODUCTION AND SUMMARY.

In its most recently filed comments, Nextel states that “[a]s a result of the Consensus parties’ diligent efforts . . . every legitimate question concerning the Consensus Plan has now been addressed.”² To the contrary, all but 3 of the 57 parties that submitted comments responding to the Consensus Parties’ *Supplemental Comments* disagree with Nextel’s contention. Every public safety organization that submitted comments expressed significant concerns with

¹ See 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, *Public Notice*, DA 03-19 (rel. January 3, 2003).

² See Comments of Nextel Communications, Inc. and Nextel Communications Partners Inc. (“*Nextel*”) at i.

the adequacy of the funding mechanism developed by Nextel.³ Even more troubling, major public safety users openly debated the need for the Consensus Parties' proposed reorganization of the 800 MHz band and its ultimate effectiveness for solving interference.⁴ Public safety users operating in the Canadian and Mexican border areas described numerous deficiencies with the plan's proposed allotment of channels citing particularly the lack of attention paid to the preservation of cross-border, mutual aid channels.⁵ Public utilities and other major private wireless users argued that the plan, in large part, relegates their critical communications systems to guard band frequencies that will be susceptible to continuing interference post-realignment.⁶

Nextel would like the FCC to believe that all concerns with the Consensus Plan are motivated solely by "anticompetitive" behavior.⁷ However, the concerns expressed by individual public safety and private wireless licensees render that charge as a disingenuous mischaracterization.⁸ Despite the best efforts of the public safety and private wireless

³ See, e.g., Comments of the Communications Division, Michigan Department of Information Technology at 3; Comments of the City of Baltimore, Maryland at 2; Comments of the City of Philadelphia at 1; Comments of the City of New York at 4.

⁴ See, e.g. Comments of the Communications Division, Michigan Department of Information Technology at 3, 6; Comments of the City of Baltimore, Maryland at 1; Comments of the City of New York at 7.

⁵ See, e.g., Comments of the Communications Division, Michigan Department of Information Technology at 5; Comments of Statewide Wireless Network, New York State Office for Technology at 3, 6; Comments of the City and County of San Diego at 2.

⁶ See, e.g., Comments of Baltimore Gas and Electric at 1; Comments of Cinergy Corp. at 8; Comments of Con-Edison of New York at 9; Comments of Ameren Corporation at 8.

⁷ Comments of Nextel at ii.

⁸ Indeed, the level of participation by individual public safety and private wireless users lends credence to the claim that the "Consensus Plan" is a consensus in name only, and does *not* represent a true consensus of all affected parties. See e.g., Comments of Ameren Corporation at 2; Comments of Cinergy Corporation at 5; Comments of American Electric Power Company at 2; Comments of the National Association of Manufacturers and MRFAC, Inc. at 4; Comments of

organizations involved in developing the Consensus Plan, the conflicting record makes clear that a “one-size fits all” solution is impossible to achieve.

In its most recently filed comments, Access Spectrum urged the Commission to adhere to the guiding principle first articulated in its Notice of Proposed Rulemaking when considering the Consensus Plan: the identification of practical solutions that resolve the potential for interference consistent with minimal disruption to incumbent licensees.⁹ Many commenters agree with Access Spectrum that addressing interference specifically where it does (or is likely to) occur is more effective and efficient, and less costly and disruptive, than the elaborate proposal of the Consensus Parties.

Accordingly, Access Spectrum again urges the Commission to reject the “Consensus Plan” and instead:

- Develop a set of policies and procedures that enable interference resolution measures to be implemented at the local level, an approach that will minimize disruption to existing 800 MHz licensees and *eliminate* any disruption to existing licensees in other bands while still attacking the problem at its source.
- Identify interference hot spots, i.e., geographic areas that share usage patterns and spectral environments that expose these areas to greater susceptibility of interference, to assure that necessary adjustments are implemented before harmful interference occurs and possibly adversely affects public safety communications.
- Create an “Interference Coordination Committee” (“ICC”) to identify the interference “hot spots” and oversee the implementation of procedures to resolve interference problems. Unlike the Consensus Parties’ proposed “Relocation Coordination Committee,” the ICC should be a collaborative effort representative of *all* 800 MHz

the Michigan Department of Information Technology at 2 (questioning whether the Consensus Plan truly has support of 90% of the affected users in the 800 MHz band).

⁹ See Improving Public Safety Communications in the 800 MHz Band; and Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels, *Notice of Proposed Rulemaking*, 17 FCC Rcd 4873, 4785 ¶¶ 2, 20 (2002) (“800 MHz NPRM”).

incumbents subject to interference resolution. The ICC would prioritize those areas with the greatest susceptibility to interference and implement immediately measures to avoid the potential interference problem in those areas, including, where necessary, a localized realignment of the 800 MHz band. Consistent with FCC policy, those entities causing interference would be responsible for resolving such interference, and the ICC would identify the responsible party and determine the reasonable costs for resolution, including related ICC costs.

Unlike the Consensus Plan, the foregoing plan of action satisfies the dual objectives of remedying interference to 800 MHz public safety systems *and* minimizing disruption to incumbent licensees.

Access Spectrum's review of the record also confirms our belief that the Commission must summarily reject Nextel's "spectrum exchange" proposal. A large number of commenters agree that the "spectrum swap" is unnecessary to resolve interference to public safety licensees in the 800 MHz band and, by significantly improving Nextel's spectrum assets and competitive position, would amount to an unjustified and legally questionable spectrum windfall.¹⁰ FCC rules and policies provide that those entities causing interference are responsible for resolving such interference, and many commenters agree that Nextel should not be rewarded for fulfilling its interference resolution obligation, nor be allowed to return substantially less usable and less valuable spectrum for what is in effect a nationwide PCS license. To the extent that any 800

¹⁰ See Comments of The Boeing Company at 17 (noting that granting Nextel 1.9 GHz spectrum "has nothing to do with the 800 MHz interference problem or Public Safety spectrum needs"); Comments of CTIA at 15-16 (noting that "it is not necessary to grant Nextel additional spectrum outside the 800 MHz band in order to address the interference issue" and under the spectrum swap proposal Nextel is "more than made whole"); Comments of Verizon Wireless at 11-12 (noting the "spectrum swap . . . [is] designed only to advantage Nextel by allowing it to trade low-value spectrum for spectrum with significantly higher value"); Comments of ALLTEL, *et. al.* at 9 (noting the spectrum Nextel proposes to contribute at 700 and 900 MHz "has nothing to do with solving interference"); Comments of the Wireless Communications Association International at 2-3 (noting proposed swap is "unnecessary for resolution of the interference Nextel is causing" and "cannot be equated with a nationwide license for clear spectrum at [1.9 GHz]");

MHz licensee is required to surrender any usable spectrum as part of a localized 800 MHz interference mitigation program, the Commission can consider whether the circumstances warrant reimbursement through the issuance of a freely transferable Auction Discount Voucher (“ADV”) that would be usable by the licensee (or a transferee) in any upcoming auction of spectrum.¹¹

II. PUBLIC SAFETY INTERFERENCE CAN BE RESOLVED AT THE LOCAL LEVEL WITH MINIMAL DISRUPTION TO PUBLIC SAFETY AND OTHER 800 MHz LICENSEES.

A review of the record indicates that there is still a wide range of opinion on the severity and frequency of interference in the 800 MHz band, and Access Spectrum continues to strongly believe that the scope of the interference problem does not warrant the disruptive and costly nationwide band realignment proposed by the Consensus Parties. The City of Baltimore, Maryland, for example, indicated that it is not currently experiencing detrimental interference, and noted that “the current record has not established that the interference problem is so pervasive as to require a nationwide retune of the 800 MHz band.”¹² The Michigan Department of Information Technology notes that “the continuing problem of cellular and low-site CMRS interference to our public safety system has occupied a great deal of our engineering staff’s time,” but expresses “significant concerns” about many aspects of the Consensus Plan, including

¹¹ The issuance of an ADV would not be an appropriate accommodation for private wireless or SMR licensees that face the loss of one or two channels in a market through band realignment. If band realignment is to be pursued, either on a local level or nationwide, every effort should be made to find adequate replacement channels within the 800 MHz band for such licensees. However, the ADV is an appropriate mechanism when considering whether to compensate commercial carriers, such as Nextel or any other similarly situated carrier, for documented spectrum losses.

¹² Comments of the City of Baltimore, Maryland at 2; *see also* Comments of Cinergy Corporation at 2 (recommending further investigation of into the source and the scope of the interference problem).

the Plan's proposed realignment, and urges the Commission to "carefully consider whether the Consensus Plan provides the best solution . . ." ¹³ In short, the record continues to lack sufficient evidence to suggest that the scope of the interference problem (either today or in the future) is nationwide or otherwise warrants as radical and disruptive a solution as the proposed nationwide reallocation scheme. ¹⁴

As Access Spectrum noted in its Comments, the wide range of reports about the scope and frequency of interference is not surprising given the vast variations in terrain and system design that exist from community to community. ¹⁵ Interference is a local issue that is most effectively addressed on the local level, ¹⁶ and imposing a nationwide reallocation on a band with significant variations in spectrum environments is completely unnecessary and would impose severe burdens on many licensees that are not currently experiencing harmful interference. In other areas, such as the Border Area Regions, the record indicates that the Consensus Plan simply will not work. ¹⁷

¹³ Comments of The Michigan Department of Information Technology at 3; *see also id.* at 2, 6.

¹⁴ *See* Comments of Access Spectrum at 6-7, n.8. (citing previous comments containing conflicting statements regarding scope of interference problem).

¹⁵ *See id.* at 7.

¹⁶ *See* Avoiding Interference Between Public Safety Wireless Communications Systems and Commercial Wireless Communications Systems at 800 MHz – A Best Practices Guide, December 2000, at 11 ("*Best Practices Guide*") ("[T]he most effective actions to address public safety interference will depend on the specifics of each particular situation.").

¹⁷ *See* Comments of New York State Office for Technology at 6 ("the Consensus Plan for the border area cannot accommodate all Public Safety and B/ILT licensees successfully within New York State"); Comments of the City and County of Sand Diego at i ("The plan set forth in the Consensus Parties Supplement simply will not work in the San Diego area of the Mexican border without re-negotiation of existing bilateral agreements and/or much greater relocation out of 800 MHz for SMR and B/ILT licensees.").

Perhaps most importantly, as Access Spectrum pointed out in its comments, all parties apparently agree that the proposed nationwide realignment alone will *not* reduce interference to an acceptable level in those communities where public safety licensees are experiencing harmful interference.¹⁸ Indeed, Nextel continues to acknowledge that “additional measures” are necessary to fully resolve interference to public safety licensees. Although Nextel claims that realignment “in-and-of-itself” will “greatly reduce” the likelihood of interference, “realignment also sets the stage for the additional measures recommended [in the Supplemental Comments].”¹⁹ According to Nextel, “cellular operations will virtually cease to be a factor in interference” only if “the Commission adopts the Consensus Parties recommended interference thresholds, receiver performance standards, and system designs” – recommendations that can be implemented in lieu of a nationwide realignment.²⁰

Access Spectrum urges the Commission to consider the following question posed by the Michigan Department of Information Technology: “If interference will exist after the planned realignment, is the Plan truly the best approach?”²¹ Numerous commenters agree with Access Spectrum that the answer to the question is clearly NO, and, like Access Spectrum, urge the Commission to adopt less burdensome alternatives to resolving interference in the 800 MHz band that recognize and account for the vast differences in the 800 MHz spectrum environment that exist from community to community. The City of Baltimore, for instance, urges the Commission to focus on enforcing existing rules, and consider band realignment only if

¹⁸ See Comments of Access Spectrum at 8-9.

¹⁹ Nextel Comments at 9.

²⁰ See *id.* at 9-10.

²¹ Comments of the Michigan Department of Information Technology at 6.

interference continues.²² Likewise, the Public Safety Improvement Coalition “cannot help but wonder . . . if some lesser portion of the money [Nextel] is now offering could have been better spent by earlier attention to local remediations.”²³ Verizon Wireless notes that the Consensus Plan does not eliminate the potential for harmful interference and states that interference can be effectively resolved through implementation of the *Best Practices Guide*.²⁴ The United Telecom Council and the Edison Electric Institute believe that resolving interference could be accomplished more effectively and easily by requiring licensees to remedy, and not to cause, interference, and by providing licensees with flexibility so that they may enter into private market agreements as needed.²⁵ In short, there is widespread agreement among the commenters that “instead of adopting the Consensus Plan, the Commission should adopt a solution that promotes the use of technical solutions so licensees will have flexibility to resolve their individual interference problems in a demonstrably efficient and effective manner.”²⁶

In lieu of adopting the nationwide band realignment proposal, Access Spectrum therefore again urges the Commission to adopt policies and procedures of the type outlined in Appendix F that require interference resolution measures implemented at the local level, recognized by the

²² Comments of the City of Baltimore, Maryland at 2 (noting the “great waste of time and resources” if the 800 MHz band were realigned, only to find that public safety entities remain subject to harmful interference); *see also* Comments of the City of Philadelphia, Pennsylvania at 8 (“regardless of the future relocation plans, . . . providers that are currently creating harmful interference . . . should be required to take significant steps to mitigate interference now . . .”).

²³ Comments of the Public Safety Improvement Coalition at 6; *see also* Comments of the City and County of San Diego at 7 (“We see no reason why post-realignment procedures should not apply beforehand, especially since the funding cap still leaves uncertain the entire completion of realignment.”).

²⁴ *See* Comments of Verizon Wireless at 17.

²⁵ *See* Comments of United Telecom Council & Edison Electric Institute at 5.

²⁶ Comments of Consolidated Edison Company of New York at 5.

Consensus Parties and the majority of commenters as necessary regardless of any nationwide realignment solution.²⁷ Access Spectrum believes (and a large number of commenters agree) that the adoption of such policies and procedures will provide a more effective, less costly and less burdensome long-term solution to resolving interference than the nationwide realignment of the 800 MHz band.²⁸

III. NEXTEL’S “SPECTRUM EXCHANGE” PROPOSAL IS UNNECESSARY AND ANTICOMPETITIVE AND SHOULD BE REJECTED.

Nextel continues to claim that awarding it a 10 MHz nationwide license at 1910-1915/1990-1995 GHz in exchange for the assortment of 700 MHz, 800 MHz and 900 MHz channels it voluntarily proposes to surrender is “essential to the effectiveness of the Consensus Plan” and is necessary to make Nextel “whole on a spectral basis.”²⁹ As Access Spectrum noted in its Comments, however, this proposed “spectrum exchange” does significantly more than make Nextel “whole” with “replacement” spectrum; it would “replace” a patchwork of significantly less valuable, non-nationwide, non-contiguous and often-encumbered spectrum holdings with a valuable nationwide PCS license, greatly increasing the value of Nextel’s spectrum holdings and improving its spectrum position, all without participating in a competitive bidding process. A review of the record indicates that a large number of commenters agree that

²⁷ Among the additional measures outlined in Appendix F are new interference thresholds, new intermodulation and noise interference standards, the deployment of more interference resistant receivers and other location-specific efforts to resolve interference, as well as adherence to procedures and actions set forth in a revised *Best Practices Guide*. See *Supplemental Comments* at Appendix F.

²⁸ Some commenters took issue with some of the specific technical standards and policies detailed in Appendix F. Access Spectrum agrees that further review and analysis of these standards by a broader cross-section of affected parties is warranted before the Commission adopts them or otherwise puts them into force.

²⁹ See Nextel Comments at 15-16.

the Commission must reject Nextel's transparent attempt to coerce the grant of a competitive windfall of spectrum in exchange for participating in the resolution of interference *that is principally caused by its own operations*.

As an initial matter, a number of commenters recognize that Nextel's "spectrum exchange" requirement is entirely unnecessary to resolving interference in the 800 MHz band.³⁰ Even under the Consensus Parties' realignment plan, all incumbent licensees would be able to remain within the 800 MHz band, and no licensee will be compelled to relocate to other bands. Consequently, Nextel's 700 MHz and 900 MHz licenses are not needed to achieve that solution.³¹

Second, as the primary source of 800 MHz interference, Commission precedent and policies require Nextel to take whatever measures are necessary to resolve harmful interference caused by its operations.³² Tellingly, both the Consensus Parties and Nextel apparently agree with this proposition. As Access Spectrum noted in its Comments, the recommended policies and procedures in Appendix F of the *Supplemental Comments* (and agreed upon by Nextel) indicate clearly that the entity responsible for causing interference is obligated to resolve that interference.³³ Moreover, the *Supplemental Comments* acknowledge that "the Commission has

³⁰ See Comments of The Boeing Company at 17 (noting that granting Nextel 1.9 GHz spectrum "has nothing to do with the 800 MHz interference problem or Public Safety spectrum needs"); Comments of CTIA at 15-16; Comments of Verizon Wireless at 11-12; Comments of ALLTEL, *et. al.* at 9-10; Comments of the Wireless Communications Association International at 2.

³¹ See Consensus Plan at 24.

³² See Comments of Access Spectrum at 12-13; Comments of ALLTEL, *et. al.* at 5; Comments of UTAM, Inc. at 1; Comments of Cinergy, Inc. at 44-46;

³³ Appendix F at F-1 ("All licensees in the 800 MHz band operating low-site cellular systems are equally obligated to participate in responding to interference complaints and for

traditionally applied a policy of “last-in fixes it” for individual cases of interference when both licensees are in compliance with the Commission’s Rules.”³⁴ In short, Commission rules and precedent require that Nextel not be allowed to condition its underlying responsibility to resolve interference it is causing on receiving much more valuable “replacement” spectrum.

Third, although Nextel characterizes the exchange as a “replacement” of lost spectrum necessary to make Nextel “whole,” implying that the trade involves comparable spectrum, it is clear that the proposed exchange is neither a “replacement” of lost spectrum with comparable spectrum, nor an “equal exchange.” As Access Spectrum noted in its Comments, the proposed “spectrum exchange” does not involve comparable spectrum and would: (1) significantly increase the value of Nextel’s spectrum assets; (2) greatly improve Nextel’s spectrum position; (3) significantly improve Nextel’s coverage and access to immediately available spectrum; and (4) improve Nextel’s inventory of spectrum.³⁵

mitigating their contribution to actual interference.”) (*cited* in Access Spectrum Comments at 13, n.25).

³⁴ See Supplemental Comments at 40, n.73.

³⁵ See Comments of Access Spectrum at 14-16; *see also* Comments of CTIA at 16 (noting that under the spectrum swap proposal Nextel is “more than made whole”); Comments of Verizon Wireless at 11-12 (noting the “spectrum swap” . . . [is] designed only to advantage Nextel by allowing it to trade low-value spectrum for spectrum will significantly higher value); Comments of ALLTEL, *et. al.* at 7 (“the spectrum Nextel would be ‘giving up’ . . . in no way equates to obtaining 10 MHz of contiguous nationwide spectrum at 1.9 GHz in addition to the contiguous nationwide spectrum it would be getting at 800 MHz”); Comments of Wireless Communications Association International at 3 (“Nextel’s hodgepodge of 700/800/900 MHz spectrum cannot be equated with a nationwide license for clear spectrum at [1.9 GHz], and . . . Nextel’s demand is more akin to ransom than a *quid pro quo*.”); Comments of Palomar Communications at 2 (“it is apparent that the primary objective is for Nextel to acquire the 1.9 GHz band in exchange for less desirable spectrum at the least expensive means possible”).

Moreover, awarding Nextel with what is in effect a nationwide PCS license at 1.9 GHz without the benefit of competitive bidding would violate Section 309 of the Communications Act³⁶ and run contrary to the Commission's goal of ensuring that the scarce spectrum resource is put to its highest and best use.³⁷

In its earlier comments, Access Spectrum assigned a \$4.5 billion dollar estimate to a 10 MHz nationwide PCS license in order to illustrate how Nextel's spectrum assets would be enhanced if the spectrum swap were approved.³⁸ We expect that Nextel will argue against this analysis and specifically take issue with Access Spectrum's valuations. However, it does not matter whether the license in question is worth \$4.5 billion or \$3 billion or even a lesser amount. Without subjecting the license to competitive bidding, as Congress has directed the FCC to do, the true value of the license will never be obtained. Furthermore, the Commission does not need to perform exhaustive calculations to be convinced that the spectrum swap improves Nextel's spectrum position. All it needs to ask itself is whether it believes that there is any carrier that would agree to the reverse trade; *i.e.*, surrendering a 10 MHz contiguous nationwide license in the heart of the PCS band in exchange for a non-nationwide collection of interleaved channels at

³⁶ See 47 U.S.C. § 309(j)(1)-(2) (2002) (mandating, with certain exceptions not applicable here, that the Commission assign licenses to qualified applicants through a system of competitive bidding, unless there are no mutual exclusive applications for those licenses).

³⁷ See Comments of The Boeing Company at 19-20 (noting that the 1.9 GHz "exchange" "runs afoul of the competitive bidding provisions of the Communications Act and the Commission's principle of competitive parity"); Comments of the City of Baltimore, Maryland at 3-4, n.3 (noting that the Consensus Plan "fails to address how the Commission is authorized to grant Nextel [a 10 MHz nationwide CMRS] license without an Act of Congress"); Comments of CTIA at 16 ("Any outright grant of spectrum to Nextel without Nextel having to go through an auction violates Section 309(j) and would be susceptible to a legal challenge."); Comments of ALLTEL, *et. al.* at 10 (noting that "the record amply shows [Nextel's spectrum exchange] is contrary to Section 309(j) . . . case law precedent, and the FCC's policy of not favoring one competitor over others")

³⁸ See Comments of Access Spectrum at 14.

800 MHz and 900 MHz as well as 4 MHz in the 700 MHz band that is currently rendered unusable by incumbent broadcast operations in most major cities.

The “spectrum exchange” proposed by Nextel is especially inappropriate, given that competitively neutral and lawful mechanisms exist to make licensees required to surrender any usable spectrum as part of a 800 MHz interference mitigation program “whole.” As Access Spectrum noted in its Comments, the Commission could reimburse the licensee for the fair value of any surrendered spectrum through the issuance of a freely transferable Auction Discount Voucher (“ADV”) that can be used by the licensee (or a transferee) in any upcoming auction of spectrum.³⁹

IV. CONCLUSION.

Access Spectrum again urges the Commission to remain vigilant in maintaining as its guiding principle the identification of practical solutions that resolve the potential for interference at 800 MHz while minimizing the disruption to incumbent licensees and the existing allocation structure. The record still does not contain sufficient objective data that the scope of the interference problem warrants as costly and disruptive a solution as the nationwide reallocation scheme proposed by the Consensus Parties. A wide range of commenters agree that the Commission should adopt measures designed to resolve interference where it may – and when it does – occur by codifying policies and procedures designed to resolve interference at the local level. Such measures, including the establishment of an Interference Coordinating

³⁹ See Comments of Access Spectrum at 18-19. As stated earlier, Access Spectrum does not believe that the issuance of an ADV is an appropriate accommodation to private wireless or SMR licensees that face the loss of one or two channels in a market through band realignment. See n. 11, *supra*.

Committee as recommended by Access Spectrum, provide a solution that is more effective and efficient, and less costly and disruptive, than the elaborate proposal of the Consensus Parties.

Access Spectrum's review of the record also confirms our belief that the Commission must summarily reject Nextel's "spectrum exchange" proposal. A large number of commenters agree that such an exchange is unnecessary to resolve interference to public safety licensees in the 800 MHz band and, in effect, amounts to an unjustified and legally questionable spectrum windfall for Nextel. As the primary source of 800 MHz interference, Nextel is required to resolve the interference caused by its operations, and cannot condition the fulfillment of that obligation on receiving a spectrum windfall. To the extent Nextel or any other 800 MHz licensee is required to surrender any spectrum of value, the Commission can make the licensee "whole" through an Auction Discount Voucher that maintains competitive neutrality and remains consistent with Section 309 and FCC policy and precedent.

Respectfully submitted,

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