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September 17, 2002

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WT Docket No. 02-55
Ex Parte Presentation

Dear Ms. Dortch:

On September 15, 2003, Steve Browne, Deputy Manager of Safety for Technology and Operations for the City and County of Denver, Colorado, Jay Jacobsmeyer of Pericle Communications Company (a consultant to Denver), George Weimer of Trott Communications Group, Inc. (a consultant to the Industrial Telecommunications Association) and the below-signed counsel to Denver, met with Commissioner Michael Copps and Paul Margie, Legal Advisor to Commissioner Copps. During the meeting, representatives from Denver and ITA discussed Denver's 800 MHz interference problems, Denver's efforts to mitigate the interference, and Denver's support of the 800 MHz Consensus Plan.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, 47 C.F.R. §1.1206(b)(2), this letter is being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely,

Alan S. Tilles
Counsel to the City and County of Denver

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Ex Parte Presentation City And County Of Denver, Colorado

September 15-16, 2003

Alan S. Tilles, Esquire
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Denver's 800 MHz Radio System

- 48 Channel 800 MHz Public Safety/Utility EDACS Radio System
  - 13 NPSPAC Channels, 35 "Interleaved" Channels
  - Supports Both Denver Public Safety And Denver Public Utility Communications
  - Denver's Position In WT Docket No. 02-55 Represents Denver's Position As An 800 MHz Public Safety **And** Utility Licensee

Denver's 800 MHz Interference Problem

- Interference Already Discovered At Twenty-Four Different Geographic Locations In And Around Denver
- Areas Of Interference As Large As Several Blocks
- Interference Caused By Nextel And AT&T (Cellular "A" Carrier) Both In Combination And Alone
- Details In Denver's June 11, 2003 Ex Parte

Denver's Efforts At Interference Mitigation

- Through Cooperation With Nextel, Denver Has Reduced - But Not Eliminated - Interference To Denver's Five Control Channels Via A Number Of "Best Practices" And "Technical Toolbox" Methods
  - No Mitigation Yet Accomplished At Four Sites Requiring AT&T's Cooperation
  - See Denver's June 11, 2003 Filing
- Interference Mitigation Has Only Been Partially Successful
  - Denver Still Receives Interference On It's Non-Control Channels At Most Sites
  - Partial Mitigation Has Been At The Expense Of A Significant Reduction In Nextel's Capacity To Avoid Intermodulation Hits On Denver's Control Channels
  - AT&T Still Causing Interference And Has Not Implemented Any Mitigation – Even On Denver Control Channels

Denver's Interference Problem Has Imperiled Officer's Lives

- http://www.denverpost.com/Stories/0,1413,36%7E53%7E1591346,00.html#
- Other Examples Are Readily Available

Denver Must Have A Long-Term, Permanent Solution

- Despite Implementation Of “Best Practices” And “Technical Toolboxes,” Denver’s Interference Problem Continues To Imperil Denver’s Public Safety Workforce
  - Denver Personnel, Employed For Tasks Other Than Interference Chasing, Have Spent Hundreds Of Hours Chasing Down Interference And Trying To Find “Technical” Solutions
- Attempting To Fix Interference Problems After Discovery Is A High Stakes “Whack-A-Mole” Game, And Life Is The Ultimate Loser

Denver's Long Term Solution

- Denver Has Negotiated A Spectrum Swap With Nextel, Which Includes Long-Term Measures To Provide Denver With Operations Free From Nextel Interference On One-Half Of Denver's Channels
- Denver's Spectrum Swap Agreement Is Based Upon And A Prelude To The Consensus Plan
  - Failure To Adopt The Consensus Plan Will Eliminate Most Long-Term Benefits Of The Denver/Nextel Swap Agreement

Denver's Spectrum Swap Agreement

- Provides For Full Funding By Nextel For Work To Be Performed By A Third Party Vendor Pursuant To A Statement Of Work ("SOW") Negotiated Between Denver And Nextel
  - Cost To Denver Of Interference Mitigation Efforts To Date: Hundreds Of Thousands Of Dollars
  - In Contrast - Denver's Costs Of Channel Swapping Will Be Borne By Nextel
  - SOW Is An Appendix To The Spectrum Swap Agreement
  - Once Work Has Begun, Entire Retune Of Repeaters, BDAs And More Than 4,200 Radios Will Take A Total Of Twenty-Five (25) Days *With No Disruption Of Essential Communications For Denver*

Denver Supports The Consensus Plan

- The Consensus Proposal Is The Only Proposal Before The FCC Which:
  - Is Proactive;
  - Is Funded;
  - Is Widely Supported By An Overwhelming Majority Of The 800 MHz Community;
  - RESOLVES The Problem;
  - Does Not Penalize Any Party Causing Or Receiving Interference;
  - Provides More Spectrum For Public Safety
- August 7, 2003 Ex Parte Presentation By Consensus Parties Eliminates Interference Distinction In 859-861 MHz vs. Lower Band Licensees, And Therefore Eliminates Any Perception Of "Second Class Spectrum"

Denver's Position On Motorola's "Technical Toolbox"

- Denver Appreciates The Recent Technical Advances Made By Motorola, And Hopes These Advances Will Be Available For Non-Motorola Equipment
- As Of September, 2002, Pre-Selector Filtering And Switchable Attenuators Were Not Solutions
  - Motorola September 19, 2002 FCC Ex Parte Briefing
  - New Advances Make These Technologies Part Of The Solution, But Not A Solution Alone
  - In Denver's Experience, And As Detailed In The Consensus Parties' August 7, 2003 Ex Parte Presentation, The "Technical Toolbox" Alone Does Not Resolve Interference

Denver's Position On The "Balanced Approach"

- Balance - Defined By The American Heritage Dictionary As: "A State Of Equilibrium" or "A Harmonious Arrangement Or Proportion Of Parts"
- The "Balanced Approach" Only Balances The Lives Of Public Safety Officers Against The Interests Of Entities Seeking To Strengthen Their Own Spectrum And Competitive Positions

The “Balanced Approach”

- Is Reactive – It Does Not Prevent Interference
  - Depends On “Case-By-Case” Interference Resolution, Which Denver Has Found To Be Wholly Inadequate
  - Identification Of Interference Site May Be The Result Of An Officer In Danger
- Offers No Funding For The Endless “Whack-A-Mole” Which Entities Like Denver Will Continue To Endure
- Imposes Regulations On Nextel And Other “Cellularized” Operations Below 869 MHz, While Exonerating Cellular Licensees From The Same Responsibilities
  - Record Demonstrates That Cellular Licensees Have Been Less Than Cooperative In Interference Resolution, Yet They Are Significant Contributors To Public Safety Interference
- Provides No New Public Safety Spectrum

The “Balanced Approach”

- Public Safety Agencies Do Not Have The Manpower Or Funding To Respond To Notifications And Certifications
  - The Continued Build-Out Of CMRS Systems Makes Such Tasks Mindlessly Time Consuming
  - Since Cellular Systems Are Causing This Interference, All Cellularized Operations Should Be Subject To The Same Rules And Requirements

The “Balanced Approach”

- Advocates Want To “Initiate A Review” To Assess Progress And Effects Of Interference Mitigation Measures
  - Denver, Seattle, Portland, Dallas, Orange County, Anne Arundel County, Etc. Have Conducted All The “Review” Necessary To Assess The Progress And Effects Of Interference Mitigation Measures
  - It Is Now Time To Move Onto Solutions, Not Endless Study

The “Balanced Approach”

- The Entire Interference Avoidance Mechanism Proposed Consists Of Nextel (And NOT Cellular Licensees) Performing An “Engineering Analysis” Showing That Interference Is Not Predicted To Co-Channel Or Adjacent Channel Licensees
  - Primary Cause Of Interference In This Case (IM) Is Not A Co-Channel Problem
  - Cellularized Operators Below 869 MHz Do Not Know Where Cellular A And B Operators Are Operating Or What Frequencies Using As These Operators Do Not Have A Spectrum Utilization Reporting Requirement
    - Much Of Denver’s Interference Is A Combination Of The Two
  - There Will Always Be IM “Hits” From Any Operation (Or Combination Of Operations) To Other Licensees, At What Point Is It “Interference”?
    - TSB-88 Only Addresses Interference To The Channel <u>Directly</u> Adjacent To The Proposed Interference
    - Interference Is Not Limited To Directly Adjacent Channels

The “Balanced Approach”

- The Proposed Eligibility Flexibility To Encourage Spectrum Swaps Is Useless
  - Spectrum Swaps With NPSPAC Are Impossible, As NPSPAC Channels Are Allocated As A Block
  - Even If “One-Off” NPSPAC Spectrum Swaps Were Possible, It Would Trade One Licensee’s Interference For Another’s New Problem
  - Spectrum Swaps Within The Interleaved Channels Do Not Adequately Space Cellularized And Non-Cellularized Systems To Reduce Interference
    - Interleaved Spectrum Swaps May Cure One Licensee’s Interference, But Create Interference For Another Licensee