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September 22, 2003

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 Wednesday, September 17, 2003, Lawrence Krevor, Vice President – Government Affairs, Nextel Communications, Inc. ("Nextel"), Dave Maples, Nextel's Senior RF Operations Engineer, Joel P. Johnson, Managing Director, Harbour Group, LLC, and I met with Barry Ohlson, Legal Advisor for Spectrum and International Issues, Office of Commissioner Adelstein, regarding the Commission's above-captioned rulemaking on public safety communications in the 800 MHz band. During our meeting, we discussed the urgent need to adopt the Consensus Plan as a means of resolving CMRS – public safety interference and providing additional spectrum for public safety communications. The facts and arguments discussed are reflected in written comments previously filed by Nextel and the Consensus Parties in this proceeding. In addition, attached to this letter is a copy of a slide presentation provided to Mr. Ohlson that (i) describes the broad support for and compelling benefits of the Consensus Plan, and (ii) responds in detail to an *ex parte* filing submitted on June 26, 2003 by the Commonwealth of Pennsylvania.

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this *ex parte* notification and the attachment are being filed electronically for inclusion in the public record of the above-referenced proceeding. Please note that the filing of this letter was delayed by the closure of the Commission on September 18-19, 2003.

Sincerely,

/s/ Regina M. Keeney
Regina M. Keeney

cc: Barry Ohlson

The Consensus Plan

Promoting Homeland Security by Resolving 800 MHz Interference and Allocating More Spectrum to Public Safety

WT Docket No. 02-55

September 17, 2003

The Consensus Parties – Representing 90% of 800 MHz Land Mobile Radio Band Licensees

- *Every* Major Public Safety Organization
  - *APCO*
  - *Int'l Assn of Chiefs of Police*
  - *Int'l Assn of Fire Chiefs*
  - *IMSA*
  - *Major Cities Chiefs Assn*
  - *Major County Sheriffs' Assn*
  - *Nat'l Sheriffs' Assn*

- Private Wireless & CMRS
  - *ARINC*
  - *AMTA*
  - *Assn of American Railroads*
  - *American Petroleum Instit.*
  - *Forest Industries Telecom.*
  - *ITA*
  - *PCIA*
  - *Taxicab, Limousine & Paratransit Assn*
  - *Nat'l Stone, Sand & Gravel Assn*
  - *Nextel*
  - *Nextel Partners*

Other Public Safety & Local Gov't Support for the Consensus Plan

- *Nat'l Assn of Counties*
- *NATOA*
- *Nat'l League of Cities*
- *U.S. Conf. of Mayors*
- *NPSTC*
- *Amer. Assn of State Hwy & Transportation Officials*
- *Forestry Conservation Comm. Assn*
- *Int'l Assn of Emergency Managers*
- *Nat'l Assn of State Foresters*

- ***Ogden City, Utah***
- ***City of Ft. Lauderdale***
- ***Orange County, FL***
- ***Orange County, CA***
- ***City and County of Denver***
- ***City of Salem, Oregon***
- ***King County Regional Comm. Board***
- ***Contra Costa County Fire Protection District***
- ***City of Columbus, OH, Dep't of Public Safety***
- ***Hamilton County, OH***
- ***North Myrtle Beach, SC***
- ***Jones County Emerg Oper Ctr, Laurel, MS***
- ***Pickaway County, OH***
- ***St. Louis Airport Authority, MO***
- ***Bay County, FL***

Private Wireless and Manufacturer Support for the Consensus Plan

Lucent	*Columbia Communications*	*Ka-Comm*
Intel	*Graybill Electronics*	*KLL Wireless*
Federal Express	*Highland Wireless Services*	*New York Communications*
Northwest Airlines	*Miller Communications*	*North Sight Communications*
United Airlines	*Monroe Communications*	*Pete's Communications*
IE Communications	*Ohio Valley 2-Way Radio*	*SR Communications Associates*
Motient	*P&R Communications Service*	*Ragan Communications*
RACOM	*Radio Service Company*	*Skyline Communications*
RA-Comm	*Sutter Buttes Communications*	*Smartlink Communications*
Skitronics	*Wells Communications Service*	*Blue Mountain Communications*
Action Communications	*Bell Interconnect*	*Business Radio, Inc.*
Apache Corp.	*Commtronics of Virginia*	*G&P Communications*
Battles Communication	*Comm. & Indus. Electr. Corp.*	*Business Communications Corp*
Telecomunications NA, BP	*CNY, Inc.*	*Coastal Electronics*
BearCom	*JPJ Electronic Communications*	

800 MHz Interference – A Nationwide Threat to Public Safety

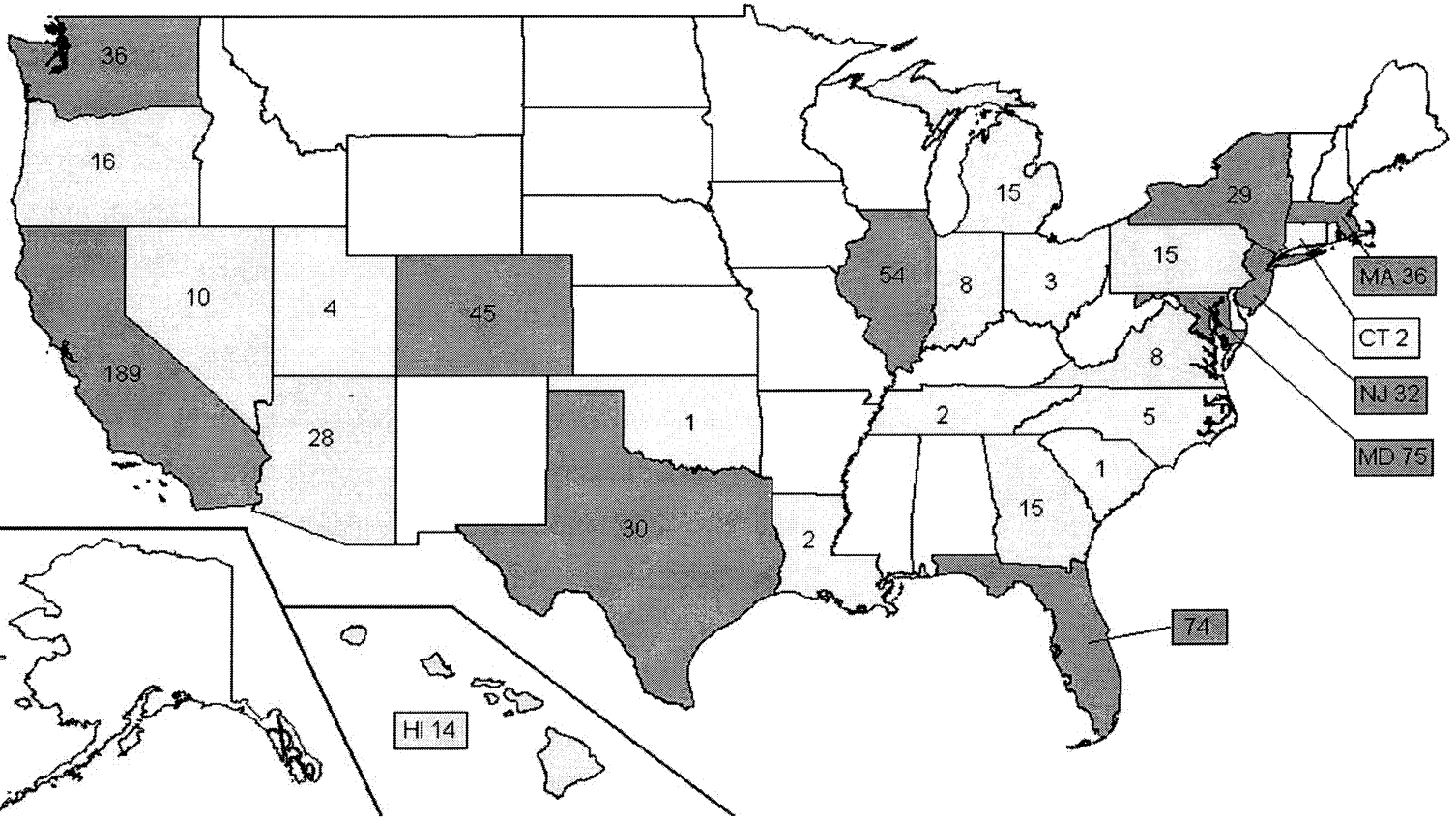
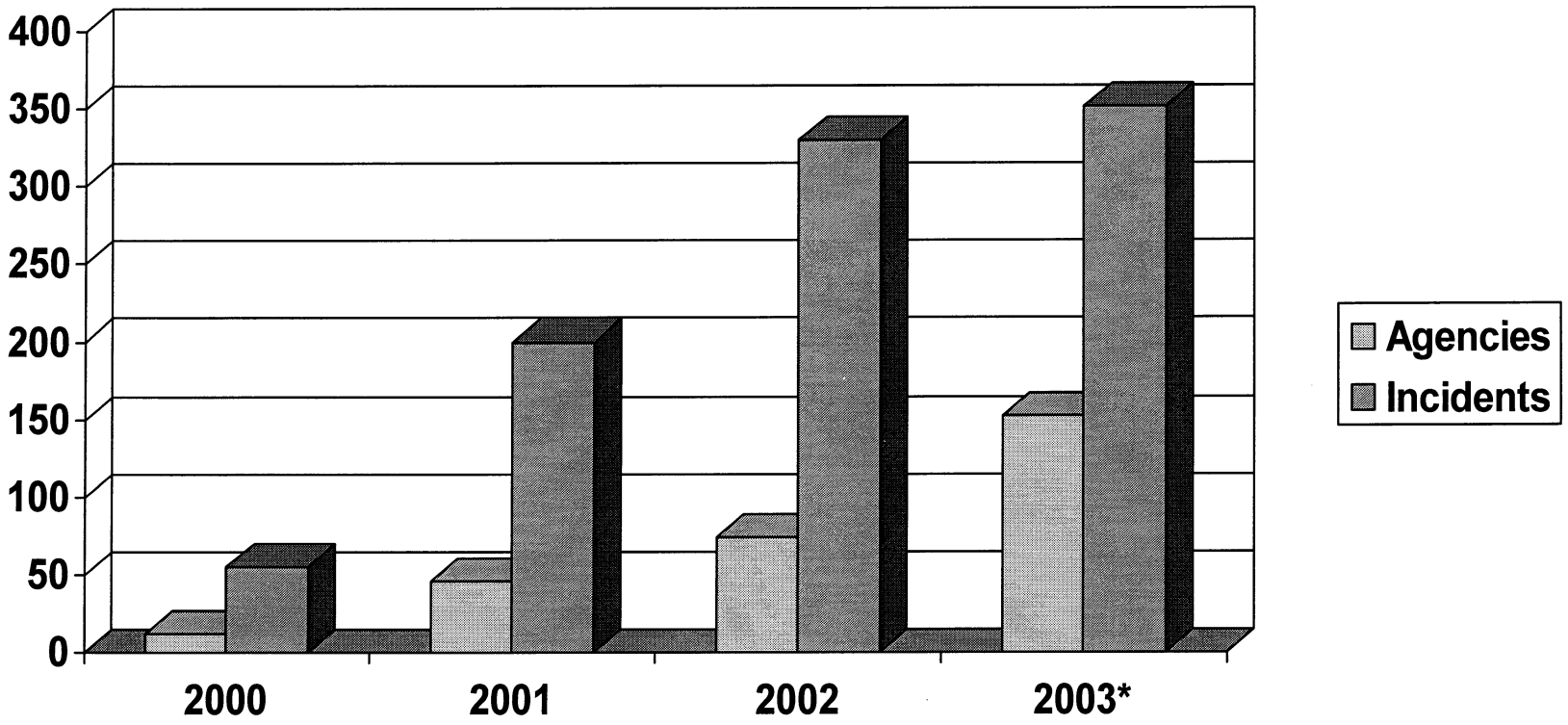


Figure 1
Incidents of CMRS-Public Safety Interference by State

Public Safety Interference: Increasing at an Alarming Rate

- 800 MHz interference has affected 400,000 public safety radios
- 10% of all public safety systems have reported interference to date

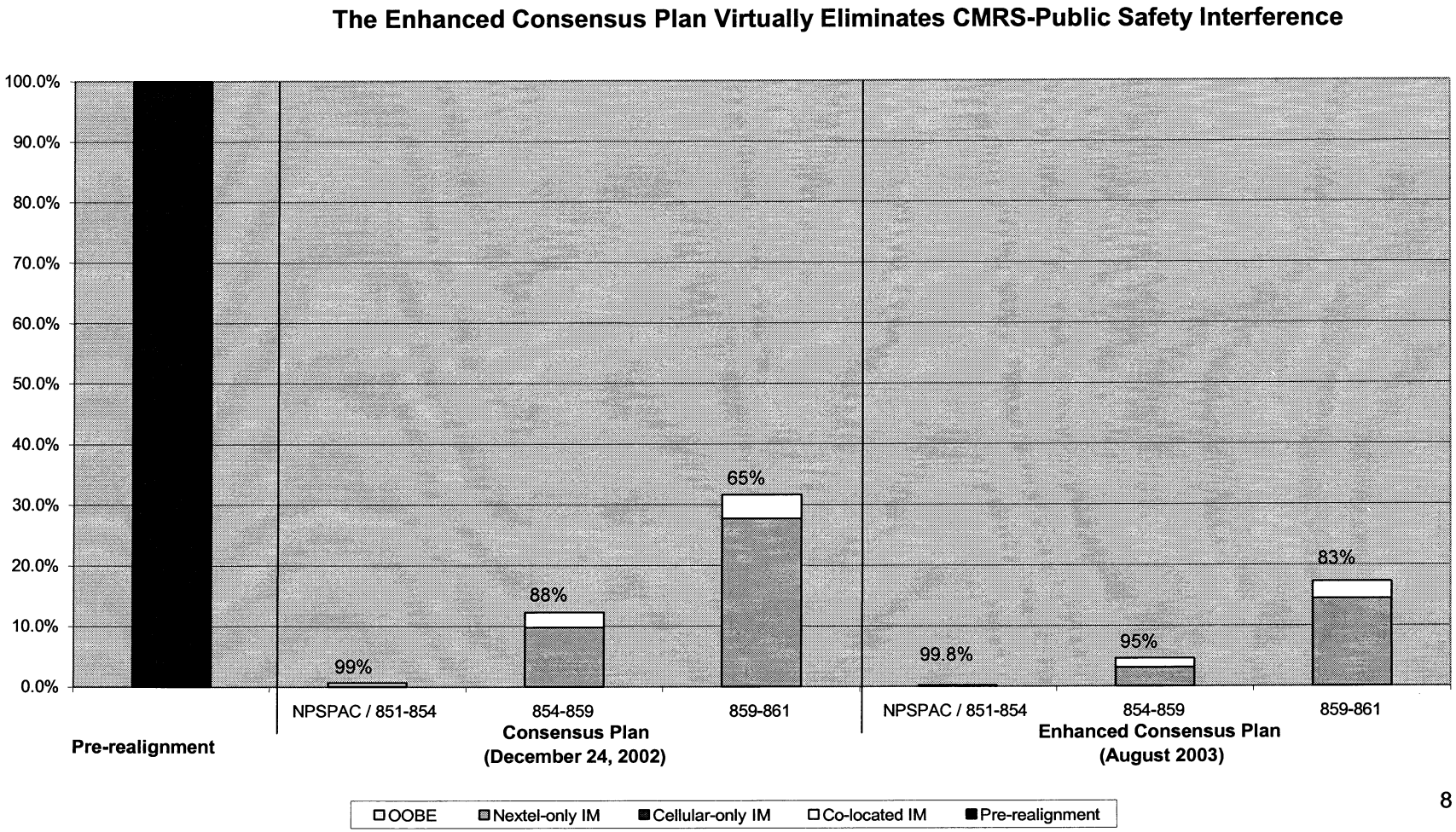


*Projected estimate based on number of interference incidents and number of public safety agencies reporting Interference, Jan. 1, 2003 – April 30, 2003

The Consensus Plan – The Only Effective Solution

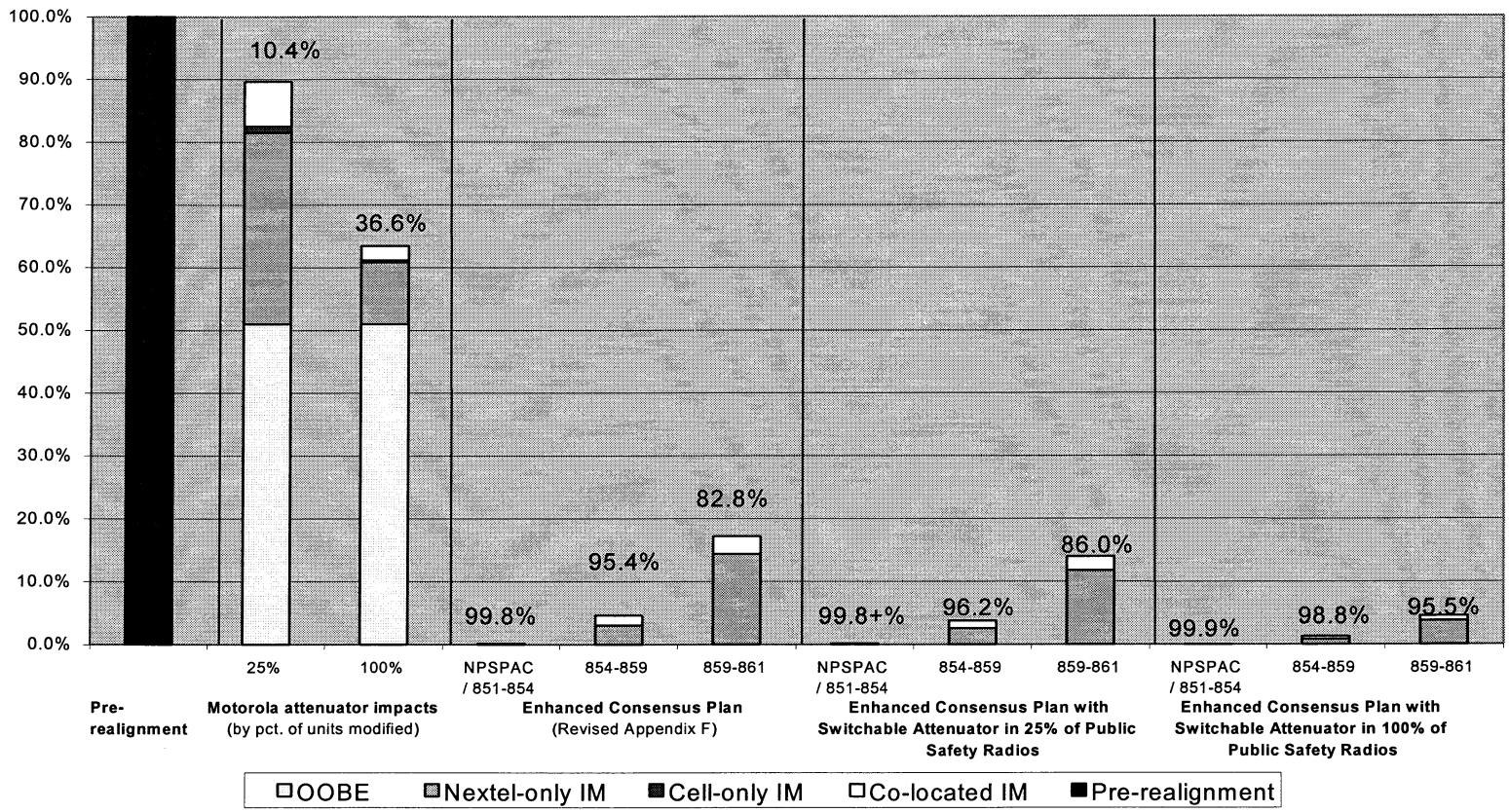
- Virtually eliminates 800 MHz interference
- Fully funded; no need for government funds
- Ensures that no incumbent licensee loses spectrum
- Can be implemented in three years based on comprehensive plan that minimizes disruption to incumbent licensees
- The *only* Plan that provides additional spectrum for critical public safety needs: 25 percent more spectrum at 800 MHz (2.5+ MHz) and 4 MHz at 700 MHz

Virtually Eliminating 800 MHz Interference



Motorola's Switchable Attenuator: Not a Solution

Figure 2.
The Enhanced Consensus Plan Combined with Motorola's Switchable Attenuator Results in Even Greater Reductions to CMRS-Public Safety Interference



The Commonwealth of Pennsylvania Does Not Understand the Consensus Plan

- On June 26, 2003, the Commonwealth of Pennsylvania made an *ex parte* presentation to the FCC opposing the Consensus Plan. Its filing evidences a misunderstanding of the Consensus Plan and its prospective impact on Pennsylvania's planned statewide public safety communications system.

- Pennsylvania's concerns can be alleviated.

- Pennsylvania does not recognize that CTIA/UTC Plan and Motorola's "switchable attenuator" are reactive; they attempt to mitigate interference after-the-fact and after public safety first-responders are at risk. The Consensus Plan would proactively prevent interference before it jeopardizes critical first-responder communications.

Responses to Pennsylvania's Assertions

- Pennsylvania asserts that its statewide 800 MHz public safety communications system has both high sites and low-height "fill-in" sites and would not receive interference protection under the Consensus Plan.
  - Response: Pennsylvania's system would receive the same level of post-realignment interference protection as any other public safety operator.
  - Pennsylvania states that the vast majority of its system's coverage will be from high sites; therefore, under the Consensus Plan, it would be retuned *(at no cost to Pennsylvania)* to the proposed non-cellular, high-site channel block, with provision for low "fill-in"sites to meet coverage requirements. This would be compatible with other public safety, private wireless deployments in the non-cellular channel block.
- Pennsylvania asserts that its B/ILT channels would not receive interference protection.
  - Response: B/ILT category channels used in incumbent public safety systems receive the same interference protection as public safety channels.
  - Under Consensus Plan, all non-cellular block channels receive non-discriminatory protection from CMRS – public safety interference. Note: under Consensus Plan, Pennsylvania's B/ILT category channels don't have to be retuned.

Responses to Pennsylvania's Concerns (cont.)

- Pennsylvania claims to have experienced interference from Nextel
  - Response: Pennsylvania has not contacted either APCO or Nextel to log any interference and initiate joint investigation and analysis to definitively identify causes and CMRS carrier-contributors, if any. This is a necessary step to attempt mitigation measures.
  - Pennsylvania's engineering consultant, RCC, and its equipment vendor, M/A-COM, have worked with Nextel on interference issues in other jurisdictions and are well aware of contact information and notice procedures.
- Pennsylvania asserts that the Consensus Plan will not solve the public safety interference problem
  - Response: 800 MHz realignment under the Consensus Plan will virtually eliminate interference to Pennsylvania's statewide system.
  - Separating predominately high-site systems from cellular low-site systems "de-interleaves" channels thus: (1) minimizing intermodulation interference; (2) removes adjacent-channel interference as an issue; and (3) making possible filtering of cellular systems above 861 MHz to eliminate out-of-band-emissions ("OOBE") interference to 800 MHz public safety systems.

Responses to Pennsylvania's Concerns (cont.)

- Pennsylvania estimates retuning costs to the Commonwealth's taxpayers of $12 million or more

  - Response: Consensus Plan funding would include all costs included under FCC rules for relocating 1.9 GHz microwave licensees to clear PCS spectrum and for relocating 800 MHz upper-200 channel incumbents. *Pennsylvania will not incur any out-of-pocket retuning expenses under the Consensus Plan*. We believe this estimate is overstated.
  - Based on Pennsylvania's own assumptions, with one day at a site to retune, with one technician per site and a liberal base station retuning cost estimate ($1,000/site), retuning Pennsylvania's 1,400 existing sites would cost $1.4 million.
  - Pennsylvania's system incorporates over-the-air reconfiguration and reprogramming of mobile and portable radios. Retuning Pennsylvania's mobiles and portables can be done for a fraction of the cost and effort needed in other jurisdictions. *Retuning Pennsylvania will be easier, not harder, than many other public safety communications systems.*

Responses to Pennsylvania's Concerns (conclusion)

- Pennsylvania asserts that retuning requires unused spectrum for transition
  - Response: Vacant spectrum or "green space" created by Nextel vacating non-cellular block channels; *i.e.,* sufficient "green space" will be available to effectuate retuning. For example, Nextel will clear 1-120 channel block to make vacant spectrum available to relocate NPSPAC channels to that block.
  - Pennsylvania's B/ILT pool channels are already in the non-cellular channel block between 854 – 861 MHz and don't have to be retuned.
- Pennsylvania opposes any loss of coverage, co-channel protection, channel spacing or bandwidth
  - Response: *Under the Consensus Plan, no licensee loses any channels or coverage or capacity.*
  - Retuned channels provide equal co-channel protection; the Consensus Plan proposes no channel spacing changes or altered channel bandwidth.
  - Pennsylvania's NPSPAC channels will be relocated 15 MHz lower *en masse* on a Region-by Region basis, hereby preserving coverage, co-channel protection and coordination with neighboring states.

Conclusions

- Realigning the 800 MHz band *now* provides Pennsylvania with an insurance policy – at no cost to its taxpayers – which protects its investment in its statewide public safety communications system.
- The Consensus Plan will prevent public safety interference which would otherwise only become more prevalent.
- Pennsylvania's statewide system is far from complete with only 2,500 units in service now. Expeditiously adopting the Consensus Plan will minimize retuning of Pennsylvania's system as future sites and radios can be implemented on its post-retuning channel assignments.
- The Consensus Plan provides additional 800 MHz spectrum for exclusive use in public safety communications systems. This may create additional spectrum for use in Pennsylvania's statewide system.
- Post-realignment, Pennsylvania's systems will operate free from CMRS – public safety interference and the risk it poses for the safety of first-responders and the public they protect.