



November 20, 2003

Marlene S. Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

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

Dear Ms. Dortch:

In recent filings in this proceeding, National Association of Manufacturers (“NAM”) and MRFAC, Inc. (“MRFAC”) have expressed several concerns regarding the Consensus Plan. Among these was the point that the proposal appeared to entail a multi-year freeze on the filing of new and modification applications by B/ILT licensees. This point was first registered in NAM/MRFAC’s Comments filed February 11, 2003 at pages 7-8, and in subsequent filings.

According to the description of the Consensus Party plan as set forth in the December 24, 2002 Supplemental Comments, the relocation process would take up to 33 months from adoption of a report and order for Phase I, and a total of 42 months for Phase I and Phase II together. Id. at 30-31 and Appendix C-22, C-31.

The proposal states that the freeze must continue “until the Commission has granted all incumbent relocation applications in the non-cellular block” Id. at 26. At the same time, the Supplemental Comments recognize that licensees may contest any one or more of several issues including the cost and timing of relocation. Id. at 20 and Appendix C-22. And public safety licensees would have the right to seek an extension of the relocation period. Id. at Appendix C-22. This would further complicate and, it would appear, likely extend the relocation process. (In this connection, it should also be noted that Appendix C sets forth no outside date by which the freeze might be lifted. See Appendix C-21.)

In short, given the current state of the record material questions are presented as to the duration of any freeze necessary to implement the Consensus Party proposal. In this regard, recent NAM/MRFAC filings have referenced a “Five-Nine Year (or More ?) Freeze” While it is unclear from the record just how long the proposed freeze might last in actual practice, this reference should be revised to read simply a “Four Year (or More ?) Freeze” Either way,

however, the concern about a protracted freeze and the possible impact on incumbent licensees, remains.

An original and one copy of this letter are submitted for inclusion in the Docket.

Respectfully submitted,

/s/ William K. Keane

William K. Keane
Their Counsel

Cc(w/out encl.):

Commissioner Kathleen Abernathy
Commissioner Jonathan Adelstein
Commissioner Kevin Martin
Sam Feder
Jennifer Manner
Barry Ohlson
Paul Margie
Sheryl Wilkerson

800 MHz Interference

The Latest Revisions to the Nextel Consensus Plan Do Not Resolve Concerns Expressed in Earlier NAM/MRFAC Comments

- Four Year (or More?) Freeze on Additions/Modifications to B/I/LT Systems Would Harm Hundreds of NAM/MRFAC Members by Limiting Innovation, Productivity, and Security Improvements
- Five-Year Set-Aside of Channels for Public Safety Would Restrict Business Growth and Relocation Opportunities for Industrial and Business Licensees
- Cost Estimates for Re-Banding Understated
- Inadequate Assurance of Funding Could Derail Re-Tuning Mid-Stream
- Reimbursement Process Insulated from Effective Commission Oversight Risks Manipulation and Bias
- Continues to Avoid Hard Issues Associated with Border Regions

More Conservative Treatments Should Be Tried Before Radical Surgery

- Commonality Between Balanced Approach and Nextel Plan Forms Basis For First Step, *e.g.*:
 - Adopt Rules Specifying Interference Correction Rights and Responsibilities
 - Adopt Complaint Procedure In The Event A Cellular Licensee Fails to Cooperate
 - Specify Time Period for Trial of Case-by-Case Solutions, *e.g.* Six Months or Less
- Provides an Opportunity for Real-World Evaluation of Less Drastic Proposals: An Ounce of Experience With This Approach Worth A Pound of Pleadings
- In the Event Step One Fails, Implement Re-Banding Along the Lines of That Proposed by Consensus Parties -- Assuming Concerns with Present Proposal Resolved