

March 3, 2004

Chairman Michael Powell  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Support for the Consensus Plan for 800 MHz Realignment  
*Ex parte*, WT 02-55

Dear Chairman Powell:

During the fall of 2000 and the first half of 2001, I drafted and pushed legislation that would have created a right of action for parties injured due to cellular tower interference of emergency connector transmissions. This legislation was not the result of theoretical concerns about potential interference between public safety radio transmissions and private cell phone transmissions. It was the result of actual cases of interference from cell phone transmissions as public safety officers tried to use their radios.

In one case, a Tualatin police officer was in the parking lot behind his police station when he was approached by a man with a knife. He tried to radio into the station for backup and could not raise the dispatcher because of interference from an adjacent cell tower.

In another case, a cell tower was erected adjacent to the major retail mall on the southwest side of Portland. Unfortunately, it was also adjacent to the fire station that serves that mall and the surrounding area. The station had not had problems receiving radio transmissions from dispatchers prior to the construction of the cell tower. After construction, the station often could not receive the radio transmissions from its 9-1-1 center that sound the internal alarm, automatically open the station doors and provide the crew with the location and nature of the emergency.

Public safety organizations in the Portland metropolitan area engaged Nextel Communications in a discussion about how to fix the problems. Working with other organizations around the country and Nextel, they developed the Consensus Plan for realigning 800 MHz band. That plan was presented to the Commission nearly two years ago.

Two years is long enough. It is time for the FCC to make a decision in support of public safety.

Public safety radio systems in Oregon are paid for by each local jurisdiction, usually out of property tax revenues. Local cities, counties, and fire districts invested in 800 MHz systems with the expectation that the FCC would protect their ability to use the 800 MHz band. I understand that the FCC did not directly cause the interference problems that have arisen in the last few years. But the interference exists, and it is reducing the value of the investments that local communities have made in 800 MHz systems.

So the FCC has a choice. It can adopt the Consensus Plan, and put most of the financial burden for fixing the interference problem on Nextel, which has voluntarily agreed to shoulder that burden. Or it can put the burden on local taxpayers, all of whom have better things to do with their hard-earned dollars than to start over again to build a working public safety communications system.

If the FCC were to adopt one of the competing plans -- none of which will truly resolve the interference issue -- or even if were just to continue to stall, that would be particularly vexing in light of the additional responsibilities placed on local public safety organizations in the aftermath of 9/11.

It is time for the FCC to stop treating local public safety organizations as just another user of the airwaves, entitled to no greater consideration than a private cell phone provider. Local public safety organizations are critical to the safety and health of all Americans. It is time for the FCC to recognize that by giving local public safety organizations priority in use of the 800 MHz band.

Two years is long enough.

On behalf of all public safety organizations in Oregon, I request that the Commission adopt the Consensus Plan.

Very truly yours,

Rick Metsger  
State Senator, District 26

cc: Commissioner Abernathy  
Commissioner Adelstein  
Commissioner Copps  
Commissioner Martin