

WILLIAM K. KEANE  
DIRECT DIAL: 202.776.5243

*www.duanemorris.com*

March 25, 2004

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street, S. W.  
Washington, D. C. 20554

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

Dear Ms. Dortch:

This is to advise that on this date Larry Fineran, Vice-President, National Association of Manufacturers and the undersigned, representing the National Association of Manufacturers and MRFAC, Inc., met with Sheryl Wilkerson, the Chairman's legal assistant, wireless, regarding the above-referenced proceeding. The focus of the meeting was on protections for incumbent licensees. A summary of points discussed is attached. In addition, the parties discussed the NAM/MRFAC filing of March 24.

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

Sincerely,

*/s/ William K. Keane*

William K. Keane

Attachment

cc: Sheryl Wilkerson

WSH\110698.1

## **Due Process and Re-Banding**

Protections for incumbent licensees should be based closely on existing Rule 90.699 with minimal adjustments to accommodate NPSPAC block relocation. For example:

- The Commission should administer any re-banding process with support, as appropriate, from a disinterested contractor not aligned with any party to this proceeding
- Require mandatory negotiations with Nextel commencing on effective date of Report and Order with end dates keyed to relocation date for each Region
- Retain requirement that new facilities be comparable to replaced facilities
- Condition availability of new spectrum assignments on Nextel completing relocations
- Retain the existing Rule's provision for involuntary relocation in the absence of agreement
- Require resort to alternative dispute resolution on expedited basis in the event of disagreements over comparability and/or reimbursement
- Create expedited process for Commission review of any unresolved disputes/waiver requests
- Five years' operating costs per current Rule 90.699