

WILKINSON ) BARKER ) KNAUER ) LLP

2300 N STREET, NW  
SUITE 700  
WASHINGTON, DC 20037  
TEL 202.783.4141  
FAX 202.783.5851  
www.wbklaw.com

KATHRYN A. ZACHEM  
(202) 383-3344  
kzachem@wbklaw.com

June 8, 2004

*VIA ECFS*

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW, Room TW-A325  
Washington, DC 20554

Re: *WT Docket No. 02-55 – Ex Parte Presentations*

Dear Ms. Dortch:

A number of letters submitted to the Commission by parties interested in the outcome of the above-referenced proceeding are not currently reflected in the Commission's docket. With this letter, Verizon Wireless, by its attorney, hereby submits the attached letters and requests that each letter be associated with the official record in this proceeding.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter (along with the attachments hereto) are being filed with your office. Please contact the undersigned if you have questions or need additional information.

Respectfully submitted,

/s/  
Kathryn A. Zachem

Attachments

Fax - 703-683-5722

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## NTU & NTUF

March 05, 2004

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> St., SW  
Washington, DC 20554  
Re: WT Docket # 02-55

Dear Chairman Powell:

On behalf of the 350,000 members of National Taxpayers Union (NTU), I write to relate our great concern over the fiscal prudence of a "Consensus Plan" to resolve interference problems among public safety agencies that utilize the 800 MHz band for their communications. After examining the outlines of this proposal, NTU believes that it carries substantial risk of taxpayer losses as well as the potential to disrupt telecommunications markets for the benefit of just one firm.

As you may know, for more than a decade NTU has actively championed a competitive auction process for spectrum, and was a founding member of the Coalition for Fair Spectrum Auctions. Our most recent work centered on a misguided attempt from the firm Northpoint to circumvent the Commission's wise decision that wireless cable firms should bid for set-aside airwaves competitively. In the end, taxpayer advocates carried the day when Northpoint's \$100 million giveaway was deleted from the Senate's version of the Commercial Spectrum Enhancement Act.

NTU was therefore surprised to learn that the Commission was considering a proposal developed by Nextel to resolve a relatively modest problem of communication interference among public safety systems with a heavy regulatory hand. It is our understanding that this "Consensus Plan" would, in order to mitigate "incidents" that were reported among 1 percent of all such systems last year, shuffle 100 percent of the public safety users in the 800 MHz band around a federally-directed relocation process.

Such a drastic solution would be troubling enough, were it not for the implications to taxpayers. Nextel would pledge some \$850 million to finance the plan, \$700 million of which would be disbursed through an uncertain process to help government agencies adapt their communications networks to the new spectrum arrangement. More important, however, is that Nextel's pledge comes with a condition -- Nextel would receive 10 MHz of spectrum within the 1.9 GHz band for its own use. The upshot is that Nextel could receive airwaves with a commercial value of more than \$7 billion, according to an estimate reported by Kane Reece Associates.

3/9/2004

Granted, the prospective value of spectrum is subject to many different interpretations, depending upon the business plans and motivations of the parties involved. Yet, this is precisely the most compelling reason for the auction process in the first place -- to allow competitive bidding to actively establish a real-world, "best value" for airwaves whose sale will benefit taxpayers now (immediate proceeds) and in the future (market-driven private sector communications development).

In the final analysis, the FCC appears to have much better options for resolving sporadic interference difficulties in the 800 MHz area than a wholesale disruption of public safety spectrum and a contingent spectrum giveaway. As a recent letter from Members of Congress to the Commission suggested, "re-banding" the 800 MHz spectrum to better separate high-site and low-site communications systems could be a much more measured approach relative to the size of the problem.

Although the issues surrounding this debate are complex, for the public one concern is paramount -- to ensure that the airwaves belonging to taxpayers are put to their most economical use through auctions. With a burgeoning budget deficit, the last action officials should contemplate is giving away taxpayers' property.

Accordingly, we urge the Commission not to act precipitously by sanctioning a spectrum giveaway to Nextel through the 800 MHz "Consensus Plan." Fiscal responsibility demands a more thoughtful policy.

Sincerely,

John Berthoud  
President

cc: Members of the Energy and Commerce Committee of the House of Representatives

[http://www.ntu.org/main/letters\\_detail.php?letter\\_id=160](http://www.ntu.org/main/letters_detail.php?letter_id=160)

3/9/2004



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Phone 202-547-8186 • FAX 202-547-8180

CHUCK CANTERBURY  
NATIONAL PRESIDENT

JAMES O. PASCO, JR.  
EXECUTIVE DIRECTOR

24 March 2004

The Honorable George W. Bush  
President of the United States  
The White House  
Washington, D.C. 20500

Dear Mr. President,

I am writing on behalf of the membership of the Fraternal Order of Police, our nation's oldest and largest law enforcement labor organization, to advise you of our concerns regarding a "Consensus Plan" for realigning the public safety radio spectrum.

It is our understanding that the proponents of this Plan are representing it as having the full support of "public safety" professionals--this is not the case. This Plan does *not* represent a consensus of the law enforcement community. The F.O.P., which represents more than 311,000 members in more than 2,100 lodges, was not invited to join the Plan, has not done so, and does not endorse it. While we are aware that several associations which represent certain members of the public safety community support the Plan, they do not represent F.O.P. members--the rank-and-file officers who most depend on the radio services that will be impacted by the Plan.

Not only has the F.O.P. not endorsed the "Consensus Plan," but in fact we have many concerns about it. To begin with, the Plan does not guarantee immediate funding to pay for the enormous costs to replace radios and modify existing communications systems. Instead, it proposes a vague "reimbursement" scheme where local law enforcement agencies and fire departments must first incur costs and then seek reimbursement, which, in these times of serious fiscal constraints, is not always feasible. Police departments, after all, cannot simply spend money in the hope of reimbursement, they must first obtain appropriations from local governments. Of even greater concern is the Plan's reimbursement process--departments will need to apply for reimbursement from a "Fund Administrator" and "Relocation Coordination Committee," neither of which are appointed or controlled by public safety entities, and then must seek the funds from a private company. The funding "commitment" appears to be an illusion. Working under this Plan will only increase budget deficits at the Federal, State and local level.

Second, the Plan proposes to cap relocation funding at \$700 million for public safety. We believe this is far short of what would be needed to replace literally millions of radios that would be rendered obsolete by the Plan's massive spectrum realignment, forcing public safety communications on to new channels. A number of local communities oppose the Plan for this reason alone.

Third, given these and other problems, we do not understand why massive realignment of the public safety spectrum used by thousands of public safety agencies across the nation is necessary to solve interference problems that only some communities may be experiencing. Why is the Federal Communications Commission (FCC) not requiring the parties who are causing the interference to eliminate it where it occurs? What if some localities do not want to engage in such a costly, time consuming and disruptive process--will they be required to do so? We would ask that you give serious consideration to less radical and costly methods.

Fourth, the complexity of the Plan creates a real ~~bar~~ that it will be tied up in litigation for years, with the result that public safety will not have its interference problems resolved or will be forced to incur its own costs in order to pay for that work. We ask that you instead focus on solutions to interference that are legally sound as well as technically feasible and that impose the least disruption and cost on the public safety community.

And finally, the Plan would give one company, whom we understand to be causing most of the interference, new spectrum in an entirely separate band. In these times of growing Federal deficits, the FCC should not give or sell spectrum to one party without allowing other parties to bid for it in an auction. Congress has recognized that open auctions yield the highest revenues for the Federal government. Congress would be able to use auction revenues to increase funding for sorely needed improvements to public safety and homeland security. This Plan would not raise a single dollar for public safety.

We would appreciate hearing from you directly as to how the FCC plans to address these concerns and respectfully request that we be given the opportunity to participate in the formulation of the Administration's policies with regard to the public safety spectrum. Thank you in advance for your consideration of our views on this issue. If I can be of any further assistance, please do not hesitate to contact me or Executive Director Jim Pasco at my Washington office.

Sincerely,

  
Chuck Canterbury  
National President

cc: Honorable Michael E. Powell, Chairman, FCC  
Honorable Kathleen Q. Abernathy, Commissioner, FCC  
Honorable Jonathan S. Adelstein, Commissioner, FCC  
Honorable Michael J. Coppa, Commissioner, FCC  
Honorable Kevin J. Murda, Commissioner, FCC  
Honorable Tom Ridge, Secretary, U.S. Department of Homeland Security



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March 25, 2004

Honorable George Bush  
 The White House  
 Washington, DC 20500

Dear Mr. President:

On behalf of the Federal Law Enforcement Officers Association (FLEOA), I am writing to express our concern about a so-called "Consensus Plan" for realigning public safety radio spectrum pending before the Federal Communication Commission (FCC).

FLEOA is the nation's largest organization of sworn federal law enforcement officers, with more than 21,000 members in many federal agencies and departments. Our members work closely on a daily basis with our state and local partners in critical law enforcement initiatives, including the war on drugs, the fight against terrorism and the effort to maintain homeland security. We are the voice of those who dedicate their lives to protecting and serving our communities. We are committed to improving the working conditions of federal law enforcement officers and the safety of the hundreds of millions of people we serve across this nation.

We understand that you are considering this "Consensus Plan", and that the proponents of the Plan claim that it has the support of "public safety."

We want you to know that the FLEOA was not asked to provide input into this Plan, has not done so, and does not endorse it. While we are aware that several associations that represent some in the public safety community support the Plan, they do not represent the thousands of federal officers and agents who are members of FLEOA. Working with our state and local colleagues, our members are the ones who most depend on the radio services that will be impacted by the Plan.

We have many concerns about the Plan, including the following:

First, the Consensus Plan does not appear to provide enough resources to law enforcement to compensate police departments and agencies for the spectrum realignment. The Plan proposes to cap relocation funding at \$700 million for public safety. We believe this is far short of what would be needed to replace literally millions of radios that would be rendered obsolete by the Plan's massive spectrum realignment forcing public safety communications onto new channels.

Second, there is serious doubt about whether this so-called Consensus Plan can be implemented even if it is adopted by the FCC. The complexity of the Plan creates a real risk that it will be tied up in litigation for years, with the result that public safety will not have its interference problems resolved or will be forced to incur its own costs in order to pay for that work. We ask that you instead focus on solutions to the interference problems that are legally sound, as well as technically feasible and that impose the least disruption and cost on the public safety community.

Third, the Consensus Plan does not provide an adequate mechanism for law enforcement to effectively implement the spectrum realignment. The Plan does not guarantee immediate funding to pay for the enormous costs to replace radios and modify our communications systems. Instead, it proposes a vague "reimbursement" scheme where local police and fire departments must incur these costs and then seek reimbursement. Police departments cannot simply spend money in the hope of reimbursement. Also, these departments would need to apply for reimbursement from a "Relocation Board" (not controlled by public safety agencies), which must then seek money from a private company. The funding "commitment" appears to be unrealistic.

We urge you adopt a solution to this serious problem that addresses these critical concerns. We would also appreciate a seat at the table on any future occasion when you are advised that the interests of law enforcement are at stake. I can be reached at 410-579-5012.

Sincerely,



Art Gordon  
National Executive Vice President

CC: Honorable Michael K. Powell, Chairman, Federal Communications Commission  
Honorable Tom Ridge, Secretary, Department of Homeland Security



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL  
120 BROADWAY  
NEW YORK, NY 10271

ELIOT SPITZER  
Attorney General

(212) 416-8050

April 26, 2004

Chairman Michael K. Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Powell:

The Federal Communications Commission ("Commission") is currently considering a proposal to address interference to public safety communications operating in the 800 MHz band (WT Docket 02-55). While I applaud the plan currently under consideration that would address the critical needs of these police, fire fighters and other public safety users of this spectrum, I am concerned that this proposal, if adopted, would result in a windfall to one company at the cost of billions of dollars to taxpayers.

The public safety communications systems in New York and across the United States are currently vulnerable to interference from wireless phones. This problem is particularly acute for public safety entities with communications systems in the 800 MHz band, such as the New York State Police.

I know that the spectrum-related needs of public safety entities are among the highest priorities of the Commission. The ability of these police, firefighters and other first responders to operate in an interference-free environment is critical not only to the safety of the officers themselves but of all Americans. I am, therefore, very glad to see that the Commission proposes to address the problem of interference with public safety communications in the 800 MHz band by segregating the public safety portion of the 800 MHz spectrum from the portion used by Nextel's wireless service. The transition, of course, must be carried out without disruption to public safety entities' service. This reallocation of spectrum would improve the safety of our first responders and the public.

Similarly, I very much appreciate that the proposal addresses the financial needs of the public safety entities which rely upon this spectrum. A reallocation of spectrum without funding for the equipment to effect the change would impose tremendous costs on cities, states and other localities, and could result in public safety entities being without operable equipment. In requiring Nextel to assume the costs of public safety entities' move, the proposal properly addresses the funding problem that accompanies the transition of these entities to interference-free spectrum.

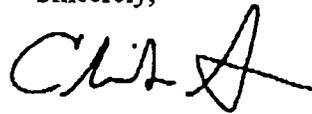


The current proposal, however, addresses the critical needs of public safety at a tremendous cost to the American taxpayer. Under the proposal, Nextel, in exchange for moving its commercial wireless systems off the portion of the 800 MHz band shared by public safety as well as a \$850 million commitment to cover the costs of moving public safety communications systems to new spectrum, would be given 10 MHz of 1.9 GHz spectrum. This spectrum is valued at at least \$5 billion dollars.<sup>1</sup> In a conservative estimate, published by Nextel's second largest shareholder, the company would receive a windfall estimated at \$3 billion.<sup>2</sup>

While Nextel clearly should be compensated for its net loss of spectrum, as well as for its commitment to assume the costs of public safety's equipment, it should not receive a windfall from the American taxpayers in exchange for its cooperation. Nextel must be required to compensate the United States Treasury for the spectrum it receives in the amount that would have been received at an auction of that spectrum. That payment, of course, would be offset by the value of the spectrum the company would give up in the 800MHz band, as well as by the amount it spends on the costs of public safety's equipment.

The interference being caused to public safety communications systems must be remedied and this remedy must be paid for. I commend you and your agency for addressing both of these critical needs. As the agency responsible for allocating the public spectrum and keeping it interference free, the Commission, through this proposal, has met the challenge of serving the needs of police, fire and emergency services and of the citizens who depend upon these services. Nevertheless, by holding licenses to operate a wireless communications service, Nextel is obligated to operate in the public interest - it does not need to be compensated in the form of \$5 billion of free spectrum for complying with Federal law.

Sincerely,



Eliot Spitzer

cc: Federal Communications Commissioner Kathleen Q. Abernathy  
Federal Communications Commissioner Michael J. Copps  
Federal Communications Commissioner Kevin J. Martin  
Federal Communications Commissioner Jonathan S. Adelstein  
New York Congressional Delegation

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<sup>1</sup>Letter of Margaret Feldman, Vice President Business Development, Verizon Wireless, to John B. Muleta, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, WT Docket 02-55, (April 8, 2004).

<sup>2</sup>*Wall Street Journal*, Monday April 19, 2004, "Nextel's Maneuver for Wireless Rights Has Rivals Fuming," at A. "Legg Mason, which is Nextel's second-largest shareholder, with 8.9% of Class A common stock, puts the gain to Nextel at about \$3 billion"



## National Volunteer Fire Council

1050 17th Street, NW, Suite 490, Washington, DC 20036; 202/867-5700 phone; 202/887-5291 fax  
www.nvfc.org • nvfcoffice@nvfc.org

April 27, 2004

Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Dear Chairman Powell:

The National Volunteer Fire Council (NVFC) is a non-profit membership association representing the more than 800,000 members of America's volunteer fire, EMS, and rescue services. Organized in 1976, the NVFC serves as the voice of America's volunteer fire personnel in over 28,000 departments across the country. On behalf of our membership, I am writing to express our deep concern about Nextel's so-called "Consensus Plan" for realigning public safety radio spectrum in the 800 mega-hertz band.

It is the NVFC's understanding that the FCC is considering Nextel's Plan and that the company is claiming to have the universal support of the first responder community. I wanted to make you aware that this simply is not the case. The NVFC had absolutely no input into the crafting Nextel's plan and further does not support it for the following reasons:

1. The Nextel Plan does not appear to provide enough resources to first responders accomplish this spectrum realignment. The Plan proposes to cap relocation funding at \$700 million for public safety communications onto new channels and for new radios. Using the Consensus Plan's own estimated price to replace a radio and Motorola's estimate of the number of radios needing to be replaced, this plan will cost over \$2 billion. The relocation process stops if costs exceed Nextel's pledge and no additional source of revenue is provided.

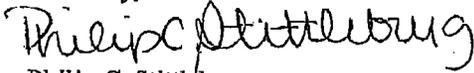
I am sure you are aware of the tough fiscal situation of many fire departments across the nation. These departments, especially smaller, volunteer departments, often struggle to provide their members with basic turnout gear and breathing apparatus to protect their members. In this environment, I struggle to see how these departments could cope with these additional costs.

2. There is also serious doubt, at least in my mind, about whether the Nextel Plan can be implemented even if the FCC adopts it. Although I do not purport to be an expert on the telecommunications industry, the complexity of the Nextel Plan creates a real risk that our members will have difficulty with their communications for many years to come. If this is indeed true, what happens to the departments who are currently faced with interference? It is my opinion that perhaps we ought to consider other options that are both more technically feasible and less disruptive to public safety than a wholesale realignment.

3. The Nextel Plan does not provide first responders with the tools to implement the spectrum realignment. The cost of the new radios and the modification of our communication systems are potentially enormous. Instead of providing the money upfront, Nextel proposes that local fire departments incur these costs and then apply for reimbursement through a Relocation Board. This creates a tremendous burden on the local fire departments that are already struggling to meet their financial commitments. Given that Nextel, in many cases, has caused this interference, I do not believe it is equitable for local fire departments to have to bear the financial burden upfront and hope for reimbursement at some later date.

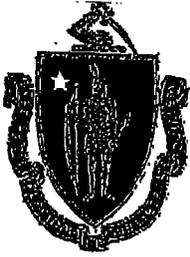
I want to thank you for all the time and effort you and your staff have put into helping to resolve this issue. Possessing radios that work properly is a life and death issue for America's fire service. As this discussion unfolds, I would appreciate you considering the perspective of the NVFC and our members. If you have any additional questions please feel free to contact Craig Shanman, NVFC Director of Government Relations at 202-887-5700 ext.12.

Sincerely,



Philip C. Stittleburg  
Chairman

cc: NVFC Board of Directors



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108-1698

THOMAS F. REILLY  
ATTORNEY GENERAL

May 3, 2004

(617) 727-2200  
[www.ago.state.ma.us](http://www.ago.state.ma.us)

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
455 12th St., SW  
Washington, DC 20500

Re: Docket WT 02-55 - 800 MHz Public Safety Interference

Dear Chairman Powell:

I am writing to express my concerns regarding a plan currently being considered by the Federal Communications Commission for alleviating harmful levels of interference with law enforcement and public safety communications systems in the 800 MHz band of radio spectrum. I applaud the public safety agencies for their leadership in this important matter and share their concern that this problem be corrected as quickly as possible and with a plan that provides enough resources for our first responders to make the necessary adjustments and changes.

Although I believe it is essential that the FCC act quickly to address the interference problems by realigning the 800 MHz band, I urge you to reject the Consensus Plan as proposed and consider other alternatives or modifications that would address the needs of public safety and homeland security more comprehensively, more quickly, and without the possibility that public safety agencies or taxpayers will be required to pay any portion of the cost of resolving this critical problem.

The Consensus Plan does not adequately address the problems created by Nextel's interference with public safety communications for several reasons. First and foremost, it does not provide an adequate mechanism for funding the realignment of the 800 MHz band. Under the Consensus Plan, Nextel has pledged no more than \$850 million to pay public safety's relocation costs, even though the total costs cannot be known until they are incurred. In fact, some estimates put potential costs in excess of \$3 billion. Furthermore, the Consensus Plan's funding mechanism would impose a complex and uncertain reimbursement scheme that would require public safety organizations to seek appropriations from local governments, then after incurring costs of realignment, seek reimbursement from Nextel. Having the reliability of public safety communications be dependent on funding administered by a private entity is poor public policy. Furthermore, this approach is also likely to result in delays in realignment and deferred or incomplete payments to the public safety organizations.

Second, under the Consensus Plan Nextel is willing to pledge money to clean up the interference it is causing only if the FCC grants it a slice of spectrum in the 1.9 GHz band. It is my understanding that such spectrum could be valued as high as \$5 billion to \$7 billion if it were publicly auctioned, but the FCC is considering giving it to Nextel at no cost. A portion of the proceeds from a public auction of that spectrum could be used to guarantee funding to enact needed improvements to our public safety communications system, with the balance going to the federal Treasury. The FCC should not support a plan that enriches a commercial entity at an enormous cost to taxpayers and possibly law enforcement organizations as well.

Finally, the Consensus Plan's unprecedented proposal of granting Nextel new spectrum in the 1.9 GHz band instead of auctioning it off seems certain to lead to litigation that could delay the realignment of the 800 MHz band for years. Surely neither Nextel's competitors in the wireless industry nor taxpayers will remain silent if the FCC chooses to give away a public resource worth billions of dollars to a private entity as compensation for that entity's cooperation in fixing problem of its own creation. Years of litigation and delay will aggravate the problem and hamper the work of our police, fire and emergency personnel. This matter must be dealt with expeditiously, a point made even more pressing by the dangerous times in which we live.

Realigning the 800 MHz band to alleviate interference, as the public safety and law enforcement communities have urged, clearly is the best solution to this problem. The Consensus Plan, however, does not present a viable means of implementing that solution. Any plan adopted by the FCC must include a funding mechanism that is comprehensive, able to be implemented quickly (from both a financial and legal perspective), and adequate in size to cover all of the public safety organizations' costs. In short, I urge you to consider an alternative to Nextel's Consensus Plan that addresses these concerns and gives those on the front lines in the effort to protect and defend our citizens the solution that they deserve.

Best regards,



Thomas F. Reilly  
Massachusetts Attorney General

cc: Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Commissioner Kevin J. Martin  
Commissioner Jonathan S. Adelstein



**National Volunteer Fire Council**

1050 17th Street, NW, Suite 490, Washington, DC 20036; 202/887-5700 phone; 202/887-5291 fax  
www.nvfc.org • nvfcoffice@nvfc.org

May 14, 2004

Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

Dear Chairman Powell:

On behalf of the National Volunteer Fire Council (NVFC) and our membership, please accept this as a follow-up to our April 27, 2004 letter to the Commission. All fire service personnel share a common concern, namely protecting and enhancing emergency communications. The interference problems that your agency is seeking to address can have an important bearing on our ability to communicate in an emergency, and we appreciate the efforts you have made to resolve these problems.

In our previous letter, the NVFC voiced our concerns that the FCC may approve a plan that does not guarantee funding which is sufficient to accomplish spectrum realignment and leave public safety with the unpaid tab. In addition, we were concerned that public safety agencies would have to incur costs up front and then apply for reimbursement. If the FCC's final decision solves the critical interference problem and incorporates these aspects, then we can feel comfortable supporting it.

As you know, most fire departments are struggling to provide basic equipment and training to their members and simply do not have the funds to solve this issue. Therefore, it is essential that all of public safety's retuning and relocation costs be covered. It is our understanding that the FCC is considering mandating that all expenses for moving public safety onto new channels and for new radios be paid for, regardless of the total cost. We highly recommend this course of action.

Moreover, we feel that local public safety agencies should not have to bear the financial burden upfront. We understand that the FCC is considering the creation of an independent fund administrator to pay retuning costs as they are incurred so that no public safety agency will have to put up any money and then seek reimbursement. This is directly in line with our membership's needs.

We know that you are carefully reviewing all the proposals before you, but we respectfully encourage you to move forward as quickly as possible. Public safety agencies struggling with interference on their radios are in desperate need for a solution.

Once again, I would like to thank you for considering NVFC's perspective and giving us this opportunity to participate in this important proceeding. If you have any additional questions please feel free to contact Craig Sharman, NVFC Director of Government Relations at 202-887-5700 ext.12.

Sincerely,



Philip C. Stittleburg  
Chairman

cc: NVFC Board of Directors