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July 27, 2004

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
Exempt Ex Parte Presentation (47 C.F.R. § 1.1204(a)(10))

Dear Ms. Dortch:

Pursuant to section 1.1204(a)(10) of the Commission's rules, 47 C.F.R. § 1.1204(a)(10), the staff of the Wireless Telecommunications Bureau ("WTB") has requested that Nextel Communications, Inc. ("Nextel") provide additional information concerning (1) the cost of adding filters to Nextel's base stations to safeguard against interference in the realigned 800 MHz band; (2) the cost of retuning Nextel's network; and (3) appropriate milestones for assessing the progress of band realignment 18 months after the Report and Order in this proceeding becomes effective. Nextel, through its attorneys, hereby provides the requested information.

Increased 800 MHz Base Station Transmitter Filter Costs. On June 4, 2004, Nextel submitted a written *ex parte* presentation to the Commission offering to contribute an additional 2 MHz of 800 MHz spectrum (816-817/861-862 MHz) to public safety use as part of the Consensus Plan for 800 MHz Realignment. *See* Letter from Lawrence R. Krevor, Nextel, to Marlene Dortch, FCC Secretary (June 4, 2004). On June 16, 2004, Nextel proposed that the Commission provide enhanced interference protection to licensees of these channels. *See* Letter from Lawrence R. Krevor, Nextel, to Marlene Dortch, FCC Secretary (June 16, 2004).

To maximize the utility of this additional spectrum to the broadest range of users requires Nextel to incorporate tighter filters into new duplexers for its 800 MHz base station transmitters. Previously, out-of-band emissions ("OOBE") from Nextel's base station transmitters were to be "rolled-off" or attenuated approximately 40 dB *over approximately 1.5 MHz of the cellular (low-site) allocation*, resulting in protecting incumbents below 861 MHz down to a signal strength of -101 dBm for portables and -104 dBm for mobiles. This would have required Nextel to install new filters on some of its base station transmitters at a projected cost of \$150 million.

The revised plan requires attenuating base station transmit OOB by the same amount *within much less than one megahertz of non-cellular (high-site) spectrum* to provide comparable interference protection – and thereby broad usability – of the additional spectrum. The revised plan provides -101/-104 dBm interference protection to licensees up to 861.350 MHz, with interference protection being reduced on a sliding scale to -80/-83 dBm for portables and mobiles, respectively, at 861.500 MHz, and ultimately to -65 dBm for both portables and mobiles at 862.000 MHz. Achieving these levels requires a sharper OOB roll-off than previously necessary to maximize the broad usability of the additional spectrum while minimizing restrictions on Nextel's use of its remaining 800 MHz spectrum above 817/862 MHz.¹ This, in turn, requires the use of special materials and manufacturing processes to create filters which maintain the proper performance over the temperature variations found in typical cell site deployments. These materials and processes make the filters more expensive.

Nextel anticipates having to install these new filter-equipped duplexers on nearly all of its approximately 17,000 base stations. The higher cost of the filters themselves, along with the need to install them at a greater number of base station sites than under the previous plan, accounts for the increase in Nextel's projected 800 MHz realignment filter cost from \$150 million to \$407 million. See Letter from Regina M. Keeney, Counsel to Nextel, to Michael Wilhelm, FCC, Attachment at 13 (Dec. 19, 2003). Nextel understands that the Commission intends to provide Nextel with a dollar-for-dollar credit for its *actual expenditures* for such filters, rather than these estimates, as part of determining whether Nextel will be required to make an "anti-windfall payment" to the United States Treasury upon completing 800 MHz realignment.

Nextel's Retuning Costs. To implement the new 800 MHz band plan adopted by the Commission, Nextel will be required to relocate its operations twice – first, by swapping out channel 1-120 incumbents to Nextel's current assignments in channels 121-400, and, second, by relocating from channels 1-120 (the new NPSPAC block) to the then-vacated old NPSPAC channels at 821-824/866-869 MHz. The Commission's plan also would require Nextel to retune its network so that it is no longer operating in the 806-817/851-862 MHz band post-realignment. Nextel has estimated that its retuning costs will be approximately \$400 million. See Letter from Regina M. Keeney, Counsel to Nextel, to Marlene Dortch, FCC Secretary, Attachment (June 21, 2004).

Nextel understands that the Commission will provide Nextel with a dollar-for-dollar credit for its actual costs in retuning its network according to the realignment plan adopted by the Commission. The cost of retuning Nextel's network is directly related to achieving the Commission's public interest goals in this proceeding. First, retuning Nextel's network is an essential step in the Commission's plan to realign the 800 MHz band "to address the root cause of the interference problem by separating generally incompatible technologies." FCC News Release (July 8, 2004). After realignment, Nextel will be operating in a new cellular block above 817/862 MHz, while high-site, high-power licensees, including public safety systems, will be operating below 817/862 MHz. This band plan, along with new technical rules that will

¹ Nextel will face substantial limits on the use of its first 12 channels above 862 MHz in low-site base station implementations.

govern licensee operations post-realignment, will provide an effective, long-term remedy to the 800 MHz interference problem. Second, in retuning its network to operate above 817/862 MHz, Nextel will be relinquishing 4.5 MHz of 800 MHz spectrum that can be used to provide much-needed additional channel capacity for public safety systems, including channels for interoperable public safety communications. See Letter from Robert S. Foosaner, Nextel, to Marlene Dortch (June 9, 2004). Third, the extensive retuning of Nextel's network will help minimize the number of incumbent 800 MHz licensees that will need to be relocated, and also help minimize disruption to public safety licensees, especially NPSPAC licensees, in the transition to the new band plan.

Implementation Milestones. WTB staff asked Nextel to provide additional information concerning appropriate milestones for 800 MHz realignment progress at 18 months – halfway through the three-year period in which the Commission will require realignment to be completed. The Consensus Plan proposed that negotiations for retuning channels 1-120 in the top 14 NPSPAC markets be completed prior to 18 months from the effective date of the FCC's decision; however, the actual physical retuning of channels 1-120 in the top 14 markets was not required to be completed until 24 months after the effective date of the FCC's decision.

Nextel has reviewed the information contained in the record of this proceeding concerning the steps necessary to complete realignment on a NPSPAC-by-NPSPAC region basis, including the time and processes needed to complete both the Phase I clearing of 851-854 MHz incumbent licensees and the Phase II retuning of NPSPAC operators to these channels. Nextel has also considered the impact of various gating factors, including equipment and software availability, and has discussed these matters with representatives of the public safety community.

Based on this review, Nextel proposes that the Commission require that Phase I retuning, as defined in the Consensus Plan (*i.e.*, retuning channels 1-120), be completed in 20 NPSPAC Regions within 18 months of the effective date of the Commission's decision. See Supplemental Comments of the Consensus Parties, at 17-27 (Dec. 24, 2002) (describing Phase I retuning process). This milestone would assure that steady and substantial progress is being made toward meeting the Commission's overall 36-month 800 MHz realignment completion requirement, while maintaining sufficient flexibility for the parties to adapt to circumstances in individual NPSPAC Regions, such as the U.S. – Canada and U.S. – Mexico Border Regions where bilateral coordination may be necessary to complete realignment.

This proposed milestone assumes that Commission licensing actions to implement realignment are processed and granted expeditiously. For example, it assumes that the Commission grants incumbent licensing applications to effectuate retuning within 30 days of filing, that the Commission's 800 MHz Frequency Coordinators process and submit coordinations to the Commission within 30 days of receipt, and that 800 MHz pool channel restrictions (intercategory sharing) are relaxed or presumptively waived for retuning applications. It also assumes that the Commission is vigilant in enforcing its 800 MHz realignment mandate.

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Pursuant to sections 1.1204(a)(10) and 1.1206(b)(1) of the Commission's rules, 47 C.F.R. §§ 1.1204(a)(10) and 1.1206(b)(1), this letter is being filed electronically for inclusion in the public record of the above-referenced proceeding.

Sincerely,

/s/ Regina M. Keeney

Regina M. Keeney

cc: Catherine Seidel
David Furth
Aaron Goldberger
Brian Marenco