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## Filed Electronically

Michael J. Wilhelm  
Chief, Public Safety and Critical Infrastructure Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: Improving Public Safety in the 800 MHz Band;  
WT Docket No. 02-55; *Ex Parte* Presentation

Dear Mr. Wilhelm:

This letter concerns an issue in the FCC's *Report and Order*<sup>1</sup> that needs further clarification before Nextel and Southern LINC can proceed to finalize their agreement concerning the expanded ESMR band in the Southeast discussed in paragraphs 164-169 of the Commission's *Report and Order*. Paragraph 166 of the *Report and Order* states: "The Expansion Band in this area shall extend from 812.5-813.5 MHz/857.5-858.5 MHz." The Rule Sections accompanying the *Report and Order* make no specific reference to this Expansion Band. In fact, Rule Section 90.617 indicates that the channels in the counties and parishes listed in section 90.617(c) will be available in accordance with the agreement between Southern LINC and Nextel Communications, but makes no reference to the allocation of an Expansion Band.

As noted in the *Report and Order* at Paragraph 164, because of the number of incumbents that will be operating in the Atlanta Area<sup>2</sup>, there could be insufficient spectrum to accommodate all incumbents in the Atlanta Area. The Expansion Band affects this situation as follows:

### **Expansion Band Issue**

- Under the Band Plan for the Southeast adopted in the FCC's *Report and Order*, retuning all non-NPSPAC, non-ESMR licensees<sup>3</sup> to frequencies between 854–858.5 MHz in the Atlanta

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<sup>1</sup> See, Improving Public Safety Communications in the 800 MHz Band, *Report and Order*, FCC 04-168 (rel. August 6, 2004).

<sup>2</sup> Defined as all locations within a 70-mile radius of the center of Atlanta. The center of Atlanta is defined as geographic coordinates N33-44-55; W084-23-17.

Area is not possible if the restrictions associated with the Expansion Band (857.5–858.5 MHz) are kept in place in Atlanta.

- As a general rule, the FCC's *Report and Order* states that Public Safety licensees can elect to relocate out of the Expansion Band and cannot be forced to relocate into the Expansion Band.
- This means the 40 channels between 857.5–858.5 MHz are potentially not available for Public Safety incumbents in the Atlanta Area.
- This creates a channel shortage because post-rebanding there are 180 non-NPSPAC channels (854–858.5 MHz) available below 858.5 MHz, all of which are needed to retune non-NPSPAC, non-ESMR incumbents in the Atlanta Area.<sup>4</sup> Almost 90% of the channels would be needed for Public Safety incumbents:
  - 159 channels are needed for Public Safety incumbents
  - 21 channels are needed for BI/LT incumbents
- If there are no restrictions regarding Public Safety remaining in or being retuned to the Expansion Band in the Atlanta Area, there appear to be enough channels to retune all non-NPSPAC, non-ESMR incumbents.
- If the Expansion Band restrictions are kept in place, these 40 channels will not be available as Public Safety replacement channels, leaving a shortage of between 8 and 26 channels for systems below 858.5 MHz.<sup>5</sup>

### **FCC Should Clarify that the Expansion Band Restrictions are not in Effect in the Atlanta Area**

- Restrictions make it impossible to relocate all non-NPSPAC, non-ESMR incumbents below 858.5 MHz.
- If ESMRs such as Nextel and Southern LINC do not relocate above 858.5 MHz they would remain interleaved with Public Safety systems, thus Public Safety systems would not get the intended interference mitigation benefit of moving all ESMRs to the top end of the band.

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<sup>3</sup> These two groups encompass all licensees that need to be relocated, other than Nextel, Southern, and NPSPAC.

<sup>4</sup> This number does not include any channels requested in pending applications. ARINC has a pending application which requests additional 800 MHz channels in the Atlanta Area.

<sup>5</sup> If all Public Safety systems now in the 857.5-858.5 MHz range remain there, the channel shortfall is 8. If all Public Safety systems choose to relocate below 857.5 MHz, the shortfall is 26.

- Retaining Expansion Band restrictions in the Atlanta Area would mean a shortage of replacement channels for Public Safety; at the same time, many Expansion Band channels would be left vacant.
- Interference mitigation rules would still be in place for Public Safety systems located in the Expansion Band, and they would be entitled to the same level of interference protection as systems located below 857.5 MHz.
- Correction of paragraph 166 would clarify this potential problem in Atlanta; *e.g.*, "The Expansion Band in this area shall extend from 812.5-813.5 MHz / 857.5-858.5 MHz except within a 70-mile radius of the center of Atlanta. Within this radius the Expansion Band shall not exist. The center of Atlanta is defined as geographic coordinates N33-44-55; W084-23-17."

If you have any questions concerning this issue or need further information, please contact the undersigned.

Pursuant to Rule Section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter is being filed electronically for inclusion in the public record of the above-referenced proceeding.

Very truly yours,



Christine M. Gill  
Counsel to Southern LINC

cc: Chairman Michael K. Powell  
Commissioner Kathleen Q. Abernathy  
Commissioner Jonathan S. Adelstein  
Commissioner Michael J. Copps  
Commissioner Kevin J. Martin  
Sheryl Wilkerson  
Jennifer Manner  
Paul Margie  
Sam Feder  
Barry Ohlson  
John Muleta  
Roberto Mussenden  
Brian Morenco  
Marlene H. Dortch, Secretary