

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C. 20554

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APR 2 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Implementation of Sections 309(j) and	)	WT Docket No. <u>99-87</u>
337 of the Communications Act of 1934	)	
as Amended	)	
	)	
Promotion of Spectrum Efficient	)	RM-9322
Technologies on Certain Part 90	)	
Frequencies	)	
	)	
Establishment of Public Safety Radio	)	RM-9405
Pool in the Private Mobile Frequencies	)	
Below 800 MHz	)	
	)	
Petition for Rule Making of the	)	RM-9705
American Mobile Telecommunications	)	
Association	)	

**COMMENTS OF XCEL ENERGY INC.**

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Dated: April 2, 2001

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**REPLY COMMENTS OF XCEL ENERGY INC.**

Pursuant to FCC Rule 1.415, 47 C.F.R. § 1.415, Xcel Energy Inc. (Xcel), by and through its undersigned telecommunications counsel, hereby files reply comments in the above referenced proceeding (FNPRM).<sup>1</sup>

The FCC has commenced this rulemaking proceeding to determine whether to require Part 90 licensees to migrate to narrowband technology. As detailed more fully below, Xcel believes that the Commission must take into account the extended life span of wide-area

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<sup>1</sup> In the Matter of Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz, Petition for Rule Making of the American Mobile Telecommunications Association, WT Docket No. 99-87, RM-9332, RM 9405, RM-9705, Report and Order and Further Notice of Proposed Rulemaking, (Released November 20, 2000).

communication systems and the critical functions they serve in connection with any action involving migration to narrowband technology. In addition, Xcel believes that mandating the use of narrowband technology in the 800 MHz band is inappropriate because licensees operating in the 800 MHz band are subject to different considerations from those operating below 800 MHz. Therefore, if the Commission implements regulations mandating the use of narrowband technology, Xcel strongly urges the Commission to implement regulations consistent with these views.

**I. Statement of Interest**

Xcel is one of the largest electric utility holding companies in the country. Xcel's subsidiaries include five utility operating companies (or "OPCOs") – Northern States Power Company, Northern States Power Company-Wisconsin, Public Service Company of Colorado, Cheyenne Light Fuel & Power Company, and Southwestern Public Service Company. Together, the OPCOs own and operate an integrated electric and gas utility system under the Xcel umbrella that serves over 3 million electricity and 1.5 million natural gas customers. The Xcel service territory includes most of Minnesota and Wisconsin, as well as major portions of South Dakota, Colorado, New Mexico, Oklahoma, Texas and Wyoming.

Xcel has the complex task of providing energy to a large area under challenging circumstances, such as the severe winter weather Minnesota, Wisconsin and Colorado can face. To facilitate its internal communications and monitoring of its power generation and distribution system, Xcel operates extensive private land mobile radio (PLMR) systems in the 150-174 MHz, 450-470 MHz, and 800 MHz bands. It also operates private microwave communications systems. Xcel uses its land mobile authorizations to safely and efficiently coordinate the control,

monitoring and repair of its generation, transmission, and distribution facilities, including communications with work crews responding to service requests, power outages, and related troubles. Xcel emphasizes that Xcel and other power utilities provide the core resource – electricity -- that permits modern society to function. Absent electric power, other industrial and business operations simply cannot be performed. Xcel has the responsibility of providing service to hospitals and other critical facilities throughout its service territory, while simultaneously assuring the safety of its crews working on high voltage and other potentially dangerous equipment. Xcel's radio communication system is essential in this regard.

While safety is a concern for all Part 90 eligibles, power utilities and other critical infrastructure industries such as the petroleum pipeline industry and the railroad industry have demonstrably more crucial requirements for reliable, interference-free communications in order to serve the population at large, as well as safeguard the lives of their employees. For the benefit of both customers and employees, Xcel must conduct operations in an exceptionally safe and efficient manner, requiring them to maintain highly reliable communications systems. To address their land mobile radio communications needs, Xcel has implemented a wide-area, 800 MHz land mobile radio system. Xcel recognizes that their ability to maintain viable 800 MHz systems and to meet both internal and customer service demands could be seriously compromised by the imposition of mandatory narrowbanding upon the 800 MHz band.

## **II. Discussion**

In this FNPRM, the FCC has requested comments on whether mandating the migration to narrowband technology for licensees of Part 90 frequencies between 222 MHz and 896 MHz by a certain date will pose unreasonable burdens on licensees and the timetable for implementing

any changes. Twelve parties filed comments addressing these issues. As set forth more fully below, Xcel believes the Commission must take into account the extended life span of wide-area communication systems in connection with any decision to require the use of mandatory narrowband technology by a date certain and that mandating the use of narrowband technology is inappropriate above 800 MHz and therefore urges the FCC not to take any action in this regard.

**A. The Commission Must Take Into Account The Extended Life Spans Of Wide-Area Communications Systems In Implementing Any Regulations That Mandate The Use Of Narrowband Technology.**

Xcel has licensed, built and maintained a highly reliable wide-area communications system at considerable expense because Xcel's communication needs, like those of other utilities, are unique, and demand a performance standard that common carrier providers do not typically provide. While the systems are absolutely necessary, as described above, Xcel has an obligation to its ratepayers to minimize the cost of implementing its communication system. Accordingly, the system is budgeted, planned, and designed around the expectation that Xcel will be able to utilize the equipment for its entire useful life, typically fifteen years or more. In short, Xcel has invested extraordinary resources, funds, and time in their communication system, anticipating that their equipment would last for a minimum of fifteen years prior to being replaced. Xcel is concerned that the Commission will implement regulations mandating the use of narrowband technology without taking into account the life span of the equipment used by wide-area communication systems. If the Commission does not do so, utility licensees such as Xcel could face extraordinary and unwarranted expense as a result of premature system obsolescence.

Xcel supports the comments of Cinergy Corporation, (Cinergy) the American Petroleum Institute (API), and the Association of Public-Safety Communications Officials-International,

Inc. (APCO) which requested that the Commission take into account the life span of the equipment if the Commission implements regulations mandating the use of narrowband technology. Cinergy stated that the "[m]andated migration to narrowbanded channels would require drastic, wholesale reconfigurations of their existing system . . . [and the] transition would constitute an extraordinary expense and result in unnecessary, premature and wasteful obsolescence of equipment."<sup>2</sup> API stated that "incumbent operators of large private, internal use systems would face serious financial hardships, as they would be forced to change out systems that have not reached the end of their useful lives."<sup>3</sup> APCO also stated that if the Commission establishes conversion dates "far enough in the future, the vast majority of users will have already made the conversion as part of their normal equipment replacement cycles."<sup>4</sup> This is the appropriate course in Xcel's view.

The commentors who requested that the Commission require the use of narrowband technology by January 1, 2005 or earlier all failed to adequately address the burdens on the utility licensees, such as the cost of replacing functional and effective equipment in order to purchase new narrowband equipment.<sup>5</sup> Instead, these commentors focus on the amount of time that the licensees will need to transition to narrowband technology and the benefits that

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<sup>2</sup> Comments of Cinergy Corporation at 4-5 (March 5, 2001) (Cinergy Comments).

<sup>3</sup> Comments of American Petroleum Institute at 6 (March 5, 2001) (API Comments).

<sup>4</sup> Comments of Association of Public-Safety Communications Officials-International, Inc. at 3 (March 5, 2001) (APCO Comments).

<sup>5</sup> See Comments of American Mobile Telecommunications Association, Inc. (March 5, 2001) (AMTA Comments); Comments of Digital Wireless Corporation. (March 5, 2001) (DW Comments); Comments of Industrial Telecommunications Association, Inc. (March 5, 2001) (ITA Comments); Comments of MRFAC, Inc. (March 5, 2001) (MRFAC Comments); Comments of The Personal Communications Industry Association, Inc. (March 5, 2001) (PCIA Comments).

narrowband technology will bring.<sup>6</sup> Motorola, who favored the imposition of a date certain for the mandated use of narrowband technology, at least recognized that PLMR users "can more accurately assess the cost and benefits" of the shift to narrowband technology.<sup>7</sup> The Commission must recognize that mandated narrowbanding could impose substantial burdens on licensees if the life span of the equipment is not taken into account.

**B. Mandating The Use Of Narrowband Technology Is Inappropriate In The 800 MHz Band**

Xcel also believes that the use of narrowband technology is inappropriate in the 800 MHz band because PLMR licensees operating in the 800 MHz band are subject to different considerations from those operating below 800 MHz. Therefore, the Commission needs to consider whether mandatory narrowbanding should be imposed in the 800 MHz band independently from its consideration of the bands below 800 MHz.<sup>8</sup>

As API points out, there has been no evidence presented in this proceeding "that the 25 kHz bandwidth channels in the 800 MHz band are spectrally inefficient."<sup>9</sup> Most 800 MHz systems are trunked and are far more efficient than the same number of channels operating under regulations governing frequencies below 800 MHz.<sup>10</sup> The 800 MHz band also has "adequate technical flexibility to provide for the use of more efficient technology should the market demand such improvements."<sup>11</sup> Furthermore, "petroleum companies, pipelines, and utilities, rely heavily for both day-to-day and emergency communications upon 800 MHz systems that cannot

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<sup>6</sup> See AMTA Comments at 6; DW Comments at 7; ITA Comments at 5-6; MRFAC Comments at 2; PCIA Comments at 3;

<sup>7</sup> Comments of Motorola at 6 (March 5, 2001) (Motorola Comments).

<sup>8</sup> See API Comments at 4.

<sup>9</sup> API Comments at 4.

<sup>10</sup> See PCIA Comments at 3.

readily be adapted to narrowband technologies."<sup>12</sup> If these critical infrastructure entities are unable to use their communication systems, the impact on the public could be devastating.

For the above reasons, Xcel supports the comments of The Personal Communications Industry Association, API, Motorola, and Cinergy stating that mandatory narrowbanding is not appropriate in the 800 MHz band. Other commentors stated that narrowband technology should be implemented, but failed to address the 800 MHz band specifically, and whether this band is appropriate for narrowband technology. When the Commission makes an independent assessment of whether to require mandatory narrowbanding in the 800 MHz band, it must conclude that such a step is not appropriate.

### **III. Conclusion**

If adopted by the FCC, mandated migration to narrowbanded channels would cause extraordinary disruption and expense to licensees that have invested in their communication system based upon the existing channelization. Therefore, the Commission must take into account the life span of the equipment if the Commission decides to implement mandatory narrowbanding, allowing a liberal period for the use of existing systems. Furthermore, because the 800 MHz band is governed by different considerations, it is inappropriate to require the implementation of narrowband technology in that band.

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<sup>11</sup> Motorola Comments at 5.

<sup>12</sup> API Comments at 4; See Also Cinergy Comments at 7 (Utilities use the 800 MHz band for their most sensitive communications).

**WHEREFORE, THE PREMISES CONSIDERED,** Xcel urges the Commission to consider these Comments and to proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

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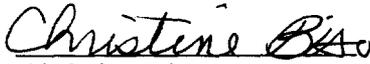
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