Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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In the Matter of	)	
	)	
Requests for Assignment of Licenses	)	
	)	
Nextel Communications, Inc. and Pacific Wireless Technologies, Inc.	)	WT Docket No. 01-192
and	)	
Nextel Communications, Inc. and Chadmoore Wireless Group, Inc.	)	WT Docket No. 01-193

To: Wireless Telecommunications Bureau
Commercial Wireless Division
Policy and Rules Branch

CONSOLIDATED OPPOSITION OF NEXTEL COMMUNICATIONS, INC.

Nextel Communications, Inc. ("Nextel") hereby respectfully submits this Opposition to the Comments filed in the above-captioned proceedings. Nextel opposes attempts by various local governments, in locations wholly-unrelated to the transactions at issue, to oppose, delay or condition the above-referenced assignments of Specialized Mobile Radio ("SMR") licenses from Pacific Wireless Technologies, Inc.[1] and Chadmoore Wireless Group, Inc.[2] to Nextel.

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[1] *See* Pacific Wireless Technologies, Inc. and Nextel Communications, inc. Seek Consent to Assign 800 MHz SMR Licenses, *Public Notice*, DA 01-1931, WT Docket No. 01-192 (August 14, 2001) ("Nextel-Pacific Proceeding").

[2] *See* Chadmoore Wireless Group, Inc. and Nextel Communications, Inc. Seek Consent to Assign 800 MHz and 900 MHz SMR Licenses, *Public Notice*, DA 01-1955, WT Docket No. 01-193 (August 17, 2001) ("Nextel-Chadmoore Proceeding").

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As Nextel has previously described in its Public Interest Statements, the proposed assignments will promote competition in the Commercial Mobile Radio Service ("CMRS") industry by aiding Nextel's build-out of its nationwide iDEN network. Commenters opposed to the instant transactions raise no competitive concerns. Instead, they would deny, delay or condition Nextel's acquisition of additional spectrum based on concerns over interference between 800 MHz CMRS providers and public safety communications agencies.

Six commenters[3] opposed the transactions: the County of Hamilton (Cincinnati, Ohio)[4]; Queen Anne's County in Maryland[5]; the District of Columbia[6] and the cities of Philadelphia, Pennsylvania, Phoenix, Arizona and Scottsdale, Arizona in a consolidated filing.[7]

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[3] This number does not include Prince George's County, Maryland ("PG County"). On September 14, 2001, PG County filed a letter in the Nextel-Chadmoore Proceeding and requested that the FCC keep them informed of all ongoing matters relating to the CMRS-public safety interference issue. PG County did not oppose the transaction and indicates that it has not experienced interference from Nextel's operations.

[4] *See* Comments of the County of Hamilton, dated September 5, 2001 ("Hamilton Comments").

[5] *See* Comments of Queen Anne's County, Maryland dated September 17, 2001 ("Queen Anne Comments"). Nextel notes that the Queen Anne Comments were filed after the Public Notice period for timely comments in the Nextel-Pacific Proceeding.

[6] *See* Comments of the District of Columbia, dated September 13, 2001 ("DC Comments").

[7] *See* Comments of "Nextel Communities", dated September 13, 2001, filed by the law firm of Miller & Van Eaton ("MVE Comments"). MVE's filing

A. NONE OF THESE COMMENTERS WILL BE AFFECTED BY THE ABOVE-CAPTIONED TRANSACTIONS

The Nextel-Pacific transaction is limited to the State of California and involves the assignment of licenses comprising Pacific's existing digital iDEN system that will be incorporated into Nextel's digital iDEN network. In the Nextel-Chadmoore transaction, the parties have proposed to assign licenses in various locations throughout the country, but none in or around Cincinnati, Scottsdale, Phoenix, Philadelphia, the District of Columbia or Queen Anne's County. Therefore, none of the commenters will be affected by the proposed assignments and will not suffer any "injury" as a result of their grant.[8] Accordingly, the relief requested by the commenters should be denied because they lack standing in this proceeding.[9]

B. DELAY OR DENIAL OF THE ASSIGNMENTS WILL NOT LESSEN INCIDENTS OF INTERFERENCE; IT WILL REDUCE NEXTEL'S FLEXIBILITY IN RESOLVING IT

Even if the transactions at issue involved frequency assignments that were in proximity to the commenters' locations, denying, delaying or conditioning these assignments does not serve the public interest. As described below, making additional spectrum available provides greater

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indicates that Queen Anne's County, Maryland was also included in their filing.

[8] *See* Section 1.939 of the Commission's Rules.

[9] As described further below, commenters such as Queen Anne's County, Prince George's County, the County of Hamilton and the City of Philadelphia make no assertion that they are currently experiencing interference from CMRS providers.

flexibility to coordinate with public safety licensees to work around and mitigate interference on a case-by-case basis.

Recent incidents of interference between public safety communications systems and CMRS providers, including, but not limited to Nextel, has caused Nextel to devote significant time and resources to identify, study and understand this problem. Nextel's research contributed to the "Best Practices Guide", a collaborative effort including the Association of Public Safety Communications Officials ("APCO"), the Cellular Telecommunications Industry and Internet Association ("CTIA"), Motorola, Inc.("Motorola") and Public Safety Wireless Network ("PSWN").[10] The Best Practices Guide provides a detailed history of the circumstances that have contributed to this problem, ways to identify interference, and a list of steps to take to mitigate interference, including retuning channels at an affected base station site, modifying operational parameters, such as lower power and raised antenna heights, increasing signal strength of public safety operations, additional filtering, and careful spectrum planning.[11]

In accordance with the Best Practices Guide, Nextel has worked with public safety communications officials around the country to both mitigate interference and plan cooperatively to prevent it. We have learned that the

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[10] *See* "Avoiding Interference Between Public Safety Wireless Communications Systems and Commercial Wireless Communications Systems at 800 MHz: A Best Practices Guide," January 2001 ("Best Practices Guide").

most useful short-term tool to mitigate interference is careful spectrum planning to separate CMRS provider's spectrum and public safety communicator's spectrum allocations, thereby mitigating intermodulation interference. To accomplish these tasks, Nextel requires as much flexibility in its spectrum allocations as possible to design a communications system that can both co-exist with public safety operations and provide advanced digital communications services for its customer base. Thus, the commenters' attempts to deny Nextel access to additional spectrum, or to condition or limit that access, is counterproductive to mitigating and/or preventing interference. Having the maximum spectrum flexibility possible is particularly important since CMRS-public safety interference often results from the combined operations of the "A" band cellular carrier and Nextel, and in some cases both the "A" band and the "B" band cellular licensees and Nextel. The more channels that Nextel can substitute at a particular site, the more flexibility it has to be part of a case-by-case solution, not an interference problem.

C. NEXTEL IS COMMITTED TO RESOLVING INCIDENTS OF INTERFERENCE

Nextel is committed to resolving incidents of interference. Nextel has created a "Public Safety Team" to research, mitigate and resolve allegations of interference on a case-by-case basis, and has met with representatives from a number of communities across the country to address their concerns,

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[11] *Id.* at pp. 10-11.

share research and implement solutions. In addition, Nextel is an active participant in APCO's Project 39, a partnership amongst the CMRS industry, public safety community and equipment vendors, who each have a stake in the interference problem, to pursue short-term, mid-term and long-term solutions. These efforts demonstrate Nextel's commitment to resolving the CMRS-public safety interference problem.[12]

The MVE Comments, Queen Anne Comments and the DC Comments each suggest that a larger initiative is necessary to mitigate and resolve this ongoing interference issue, including separation of public safety operators and CMRS providers in the 800 MHz band. Nextel agrees and is actively working with public safety leadership, equipment vendors and other experts to develop and complete this plan. Conditioning Nextel's acquisition of the spectrum at issue, or requiring a date certain for such a filing, however, is not necessary. Nextel alone is not the cause of this interference problem and cannot solve it by itself. CMRS providers, both cellular and SMR, public safety entities, and manufacturers must each contribute towards a workable solution. The Comments of MVE, Queen Anne and DC should be considered in that context, rather than the instant proceeding. Resolution of these larger issues should not impact or delay the proposed above-captioned transactions.

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[12] Nextel notes that none of the other commenters to these proceedings are participants in APCO's Project 39.

As described above, Nextel is participating in APCO Project 39 and is committed to doing its part to identify or implement a long-term CMRS-public safety interference solution. Consideration of these issues in the context of the present assignment applications, however, serves no purpose and only redirects efforts that could better be spent on resolving actual instances of interference and forming long-term solutions.[13] Individual allegations of interference, or concerns over Nextel's responsiveness regarding individual circumstances are outside the scope of the present transactions.[14] Consistent with its recent decision in the recent *Nextel-Motorola*

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[13] Certain commenters do not indicate that they are even experiencing interference from CMRS providers, specifically Queen Anne's County, Prince George's County, and the County of Hamilton. The City of Philadelphia is preparing to implement a new 800 MHz system and their consultant has identified possible areas of concern, but Philadelphia does not indicate that they are currently experiencing particular problems near particular sites. Philadelphia's consultant, RCC, also indicates that a contributing potential interferor is Cingular Wireless, the cellular A-band carrier. RCC's Report indicates that both Nextel and Cingular have been cooperative in working with RCC to analyze this issue in Philadelphia.

[14] Nextel is particularly concerned that the DC Comments raise objections to the subject assignments, considering that Nextel has been a participant in a DC Communications Working Group, that includes agencies in the DC Government (Fire, Emergency Management Authority and DC Metro), its consultants, and its equipment vendors for over six months and has addressed every allegation of interference that has been brought to its attention. In fact, DC has consistently praised Nextel's efforts in responding to their interference concerns and recently informed Nextel that its communications systems are not being impacted by Nextel's current operations. This view is borne out by the Case Reports attached to the DC Comments which describe how Nextel has resolved each interference allegation in a timely manner.

transaction[15], the Bureau should dismiss these concerns as inappropriate in this proceeding.

D. CONCLUSION

None of the commenters can demonstrate that they will be adversely affected by grant of the proposed assignments because they are in locations wholly unrelated to the subject licenses. Even if the commenters were located in the same markets as the spectrum at issue, the best solution is not to restrict Nextel's access to spectrum but to allow it as much flexibility as possible in mitigating and resolving case-by-case interference concerns. The commenter's concerns are best addressed in a broader proceeding to examine the CMRS-public safety interference problem – not in the context of the subject transactions. For these reasons, and because the transactions

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[15] *See* In re Applications of Motorola, Inc.; Motorola SMR, Inc.; and Motorola Communications and Electronics, Inc. to FCI 900, Inc., For Consent to Assignment of 900 MHz Specialized Mobile Radio Licenses, *Order*, ___ FCC Rcd ___, 2001 FCC LEXIS 2120, DA 01-947 (April 17, 2001) ("Nextel-Motorola"). In *Nextel-Motorola*, the Southern Company ("Southern") argued that Nextel should be required to provide it roaming on Nextel's nationwide 800 MHz network as a condition to the 900 MHz assignment. The Wireless Telecommunications Bureau denied Southern's request, finding that (1) the alleged harm was not caused by the proposed transaction; (2)the remedy proposed does not address the harm claimed; (3) if Nextel was denying Southern manual roaming (as Southern alleged) in contravention of the Commission's rules, the appropriate remedy would be through an enforcement action, and not a roaming condition on the grant of an unrelated set of applications; and (4) regulation of roaming were already the subject of a separate rulemaking proceeding, and broader issues related to any proposed roaming requirements would be more appropriately addressed in that proceeding. *See Nextel-Motorola* at para. 37. For these same reasons, the Bureau should deny the commenters' attempts to deny, delay or condition the proposed assignments based on the CMRS-public safety interference issue.

are in the public interest, the Bureau should expeditiously grant the proposed assignments.

Respectfully submitted,
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September 27, 2001

CERTIFICATE OF SERVICE

I, James B. Goldstein, hereby certify that on this September 27, 2001, caused a copy of the attached Consolidated Opposition of Nextel Communications, Inc. to be served by U.S. Mail to the following:

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