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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of)
)
Improving Public Safety)
Communications in the)
800 MHz Band)
)
Consolidating the 900 MHz)
Industrial/Land Transportation)
and Business Pool Channels)

WT Docket No. 02-55

TO: The Commission

COMMENTS OF XCEL ENERGY SERVICES, INC.

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Dated: May 6, 2002

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COMMENTS OF XCEL ENERGY SERVICES, INC.

Pursuant to Section 1.415 of the Federal Communications Commission’s (hereinafter “FCC’s” or “Commission’s”) Rules, Xcel Energy Services, Inc., by and through its undersigned counsel, hereby submits these Comments in the above-captioned matter.¹ As discussed in these Comments, Xcel Energy Services, Inc. opposes a mandatory realignment of the 800 MHz band and believes that the Commission should adopt a market-based approach that will protect Public Safety licensees from harmful interference while permitting flexibility to accommodate disparate radio systems.

¹ *In the Matter of Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, WT Docket No. 02-55, *Notice of Proposed Rulemaking* (March 15, 2002) (“*NPRM*”). The *NPRM* was published in the Federal Register on April 5, 2002, 67 Fed. Reg.16351.

I. XCEL'S INTEREST IN THE PROCEEDING

Xcel Energy Services, Inc. through its operating companies – Northern States Power Company, Northern States Power Company-Wisconsin, Public Service Company of Colorado, Cheyenne Light Fuel & Power Company, and Southwestern Public Service Company – (collectively “Xcel”) generates, transmits and distributes electricity and distributes natural gas to its customers. Xcel’s electric and gas utility system serves over 3.1 million electric and 1.5 million natural gas customers. Xcel operates more than 70 regulated facilities that are capable of generating up to 15,394 megawatts of electricity. The Xcel service territory includes most of Colorado, Minnesota and Wisconsin, as well as portions of Arizona, Kansas, Michigan, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming.

Xcel is an interested party in this proceeding because it has licensed 65 discrete frequency pairs in the 800 MHz band for the private land mobile radio system that is used in Colorado, Minnesota, Oklahoma, New Mexico, Texas and Wyoming. Of the 65 frequency pairs, 3 frequency pairs were licensed from the General Category pool, 7 from the Business pool, 20 from the Public Safety pool,² and 35 from the Industrial/Land Transportation (“I/LT”) pool. In addition, Xcel has constructed over 150 control stations and over 50 base stations in order to operate its 800 MHz frequency pairs. Xcel has also purchased nearly 5,000 mobile units to use with the system.

Xcel has the complex task of providing energy to its customers under challenging circumstances. In particular, Xcel must be able to provide service during the severe winter weather in Minnesota, Wisconsin and Colorado. To facilitate its internal communications and

² Although Xcel is not a Public Safety licensee, the Commission has granted Xcel a waiver to license Public Safety frequencies.

monitoring of its power generation and distribution system, Xcel operates an extensive private land mobile radio system. Xcel uses its land mobile system 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 is responsible for 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.

II. THE REALIGNMENT PROPOSALS OUTLINED IN THE *NPRM* WOULD CAUSE NEEDLESS DISRUPTION AND EXPENSE

The *NPRM* proposed three different plans, one from Nextel, one from the National Association of Manufacturers ("NAM"), and one by the FCC itself, that would realign the 800 MHz band in an effort to alleviate interference to Public Safety licensees. As explained herein, none of these reallocation proposals would provide sufficient public benefit to justify the tremendous disruption and expense that would be caused.

The financial implications of such a frequency change for companies that have an extensive wide-area system would be extraordinary. These proposals will be particularly disruptive to public service companies such as Xcel because utilities operate extensive systems that must cover their utility service territories. Utilities must therefore construct a large number of sites and acquire a large number of vehicular and portable units. Furthermore, the internal resources required in terms of utility man-hours and system downtime would add considerably to the overall cost of both an out-of band or an in-band relocation.

As the suppliers of electricity and other energy products and services to the public, utilities have a unique role in the functioning of modern society. Virtually every aspect of modern life depends upon the ability of utilities to carry out their functions in a safe and efficient manner. The importance of utilities to national security is well established. For example, the 2001 Department of Commerce Appropriations Act required the National Telecommunications and Information Administration (“NTIA”) to report to Congress on the current and future use of spectrum by energy, water, and railroad service providers to protect and maintain the Nation’s critical infrastructure.³ In its Report, NTIA concluded that utilities provide essential public services and are vital components of the Nation’s critical infrastructure. Any “system disruptions that are not quickly restored pose potential threats not only to Public Safety, but also to the Nation’s economic security.”⁴ Our Nation’s “economic prosperity, and quality of life have long depended on the essential services” that utilities provide.⁵

1. The Nextel Plan Would Devastate Xcel’s Land Mobile Radio Network

Under the Nextel plan, the 806-816/851-861 MHz band would be reallocated for Public Safety licensees. Xcel and other Business and I/LT licensees would be required to relocate from the 800 MHz band to either the 700 or 900 MHz bands in order to retain primary status. If Xcel has to relocate to either the 700 or 900 MHz band, it will have to purchase new equipment

³ See Federal Funding, Fiscal Year 2001, Pub. L. No. 106-553, 114 Stat. 2762, 2762A-73 (2000).

⁴ Marshall W. Ross and Jeng F. Mao, *Current and Future Spectrum Use by the Energy, Water, and Railroad Industries, Response to Title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 Public Law 106-553*, U.S. Department of Commerce, National Telecommunications and Information Administration at 3-3. (Jan. 30, 2002).

⁵ President’s Commission on Critical Infrastructure Protections, *Critical Foundations - Protecting America’s Infrastructures* at ix (October 1997).

because the 800 MHz land mobile radio system cannot be used in either the 700 or 900 MHz bands. In addition, there is no guarantee under Nextel's plan that spectrum in the 700 and 900 MHz bands will be available in which to relocate Xcel. Moreover, operation in the 800 MHz band on a secondary basis is an unacceptable alternative because of the critical nature of Xcel's land mobile operations.

2. Relocating Xcel Within the 800 MHz Band Will Be Tremendously Expensive

Even if the Commission relocates Xcel within the 800 MHz band, as proposed in the NAM and FCC plans, it will be tremendously disruptive to Xcel. Xcel has licensed 65 discrete frequency pairs in the 800 MHz band. If the Commission adopts the NAM plan, Xcel would not be permitted to use 17 of its discrete frequency pairs. Seven of these frequency pairs are used at 11 or more different sites. Frequency pair 810/855.8875 is used at 20 different sites alone. The FCC proposal is even more devastating to Xcel because under this plan Xcel would not be permitted to use 37 of its discrete frequency pairs. Ten of these frequency pairs are used at 11 or more different sites. In addition, neither of these plans addresses how licensees would be relocated to alternate channels or whether costs would be reimbursed. Xcel estimates that it will cost more than \$20 million just to relocate within the 800 MHz band.

3. Relocation Costs Should be Borne by the Cost-Causer

If the Commission decides to realign the 800 MHz band, *all* costs should be borne solely by the parties that are interfering with Public Safety operations. There is no recent Commission precedent that would support an unfunded, wholesale and mandatory relocation of an entire class of users to a new spectrum band. Xcel, and other Business and I/LT licensees that are complying

with the Commission's regulations and that are not interfering with Public Safety operations, should be reimbursed for *any* costs that they incur as a result of relocating. Xcel should not be required to pay for the mistakes of others.

III. THE COMMISSION SHOULD ADOPT A MARKET-BASED APPROACH TO RESOLVE INSTANCES OF HARMFUL INTERFERENCE TO PUBLIC SAFETY LICENSEES

As the Commission notes in the *NPRM*, there is significant question as to whether realignment will resolve instances of harmful interference to Public Safety licensees.⁶ Based on the pervasive disruption and costs associated with realignment, the Commission should not entertain this possibility unless it is certain that this is the least costly and disruptive means to resolve the interference problems. Xcel believes that instead of realigning the 800 MHz band, the Commission should adopt a market-based approach that will protect Public Safety licensees from harmful interference while permitting flexibility to accommodate disparate radio systems in the 800 MHz band.

Since the Nextel/Public Safety problem was first reported in 1998, significant effort has been expended to find technical solutions to resolve this problem. The *Best Practices Guide* and Motorola's "Interference Technical Appendix (Issue 1.41)" contain numerous technical solutions that can minimize, or even eliminate interference so that Public Safety communications are not compromised.⁷ The Commission should provide a framework under which a variety of approaches could be implemented to resolve interference problems based on the particular

⁶ *NPRM* at ¶ 27.

⁷ *Avoiding Interference Between Public Safety Wireless Communications Systems and Commercial Wireless Communications Systems at 800 MHz – A Best Practices Guide* (December, 2000); *Interference Technical Appendix to the Best Practices Guide*, Motorola, (Issue 1.41, Feb. 2002).

circumstances. Under this approach, interference problems would be resolved in the most efficient manner possible.

In particular, the Commission should create a national database of 800 MHz digital system transmitter locations so that Public Safety licensees will be able to identify potential source(s) of interference. Once the potential source(s) of interference are identified, the Commission rules should clearly define the responsibilities of the interfering licensee(s) to eliminate interference and the timelines with which it should be accomplished. Because there are a wide range of alternatives to eliminate harmful interference, the Commission should permit the parties to negotiate a voluntary solution, such as replacement of equipment or channel swaps, and not restrict the methods that may be employed. If the parties are unable to negotiate a solution, the Commission should then require the parties to arbitrate their dispute. If this market-based approach is implemented, it will provide a simple yet prompt mechanism for the Commission to resolve interference problems.

WHEREFORE, THE PREMISES CONSIDERED, Xcel respectfully requests that the Commission consider these comments and proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

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Dated: May 6, 2002

CERTIFICATE OF SERVICE

I, Christine S. Bisio, do hereby certify that on this 6th day of May 2002, a copy of the foregoing "Comments of Xcel Energy Services, Inc." was mailed via U.S. Mail, postage prepaid to each of the following:

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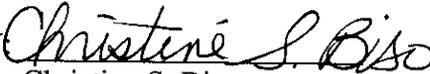
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