

ISLAND SMR, INC.

*1088 Bishop Street, Suite 811, Honolulu, Hawaii 96813-3117
Phone (808) 526-4767 Fax (808) 526-0708*

August 7, 2002

The Honorable Michael K. Powell, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington D.C. 20554

Re: Improving Public Safety Communications in the 800 MHz Band
Docket No. 02-55
Reply Comments

Dear Chairman Powell:

Island SMR, Inc. takes this opportunity to implore the Commission to carefully and fully review the record in this proceeding prior to proposing rules to realign the 800 MHz band. Island SMR recognizes that in certain areas of the country Public Safety entities are experiencing harmful interference to their 800 MHz operations, which requires an immediate remedy. However, Island SMR believes that the immediate remedy should originate with the interference causer, which the record in this proceeding, including the APCO Project 39 Interim Report, clearly shows are the result of high-site cellular-like 800 MHz systems, such as Nextel's system, and in some instances cellular operations.

Island SMR believes the Commission should first and foremost focus on a short-term solution to the immediate crisis being experienced by many Public Safety entities, which may require certain high-site, cellular-like 800 MHz operators to shut down certain antenna sites. Clearly Public Safety operations should take precedence over commercial operations, however, the Commission should also recognize that certain CMRS operators, such as Island SMR, provide vital communications links for public safety operations on a commercial basis.

To this end, the Commission must strictly enforce its rules and regulations regarding parties that cause harmful interference to other operators. Pursuant to Section 90.403(e) of the Commission's rules, "licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference."¹ In addition, under the Commission's "first-in-time" policy, the "newcomer" to a frequency must bear the financial and general responsibility for eliminating objectionable

¹ 47 C.F.R. § 90.403(e).

interference it causes to an existing station.² Island SMR strongly urges the Commission to stand behind its rules and policies and require interfering operators to immediately cease and desist from causing harmful interference to public safety, or any other, previously existing 800 MHz operations. This will result in an immediate reduction in Public Safety interference.

As the Commission works on implementing an immediate solution to the public safety interference problem, Island SMR and other commenters, urge the Commission to conduct an independent review of the extent of interference to Public Safety operations and what steps must be taken to alleviate the problem.³ The current record is not clear on either of these points. It is also unclear whether realignment of the 800 MHz band is necessary, particularly if a technical solution exists. Several commenters support the implementation of a technical solution to alleviate the interference problem.⁴ In fact, several parties, including a former Nextel engineer, state that although Nextel's move away from cavity combiners toward hybrid combiners gave Nextel flexibility and cost savings in its system design and implementation, such technological changes have resulted in harmful interference to other users.⁵ Mr. Hampton, a former Nextel employee, supports the position that Nextel took shortcuts, including the replacement of cavity combiners with hybrid combiners, when implementing its systems. According to Mr. Hampton, these shortcuts caused the noise floor to increase dramatically at each site,⁶ which in turn resulted in harmful interference to other operators.

² See *Midnight Sun Broadcasting*, 11 FCC Rcd 1119 (1947).

³ See Comments of DelMarva Power and Light Company and Atlantic City Electric Company at pp. 5-6 (hereinafter "*DP&L/ACE Comments*") (supports an in-depth study of the scope and source of interference to public safety operations); Comments of the National Association of Manufacturers and MRFAC, Inc. at p. 5 (hereinafter "*NAM/MRFAC Comments*") (urges FCC to gather additional information regarding what causes the public safety interference and possible solutions); and Comments of Cinergy Corporation at pp. 5-9 (urging FCC to conduct independent investigation into the Public Safety interference problem).

⁴ See Comments of the State of Florida at p. 1; Comments of the City of Portland, Oregon at pp. 5 and 11 (Motorola modification to Portland's RF Boards improved receiver performance); Comments of Dallas Area Rapid Transit at p. 2; and *DP&L/ACE Comments* at pp. 9-16; Comments of American Electric Power at pp. 13, 16-17 (hereinafter "*AEP Comments*"); and Comments of Verizon Wireless at pp. 8-10.

⁵ Comments of The Aeronautical Radio, Inc., JPJ Electronic Communications, Inc., Sid Richardson Energy Services Co., *et. al.*, at p. 14 (hereinafter "*Joint Comments*"); and Comments of Danny Hampton at p. 2 (hereinafter "*Hampton Comments*").

⁶ *Hampton Comments* at pp. 1-2.

While some believe technical solutions exist, other commenters believe realignment of the band is necessary to eliminate interference.⁷ The only thing that is clear from the record is that cellularized operations, such as those operated by Nextel, are causing interference to public safety operations⁸ and realignment of the 800 MHz band by itself is not sufficient to eliminate the interference to Public Safety operations.⁹

If the Commission determines that a technical solution would eliminate or mitigate the interference problem, it might be unnecessary to realign the 800 MHz band. A technical solution would eliminate the need for operators to incur Millions, and perhaps Billions, of dollars to retune their existing systems; expenses that would need to be reimbursed by the cost causer or from federal funds. As noted in its Comments, Island SMR would most likely go out of business if it were required to retune its system to new frequencies at its own expense.

Island SMR strongly supports the four guiding principles of a regulatory solution outlined in the *Joint Comments*: (1) licensees causing interference must be financially responsible for the costs of any frequency or equipment changes; (2) any solution must actually result in interference improvement for all licensees, not just public safety licensees; (3) non-public safety, non-cellularized licensees must not be “orphaned,” in that they must be able to upgrade their own technology utilization, provided they do not cause interference to others; and (4) the FCC must not create a regulatory environment which will permit the same result again (including at 900 MHz), albeit with different licensees.¹⁰

⁷ See Comments of City of Austin, Texas at pp. 1-2; Comments of The City of Fort Lauderdale at p. 2; and Comments of The New York State Office for Technology, Statewide Wireless Network Project at pp. 1-3.

⁸ See *Joint Comments* at p. 11, citing Comspace Field Testing Report, dated July 14, 2001 (“Comspace Report”). According to the *Joint Comments*, the Comspace Report was compiled by Comspace engineers with the cooperation of Nextel engineers and shows that “without interference abatement procedures in place, Nextel causes a significant amount of interference to other non-public safety operators in the [800 MHz] and.” *Id.*

⁹ See Comments of the Association of Public-Safety Communications Officials-International, Inc., National Association of Counties, National League of Cities, National Association of Telecommunications Officers and Advisors at p. 10; Comments of the American Petroleum Institute at pp. 3 and 5; Comments of the United Telecom Council at pp. 9-11; Comments of Entergy Corporation and Entergy Services, Inc. at p. 19; Comments of Cinergy Corporation at p. 24; *NAM/MRFAC Comments* at pp. 3-4; Comments of Blooston, Mordkofsky, Dickens, Duffy & Prendergast at p. 4; Comments of Verizon Wireless at p. 12; Comments of Motorola, Inc. at p. 11; Comments of The City of Portland at p. 9; *AEP Comments* at pp. 5-13; and Letter from Christine M. Gill to Marlene H. Dortch, Secretary (July 17, 2002), Notice of Ex Parte Meeting.

¹⁰ *Joint Comments* at pp. 25-26.

Island SMR recognizes that in certain areas of the country, such as the County of Maui,¹¹ public safety operators are experiencing harmful interference to their 800 MHz operations. However, the Commission should also recognize that commercial 800 MHz systems, such the one operated by Island SMR, also provide vital communications services to public safety entities, albeit on a commercial basis. Island SMR's system provides analog dispatch services to vital emergency personnel such as on-call doctors, nurses and medical personnel, clinical laboratory personnel who are responsible for transporting blood plasma, blood samples and other life-saving medical supplies to and from hospitals, safety-related communications for emergency road service providers which respond to hundreds of emergency road service calls each year, many of which involve an immediate threat to life and property, and security companies which rely on Island SMR's services to respond to potentially dangerous situations. These entities rely on Island SMR's analog dispatch services twenty-four hours a day, seven days a week and cannot tolerate any discontinuances of service. Although Island SMR does not hold a license specifically assigned by the FCC for Public Safety operations, its commercial operations play a vitally important role in ensuring the public safety.¹²

For these reasons, Island SMR strongly encourages the Commission to institute an engineering task force, prior to proposing rules to realign the 800 MHz band, to independently review the extent of the interference problem and determine whether a technical solution exists. If a technical solution exists, Island SMR believes it should be implemented immediately. It is

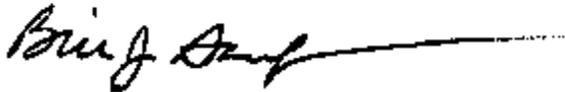
¹¹ It is Island SMR's understanding that although the Maui County Police Department has experienced interference to its NPSPAC operations, it has also identified this interference as primarily originating from Nextel and AT&T Wireless. Comments of James "Kimo" Apana, Mayor, County of Maui at p. 2 (hereinafter "*Maui County Comments*"). In its Comments, Maui County states that a solution to the interference problem must be "technical and field deployable for public safety interest only, and not economically or politically motivated for CMRS users such as Nextel." Maui County Comments at p. 3. Island SMR agrees with this statement, but only to the extent it is directed at CMRS operators causing interference to public safety operations. Island SMR does not believe that it should be held responsible for, or bear the financial burden of correcting a public safety operator's interference problem, including Maui County's interference problem, if it is not the CMRS operator causing the interference. To Island SMR's knowledge, it has never caused harmful interference to Maui County's public safety operations, nor to any other public safety operations.

¹² Other 800 MHz licensees, including Island SMR and other commercial 800 MHz operators as well as many utilities, also operate critical systems that cannot be routinely shut off to accommodate a retune to new frequencies. See Comments of Duke Energy at pp. 4-6; and *AEP Comments* at pp. 3, 7-9.

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premature of the Commission to contemplate realignment of the 800 MHz band until it has concluded through an independent engineering review that a technical solution to the interference problem does not exist.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill J. Sanford", with a long horizontal flourish extending to the right.

Bill J. Sanford
President & CEO
Island SMR, Inc.

cc: Ms. Margaret Cummisky (via facsimile: (202) 224-6747)
Mr. Clifton Ching (via facsimile: (202) 224-6747)