

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

WT Docket 02-55

REPLY COMMENTS OF THE RURAL CELLULAR ASSOCIATION

The Rural Cellular Association ("RCA"),¹ by counsel, hereby submits reply comments in opposition to any proposal requiring 800 MHz cellular operators to share costs associated with relocating 800 MHz public safety or commercial operations.² Although RCA shares the FCC's concern regarding interference with public safety operations, the record demonstrates that 800 MHz cellular operators do not cause this interference. Accordingly, it would be irrational to require this class of carrier to bear any costs associated with the remedy of relocating other 800 MHz commercial operators or public safety entities.

The FCC seeks comment on a proposal by Nextel which would require 800 MHz cellular licensees to contribute to the cost of relocating 800 MHz public safety systems.³ Under the Nextel proposal, all cellular and advanced 800 MHz mobile communications providers should

¹ RCA is an association representing the interests of small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide service in more than 135 rural and small metropolitan markets where approximately 14.6 million people reside. RCA was formed in 1993 to address the distinctive issues facing rural wireless service providers.

² *In the Matter of Improving Public Safety Communications in the 800 MHz Band; Notice of Proposed Rulemaking*, WT Docket 02-55; FCC 02-81 (rel. Mar. 15, 2002) ("Notice").

³ See Notice at para. 38 citing Nextel's proposal.

make a substantial contribution” toward relocation expenses.⁴ Nextel suggests that, after relocation, “cellular carriers will be relieved of the burdens of detailed, ongoing coordination requirements, operational limitations and channel use restrictions currently necessary to safeguard public safety communications from interference.”⁵

The record does not, however, demonstrate any relationship between costs incurred by cellular licensees currently and mitigation of these costs by relocation of certain 800 MHz licensees. As noted by the Commission, the “burdens” that Nextel references relate to voluntary efforts that cellular carriers undertake to mitigate harmful interference, and not to FCC-imposed requirements.

Further, there is no evidence that significant levels of interference are caused by cellular operations.⁶ As described by one commenter, “experience to date has been that any interference caused by cellular licensees can be effectively addressed by technical mitigation techniques, and does not require the major step of relocating the Public Safety licensees as a remedy.”⁷

⁴ *Promoting Public Safety Communications – Realigning the 800 MHz Land Mobile Radio Band to Rectify Commercial Mobile Radio – Public Safety Interference and Allocate Additional Spectrum to Meet Critical Public Safety Needs* (Nextel Proposal), Nov. 21, 2001 at 41 (emphasis in the original).

⁵ *Id.* at 39-40.

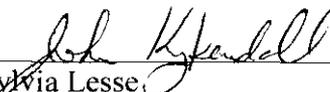
⁶ *See, e.g.*, Joint Comments of Cingular Wireless LLC and Alltel Communications, Inc. (“Comments of Joint Commenters”) at 2 (*citing Project 39, Interference to Public Safety 800 MHz Radio Systems, Interim Report to the FCC*, Dec. 24, 2001 - a report by APCO documenting interference encountered throughout the U.S. - as stating, “ESMR sites operated by Nextel or other ESMR operators seem to be the most commonly identified contributing factor” to interference to public safety operations).

⁷ Comments of the Cellular Telecommunications & Internet Association (“Comments of CTIA”) at 6. RCA is firmly opposed to any suggestion that cellular licensees be relocated or retuned. The inconvenience caused to customers and costs that would be incurred in retuning the large volume of legacy handsets are both enormous, and should be avoided.

Accordingly, Nextel's proposal to require all cellular carriers to cover the costs of retuning or relocating public safety operations is unfair, and must be rejected.⁸

Respectfully submitted,

RURAL CELLULAR ASSOCIATION

By: 
Sylvia Lesse
John Kuykendall

Its Attorneys

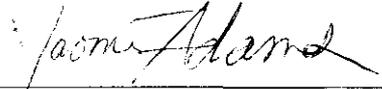
Kraskin, Lesse & Cosson, LLP
2120 I. Street, N.W., Suite 520
Washington, D.C. 20037
202-296-8890

August 7, 2002

⁸ As an alternative to the Nextel proposal, the Coalition for Constructive Public Safety Solutions ("Coalition") recommends that all of the upper 700 MHz band, with the exception of the already auctioned guard band spectrum, be reallocated for public safety and homeland security, that the public safety licensees in the 800 MHz band be relocated to this portion of the 700 MHz band and that the vacated 800 MHz frequencies be auctioned so that the revenues can be used to pay for the costs of relocation and new equipment. *See* Comments of Joint Commenters at 17-18. This proposal would require Congressional action to allow auction proceeds to be used to relocate the public service operations. *Id.* at 19. RCA is concerned, however, that if the Coalition's recommendations were adopted as proposed, there would be no meaningful opportunities for small and rural wireless carriers to obtain licenses for the vacated portions of the 800 MHz spectrum. Without such meaningful opportunities to participate in the auction, small and rural cellular carriers would be placed at a further competitive disadvantage as their large, well-funded wireless competitors would be able to outbid the small businesses to gain additional cellular spectrum. Accordingly, if the Commission adopts this proposal, it must consider use of set asides, bidding credits, MSA/RSA geographic territories and other mechanisms to permit small businesses to acquire the spectrum on a level playing field. *See* Comments of RCA in ET Docket No. 02-135, filed July 8, 2002 (recommendations to Spectrum Task Force regarding ways to allow small businesses and other designated entities to participate meaningfully in spectrum auctions).

CERTIFICATE OF SERVICE

I, Naomi Adams, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Reply Comments of the Rural Cellular Association" was served on this 7th day of August 2002, via hand delivery to the following parties:



Naomi Adams

Chairman Michael Powell
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, DC 20554

Commissioner Kathleen Abernathy
Federal Communications Commission
445 12th Street, SW, Room 8-A204
Washington, DC 20554

Commissioner Kevin Martin
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, DC 20554

Thomas J. Sugrue, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Michael J. Wilhelm
Public Safety and Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Qualex International
445 12th Street, SW
Room CY-B402
Washington, DC 20554