

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

In the Matter of)	
)	
Improving Public Safety Communications in the 800 MHz Band)	
)	WT Docket No. 02-55
Consolidating the 900 MHz Industrial/ Land Transportation and Business Pool Channels)	

SUPPLEMENTAL COMMENTS OF NEXTEL COMMUNICATIONS, INC.

Nextel Communications, Inc. (“Nextel”) submits these supplemental comments to reinforce its commitment to fund the relocation of public safety and private wireless incumbents as part of the Consensus Plan for 800 MHz Realignment (the “Consensus Plan”),¹ in the above-captioned proceeding.²

As described in previous filings by Nextel and the Consensus Parties,³ Nextel will provide up to \$850 million to cover the relocation expenses of public safety and private wireless incumbent licensees required to relocate under the Consensus Plan. Nextel will

¹ See Reply Comments of Industrial Telecommunications Association, Inc., et al. (“the Consensus Parties”), WT Docket No. 02-55 (Aug. 7, 2002) (“Consensus Plan”). The Consensus Parties have clarified and amended the Consensus Plan in subsequent filings in WT Docket No. 02-55. See Consensus Comments of the Consensus Parties (Sept. 23, 2002); Supplemental Comments of the Consensus Parties (Dec. 24, 2002); Reply Comments of the Consensus Parties (Feb. 25, 2003); Ex Parte Submission of the Consensus Parties (Aug. 7, 2003).

² See *Improving Public Safety Communications in the 800 MHz Band, Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, Notice of Proposed Rulemaking, 17 FCC Rcd 4873 (2002).

³ Consensus Plan at 19-21; Supplemental Comments of the Consensus Parties at 4-8; Reply Comments of the Consensus Parties at 11; Ex Parte Submission of the Consensus Parties at 50-52.

take the actions described below to provide absolute assurance to 800 MHz incumbent licensees and to the Federal Communications Commission (the “Commission”) that Nextel can and will provide the relocation funding described in the Consensus Plan, regardless of Nextel’s future financial condition.⁴ These actions enhance the funding mechanism described in the Consensus Parties’ Supplemental Comments, filed on December 24, 2002.

I. NEXTEL’S REVISED FUNDING MECHANISM: A \$100 MILLION ASSET TRANSFER AND \$750 MILLION IRREVOCABLE LETTER OF CREDIT

As explained in prior filings, the Consensus Plan proposes establishing a “Relocation Fund” to finance 800 MHz incumbent retuning costs.⁵ An independent Fund Administrator would manage the Relocation Fund.⁶ The Fund Administrator will disburse funds directly to incumbent public safety and private wireless licensees, or their designees, as covered relocation expenses are incurred. *No public safety agency or private wireless operators will have to first put up relocation funding and then seek reimbursement from the Relocation Fund.*⁷

⁴ Nextel’s funding commitment remains contingent on the Commission’s adoption of all relevant terms of the Consensus Plan, including the creation of (i) a 16 MHz cellular block from 816-824/861-869 MHz licensed primarily to Nextel, and (ii) a 10 MHz replacement spectrum block licensed to Nextel for CMRS services at 1910-1915/1990-1995 MHz.

⁵ Supplemental Comments of the Consensus Parties at 7.

⁶ Nextel has no objection to the Commission having an approval or consent role in the selection of the Fund Administrator.

⁷ The Consensus Parties propose that the Relocation Fund provide funding for the same varied relocation expenditures that were covered during the retuning of the Upper 200 SMR Channels, pursuant to Section 90.699 of the Commission’s rules. 47 C.F.R. § 90.699. Accordingly, if the Commission adopts the Consensus Plan, the Relocation Fund would cover the costs associated with the necessary reprogramming, retuning, and replacement of radio handsets and base station equipment. This would include the cost of software upgrades, engineering services, legal services, labor required for carrying out the retuning, site fees, testing of the retuned systems, and FCC and other regulatory fees. If new equipment – either handset or network equipment – is necessary to relocate a licensee,

Nextel will deposit at least \$100 million in cash to an escrow account created and designated for paying 800 MHz retuning costs pursuant to the Consensus Plan.⁸ Nextel will secure the remaining up to \$750 million through an irrevocable stand-by letter of credit from internationally recognized commercial lending institutions.⁹ The letter of credit will provide payments to the Relocation Fund for disbursement directly to (or for the benefit of) 800 MHz incumbent retunees in the unlikely event that Nextel is not able to provide the necessary funding of up to \$850 million to complete the Consensus Plan retuning process.¹⁰ These bankruptcy-proof arrangements should give the Commission complete confidence that the funding necessary to complete 800 MHz realignment under the Consensus Plan will be secured and available regardless of future changes in Nextel's financial position.

Nextel is taking these actions to further demonstrate the viability of the unique public/private Consensus Plan partnership as a means of preventing public safety interference and eliminating that threat to the safety of our Nation's first responders. The Consensus Plan will correct the Commission's now outmoded 800 MHz spectrum plan – thereby addressing the fundamental cause of this interference and preventing it before it

the cost of such new equipment will be covered by the Relocation Fund. In addition, as discussed in previous filings, the Relocation Fund will cover the necessary steps for the type of system being retuned to implement retuning without disrupting critical communications. See Supplemental Comments of the Consensus Parties at 3-7 and Appendix A.

⁸ Nextel had previously committed to make an initial \$25 million cash contribution; Nextel's revised commitment quadruples its up-front cash asset transfer for relocation funding.

⁹ Nextel has amended a credit facility with its commercial lenders to obtain the necessary letter of credit as needed.

¹⁰ Of course, Nextel will reduce the letter of credit amount periodically as it pays for Consensus Plan retuning and reduces its overall retuning obligation. Nextel will transfer funds into the Relocation Fund either directly or from the escrow account at its discretion.

occurs. Public safety first responders deserve no less and the Consensus Plan delivers that result – as described herein – at no cost to the American taxpayer.

II. CONCLUSION

Accordingly, the revised funding arrangements described herein provide 800 MHz incumbents with full assurance that they will not bear the ongoing financial burden of resolving interference in the 800 MHz band. The Consensus Plan is the only proposal in this proceeding that provides such assurance. This is yet another reason that the Commission should adopt the Consensus Plan as soon as possible.

Respectfully submitted,

NEXTEL COMMUNICATIONS, INC.

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