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November 7, 2003

BY ELECTRONIC FILING

John Muleta, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WT Docket No. 02-55
Ex Parte Presentation

Dear Mr. Muleta:

On September 15, 2003, Steve Browne, Deputy Manager of Safety for Technology and Operations for the City and County of Denver, Colorado, Jay Jacobsmeyer of Pericle Communications Company (a consultant to Denver), George Weimer of Trott Communications Group, Inc. (a consultant to the Industrial Telecommunications Association) and the below-signed counsel to Denver, met with you and Michael Wilhelm, Catherine Seidel, D'Wana Terry, Shelly Blakeney and Roberto Mussenden of the Wireless Telecommunications Bureau.

During the meeting, representatives from Denver were asked about the ongoing costs to Denver of continuing to monitor and resolve interference issues. In this regard, you asked that Denver provide the Commission with cost information to the extent that such information could be discerned.

Denver has reviewed its records relating to its interference resolving efforts. Thus far, Denver estimates that it has expended approximately \$130,000.00 in Denver staff and engineering resources on this problem. This figure does not include expenditures for outside counsel on channel exchange negotiations with Nextel, but rather represents the costs to Denver for identification and resolution of specific interference cases.

This expense to Denver, which is expected to continue at additional sites as Nextel and AT&T (which as been identified as a specific cause of interference either alone or in combination with Nextel) continue to add transmitter sites, has not resulted in the resolution of interference. Rather, and as explained in earlier Denver filings, Denver has only been able to partially mitigate the interference being experienced. Specifically, at eighteen (18) of the twenty-four (24) transmitter sites where Denver has already identified an interference problem, Denver was only able to eliminate interference on its five (5) control channels. This partial mitigation was the result of Nextel agreeing to discontinue utilization of certain frequencies for which it holds authorizations, for a limited period of time. Denver has been unable, after more than three (3) years of work, to mitigate interference at the remaining six (6) transmitter sites.

It is also important to note what “partial mitigation” means in the context of the eighteen (18) transmitter sites. At those sites, Denver personnel are able to “key” their radios on the control channels. The control channel then assigns the radio to a voice channel. If the controller assigns the radio to one of the twenty-four voice-only channels, and that channel is experiencing interference at that location at that moment, the officer will be unable to communicate. The officer must then continually re-key the radio until such time as the control channel assigns the radio to a frequency which is not then experiencing interference.

Thus, the partial mitigation which Denver has been able to accomplish at eighteen (18) problem locations has come at the cost of longer connect time for officers, a potentially dangerous situation, and a significant reduction in Denver’s system capacity, as the voice channels at all twenty-four (24) problem locations continue to experience interference. These consequences are not acceptable long-term situations.

Denver appreciates the efforts of some utility operators to find a solution to this problem which does not involve re-banding. Denver, as a municipal utility operating an 800 MHz utility system, is sympathetic with this effort. However, Denver has for more than three years played “whack-a-mole” with an ever-expanding interference problem, and the time has come to move beyond more studies, and resolve a problem before the first officer is harmed, the first firefighter is injured, or the first utility worker is unable to perform a critical function because they cannot call for assistance at a hazardous location. As discussed in Denver’s earlier filings, Denver has performed all of the recommendations contained in the Motorola “tool box”, with limited impact. These “technical solutions” are not alone sufficient to address the problem.

Denver believes that the Consensus Proposal, while not representing a total “victory” for any one side, represents a fair and balanced resolution to an endemic problem in the band. Indeed, no other party has come forward with any resolution which resolves the problem, is fair to all 800 MHz

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licensees, and imposes no costs on incumbent licensees. Denver appreciates the Commission's efforts to ensure a favorable outcome for all parties, and trusts that the Commission will resolve this issue as quickly as possible.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, 47 C.F.R. §1.1206(b)(2), this letter is being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely,

Alan S. Tilles
Counsel to the City and County of Denver