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June 22, 2004

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte* Presentation: In the Matter of Improving Public Safety Communications in the
800 MHz Band, WT Docket No. 02-55

Dear Ms. Dortch:

This letter is submitted on behalf of Consumers Energy Company and Entergy Corporation (collectively “the Utilities”) to respond to the June 4, June 9, and June 16, 2004, *ex parte* filings by Nextel Communications, Inc. (“Nextel”) in the above-referenced proceeding. In its most recent filings, Nextel has unilaterally revised the so-called “Consensus Plan” by, among other things, offering to vacate an additional 2 MHz of bandwidth in the 800 MHz band and withdrawing its previous commitment to vacate approximately 4 MHz of bandwidth in the 900 MHz band for reallocation to Business and Industrial/Land Transportation licensees. As explained below, the Utilities reiterate their opposition to any plan that would subject radio systems used by electric and gas utilities to higher levels of interference or to higher probabilities of interference.

It appears that Nextel is now offering to “contribute” the 816-817/861-862 MHz band with the intention that this additional bandwidth will be accessed by “compatible, consenting licensees” seeking to operate high- or low-site systems. An examination of terms under which Nextel is offering this spectrum, however, reveals that it would have severe limitations such that it could not be viewed as comparable to the spectrum currently licensed by the Utilities and other private wireless licensees. Indeed, although this latest proposal is cast as a benefit to public safety licensees, Nextel admits, in what constitutes an extraordinary understatement, that these channels “may not be optimum assignments for mission-critical public safety communications.”

Nextel is not proposing to “contribute” the 861-862 MHz band in any ordinary sense of that term. For example, Nextel is not apparently proposing to alter the out-of-band emissions (OOBE) limitations previously specified in Section 4.1.2 of Appendix F to the Consensus Plan, meaning that radio systems in this new allocation at 861-862 MHz could be subjected to even higher levels of interference from Nextel (operating in the adjacent 862-863 MHz band) than systems that would have been in the 860-861 MHz band and adjacent to Nextel’s operations in the 861-862 MHz band. Furthermore, Nextel is proposing to subject operations at 861-862 MHz to a signal strength threshold of as high as -65 dBm as a condition of receiving interference protection, a dramatically higher performance requirement than the -104 dBm/-101 dBm thresholds Nextel proposes to apply to operations below 861 MHz. In its June 16 filing, Nextel suggests a sliding scale of protection, with greater protection provided for licensees on channels closer to 861 MHz than would be available to licensees on channels closer to 862 MHz. On average, protection would be provided only if the licensee has a signal level of at least -80 dBm/-83 dBm. In light of these conditions, this spectrum would appear to present considerable operational challenges to private radio users.

The Utilities reiterate their position that, because of the public safety nature of their communications at 800 MHz, they should not be compelled to relocate into bands that would be subject to either higher levels of interference from Nextel or subject to a greater probability of interference. The Utilities are previously on record as opposing any requirement to relocate from the 851-854 MHz band into the so-called “guard band” at 859-861 MHz, and would also oppose any mandatory relocation of their systems into an expanded guard band at 859-862 MHz, particularly given the fact that more than half of the channels at 861-862 MHz would have even less OOBE protection from Nextel’s operations.

It should also be noted that because of unique considerations along the Canadian and Mexican border areas, Nextel might not hold licenses across the entire 861-862 MHz band. Consumers Energy, for example, holds frequency assignments in this portion of the band and would be directly and adversely affected by Nextel’s proposal to increase the probability of interference in this band and provide only limited protection for interference.

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The Utilities therefore renew their strong opposition to any requirement to relocate to, or remain in, the 859-862 MHz band without the right to relocate with full cost reimbursement as part of any rebanding exercise at 800 MHz. The Utilities would view any mandatory relocation to 861-862 MHz to be particularly ill-advised and inconsistent with the overall goal of reducing interference from Nextel's operations.

Very truly yours,

/s/ Shirley S. Fujimoto

Shirley S. Fujimoto

cc: Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Adelstein
John Muleta
Catherine Seidel
David Furth
Michael Wilhelm
Ed Thomas