

December 8, 2004

BY ELECTRONIC FILING

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

Re: WT Docket No. 03-103
Ex Parte Presentation

Dear Ms. Dortch:

Wide-band air-to-ground (WATG) represents a new source of interference in the 800 MHz band that the Commission did not contemplate in its recently adopted *800 MHz Order*.¹ Although the Commission's *800 MHz Order* adopted bright-line limits on out-of-band emissions (OOBE) in the 800 MHz band, these limits are part of a framework designed to equitably allocate responsibility for interference among all 800 MHz band users, including public safety, non-cellular SMR, and Business, Industrial and Land Transportation systems. The bright-line OOBE limits simply do not address whether and how WATG is integrated into the numerous intermediate procedural steps designed to ensure that public safety licensees do not receive interference.

The Commission must thoroughly integrate WATG into the *800 MHz Order's* interference-abatement framework. The guiding principle of this integration should be to ensure that WATG receives treatment no better than any other 800 MHz licensee. At a minimum, therefore, the integration of WATG into the *800 MHz Order* framework should include the following ten elements:

1. **Require WATG to Avoid Locating Transmitters in Public Safety Hot-Spots.** WATG licensees should not be permitted to enter these problem areas with new facilities that would potentially trigger costly mitigation measures from 800 MHz incumbents.² If WATG licensees are allowed into public safety hot spots at all, WATG licensees should be required to filter emissions to meet the post re-banding specifications from the outset.
2. **Require WATG to Provide Prior Notice.** WATG licensees should have to provide the same prior notice of at least ten business days before new cells are constructed or existing cells are modified to those public safety agencies and

¹ *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, Fourth Report and Order, Fourth Memorandum Opinion and Order, and Order, WT Docket 02-55, FCC No. 04-168, 19 FCC Rcd 14969 (2004) (*800 MHz Order*).

² "Public Safety Hot-Spots" are defined here as any metropolitan area in which entry by a WATG licensee would force 800 MHz incumbents to implement interference-abatement measures to protect public-safety licensees against harmful interference.

critical-infrastructure industries (CII) that request such information. Proper notification provides adjacent-band licensees with the knowledge necessary to quickly identify the interferer, provided that the interference and modification timelines coincide.

3. **Require WATG to Submit Proper Documentation.** WATG licensees should have to submit the same system parameters when they construct transmitters that 800 MHz incumbents must. These parameters include transmitter location, the effective radiated power, the antenna height, and the channels in use. Due to the different configuration of WATG systems, moreover, WATG licensees should also have to provide: (i) a detailed antenna pattern including the horizontal and vertical data; (ii) WATG filter specifications; and (iii) information concerning whether the WATG licensee has collocated with other transmitters. Adjacent-band licensees will need this information to know how much signal is propagating at or below the horizon and to determine the full potential for interference into neighboring bands.
4. **Require WATG to Respond to Interference Complaints Within 24 Hours.** WATG licensees should have to respond to interference complaints within the same 24-hour period as other 800 MHz licensees. The object of the re-banding process is to mitigate interference to public safety and other licensees. Prompt replies from the licensees of all interference sources are essential to meet this goal.
5. **Require WATG to Complete Interference Analyses Within 48 Hours.** WATG licensees should have to complete their interference analysis and initiate corrective action within the same forty-eight hour period of the initial complaint as other 800 MHz licensees if the complainant is a public safety or CII licensee.
6. **Require WATG to Respond to Public Safety Interference Complaints Within a Given Radius of their Transmitters.** At a minimum, WATG should have to respond to interference complaints when a WATG transmitter is located within a 5,000 foot radius of a complainant. It is doubtful, however, that applying the same 5,000 foot radius that applies to other 800 MHz licensees will suffice in this case because WATG transmitters will generally have much larger coverage areas than the existing 800 MHz licensees. Regardless of the precise radius, therefore, the Commission should expressly apply its decision to “not absolve parties with cell sites outside that radius from the responsibility for eliminating unacceptable interference if it is demonstrated that they are the source thereof” to WATG licensees.
7. **Apply the Same Rule of Reason to WATG.** The same “rule of reason” should apply to WATG to make “all necessary concessions to accepting the interference until the implementation of longer-term remedies” is completed. As with all other licensees, WATG should be subject to *all* previously existing interference guidelines. WATG should also be required to meet the post re-banding interference specifications for CMRS, public safety and CII users in the band.
8. **Permit Public Safety to Use “Safety Valve” Relief to Stop WATG Interference.** Public safety and CII licensees should have recourse to the same “safety valve” to force discontinuance of WATG operations when the continued

presence of interference constitutes a clear and imminent danger to life or property.

9. **Permit Public Safety to Respond in a Similar Fashion.** Public safety and CII licensees that would otherwise have to report system-parameter changes to adjacent-band licensees should have a similar obligation to inform WATG licensees. Due to the larger geographic reporting area for WATG transmitters, however, imposing less stringent timelines within which public safety and CII licensees must inform WATG licensees of system changes is advisable.
10. **Encourage WATG to Mediate Disputes.** The Commission should encourage WATG licensees to use mediation to solve 800 MHz interference disputes with public safety and CII licensees.

Applying the bright-line rules governing interference does not explain how the new interference source – WATG – fits into the detailed framework for resolving 800 MHz interference. Before the Commission authorizes a new WATG service in the midst of an interference-prone band, the Commission should completely integrate WATG licensees into the *800 MHz Order's* interference-abatement framework. The ten elements listed above provide some indication of the types of provisions that the Commission should apply to new WATG licensees.

Under section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), please associate this letter with the above-referenced docket.

Sincerely,

/s/ Trey Hanbury

Trey Hanbury
Senior Counsel
Nextel Communications

CC: Bryan Tramont, Sheryl Wilkerson, Samuel Feder, Jennifer Manner, Paul Margie, Barry Ohlson