

**Before the
Federal Communications Commission
Washington, D. C. 20554**

In the Matter of)	
)	
Improving Public Safety Communications in the 800 MHz Band)	WT Docket 02-55
)	
Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels)	
)	
Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems)	ET Docket No. 00-258
)	
Petition for Rule Making of the Wireless Information Networks Forum Concerning the Unlicensed Personal Communications Service)	RM-9498
)	
Petition for Rule Making of UT Starcom, Inc., Concerning the Unlicensed Personal Communications Service)	RM-10024
)	
Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile Satellite Service)	ET Docket No. 95-18
)	

To: The Commission

**REPLY TO OPPOSITIONS TO PETITIONS
FOR CLARIFICATION AND RECONSIDERATION**

Consolidated Edison Company of New York, Inc. ("Con Edison") hereby replies to the oppositions filed by Nextel Communications, Inc. ("Nextel") and CTIA – The Wireless Association ("CTIA")(collectively "Oppositions") to Con Edison's petitions for clarification and reconsideration, filed December 22, 2004 and March 10, 2005, respectively ("Petitions"), of the Commission's *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and*

*Order, and Order*¹ ("R&O") and *Supplemental Order and Order on Reconsideration*² (Supplemental Order) in these proceedings, insofar as the Oppositions would deny Con Edison the right to full protection against harmful interference simply because the mobile/portable units in operation on its iDEN system do not meet the Commission's new performance requirements.

Preliminary Statement

In its Petitions, Con Edison noted that the mobile and portable units currently in operation on its Motorola iDEN system (the same state-of-the-art technology utilized by Nextel and others) fall short of the Commission's new standards that would require minimums of 75 dB intermodulation and adjacent channel rejection ratios for mobiles, and 70 dB intermodulation and adjacent channel rejection ratios for portables, both at -116 dBm reference sensitivity.³ In the interim, based on recent field testing, Con Edison now believes that the 75 dB figure for mobiles will not prove to be a problem in actual operation. However, Con Edison remains convinced that its portable units, whose intermodulation rejection ratio is nominally 66 dB, or 4 dB short of the 70 dB requirement, will likely experience harmful and unacceptable interference unless the Commission makes provision for Con Edison to receive the same level of interference protection that other licensees using TIA Class A equipment will enjoy following rebanding.

Nextel's Opposition

Nextel takes the position that "the common thread" in the filing by Con Edison and other public utilities is its "reluctance to commit the resources necessary to construct and maintain up-

¹ FCC 04-294, rel. December 22, 2004; 70 FR 6761, February 8, 2005.

² FCC 04-168, rel. Aug. 6, 2004, 69 FR 67823, Nov. 22, 2004.

³ R&O, at para. 109; 47 C.F.R. § 22.970(b).

to-date systems and take other reasonable steps to make [its] systems more interference-resistant, such as increasing signal strength or procuring improved receivers.”⁴

Con Edison wishes to assure the Commission that it has no such reluctance and is not motivated by a desire to avoid the responsibilities in maintaining an interference-resistant operation. To the contrary, Con Edison has invested more than \$25 million in its iDEN system and purchased the very best mobiles and portables that were available from Motorola at the time of purchase.. These units are not capable of being upgraded to the new standards at any cost. With respect to replacing the portable (handheld) units, Con Edison has determined that the iDEN handsets available from Motorola (the only manufacturer of this equipment) appear to be designed exclusively for the consumer market. These handsets, which it appears are intended to be replaced every 12-24 months with the latest bells and whistles, are not sufficiently robust to withstand the rigors of commercial use in a public utility environment over a long period of time. Motorola simply does not, at the present time, sell a portable unit that meets TIA Class A minimum standards and, at the same time, is up to the heavy handling and usage required in utility work. Given the fact that Con Edison has some 3,300 mobile/portable units in operation on its iDEN system, it is simply not cost effective to replace these units every 12-24 months. As a practical matter, suitable handsets are not available at any price.

Nextel’s suggestion that the problem anticipated by Con Edison and other public utilities could be avoided by simply increasing signal strength is likewise unavailing. Con Edison’s iDEN system has been optimally designed with power levels geared to the most efficient frequency reuse and handoff. Raising power levels to increase resistance to unacceptable interference is not the answer. This approach would create more problems than it would solve

⁴ Nextel Opposition at 16.

by disrupting operations based on a careful reuse and handoff pattern and by increasing the likelihood of causing interference to high-site licensees, thereby exacerbating the problems that the Commission sought to eliminate with rebanding.

CTIA's Opposition

CTIA posits that Con Edison should be denied the reconsideration it seeks, which, it claims is, in essence, a request for waiver of Section 22.970(b) of the Commission's Rules, because it has neither shown good cause for the grant of a waiver nor that the public interest would be served by such grant.⁵ However, CTIA seemingly misunderstands the purpose of Con Edison's reconsideration request. Rule Section 22.970(b) was first adopted in the R&O. It is not yet set in stone. It and the other regulations adopted by the in the R&O are now subject to reconsideration by the Commission and may be modified in the final analysis. Con Edison is requesting that the rule be modified prior to final adoption to take into account its rather unique circumstances. A rule waiver is not required at this juncture. Moreover, as an alternative to changing the rule, Con Edison requested that the Commission establish a framework for granting waivers of the newly adopted performance standards in appropriate circumstances such as those described herein.

Even if a waiver were to be required, Con Edison believes that the public interest is disserved by effectively denying adequate interference protection to a Critical Infrastructure Industry ("CII") licensee that is involved daily in high priority activities affecting the safety of life and property in a public utility service area of some nine million people. Without an interference-free communications system, Con Edison's ability to conduct its utility operations would be severely impaired. Con Edison's employees perform work that is critical to the well

⁵ CTIA Opposition at 12.

being of New York City's residents, government and businesses. Con Edison dispatches approximately 8,000 personnel into the field each day to perform work that can be dangerous to employees and the public if communications are impeded or compromised by harmful interference. The availability of reliable, interference-free communications is accordingly essential to the ability of Con Edison's field personnel to perform their critical work in a safe and efficient manner. A greater showing of public interest could hardly be imagined.

Conclusion

Con Edison should be entitled, following rebanding, to the same level of protection from interference that it currently enjoys. It would be ironic indeed if the very process that the Commission has crafted to mitigate interference would actually result in less interference protection to Con Edison, a CII licensee. Con Edison thus believes that its currently licensed and operating iDEN system should be entitled to full interference protection. As a practical matter, Con Edison's request is entirely reasonable given that the intermodulation rejection ratio of its portable units is nominally 66 dB, just 4 dB short of the new standard. Moreover, grant of Con Edison's request should not place a significantly greater burden on CMRS licensees. In addition, it would provide Con Edison with a firm regulatory footing should it encounter unacceptable interference from an uncooperative licensee that is unwilling to provide relief because it is under no regulatory obligation to do so.

Con Edison has shown that it was up to the task in responding effectively following the 9/11 disaster and in restoring service following the power blackouts that the New York metropolitan area has experienced in the past. Its ability to continue to do so depends largely on the availability of a reliable, interference-free communications system. Accordingly Con Edison has clearly shown that it is entitled to the reconsideration requested.

Respectfully submitted,

**CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.**

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CERTIFICATE OF SERVICE

I, Harold Mordkofsky, hereby certify that on this 2nd day of May, 2005, copies of the foregoing Reply to Oppositions to Petitions for Clarification and Reconsideration were deposited in the U.S. Mail, postage prepaid, addressed to the following:

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