

**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)	
)	
Wireless Telecommunications Bureau Outlines Application Freeze Process for Implementation of 800 MHz Band Reconfiguration)	DA 05-1340

To: The Commission

**COMMENTS OF SOUTHERNLINC WIRELESS
ON PETITION FOR CLARIFICATION OR PARTIAL RECONSIDERATION**

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless ("SouthernLINC Wireless"), by and through its undersigned counsel, hereby submits these Comments on the Public Safety Organizations' Petition for Clarification or Partial Reconsideration¹ of the *Public*

¹ Petition for Clarification or Partial Reconsideration of Freeze Process for Implementation of 800 MHz Band Reconfiguration of Association of Public-Safety Communications Officials-International, Inc., International Association of Chiefs of Police, International Association of Fire Chiefs, International Municipal Signal Association, Inc., Major Cities Chiefs Association, Major County Sheriff's Association, and National Sheriffs' Association, WT Docket No. 02-55 (May 16, 2005) [hereinafter *Public Safety Organizations' Petition*].

Notice in the 800 MHz Public Safety Interference proceeding,² pursuant to Section 1.429 of the Federal Communications Commission's ("FCC's") rules.³ Although the Public Safety Organizations reasonably requested the exclusion of Public Safety Category channels below 815/860 MHz from the freeze on filing applications during the 800 MHz band reconfiguration,⁴ the freeze must remain in place for Public Safety channels above 812.5/857.5 MHz in the Southeastern United States.

The FCC should deny, in part, the requested relief because it would conflict with the unique band plan adopted for the Southeastern United States.⁵ In the *Report and Order*, the FCC expanded the new Enhanced Specialized Mobile Radio ("ESMR") band in the Southeast after recognizing that "there are an inadequate number of channels in the 816-824 MHz/861-869 MHz band segment to replicate the existing channel capacity of both Southern LINC and Nextel."⁶ While the FCC designated the 813.5-824 MHz/858.5-869 MHz band segment as the new ESMR

² Wireless Telecommunications Bureau Outlines Application Freeze Process for Implementation of 800 MHz Band Reconfiguration, WT Docket No. 02-55, *Public Notice*, DA 05-1340 (2005).

³ 47 C.F.R. § 1.429 (2004).

⁴ *Public Safety Organizations' Petition* at 1, 3.

⁵ The FCC defines the Southeastern United States in section 90.614(c) of its amended rules, as well as in Appendix G of the *Report and Order*. Private Land Mobile Services; 800 MHz Public Safety Interference Proceeding, 69 Fed. Reg. 67,823, 67,843 (Nov. 22, 2004) (to be codified at 47 C.F.R. § 90.614(c)); In re Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels; WT Docket No. 02-55, *Second Erratum*, 19 FCC Rcd 19651, 19655-56 (2004).

⁶ In re Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels; WT Docket No. 02-55, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969, 15057 ¶ 164, 15058 ¶ 166 (2004) [hereinafter *Report and Order*].

band, it shifted the Expansion Band from 814-815 MHz/859-860 MHz to 812.5-813.5 MHz/857.5-858.5 MHz in the Southeast.⁷

However, the Public Safety Organizations stated their request for relief from the freeze broadly, thereby sweeping in channels reallocated to the new ESMR band between 813.5-815 MHz/858.5-860 MHz in the Southeast. Their request as to these channels should not be granted for several reasons. First, the FCC prohibited non-ESMR systems, which include all Public Safety licensees, from operating on ESMR spectrum, thereby precluding any new Public Safety applications for this spectrum and requiring the relocation of existing Public Safety licensees from this portion of the 800 MHz band.⁸ Thus, the FCC should not grant the requested relief with respect to the Public Safety Category channels between 813.5-815 MHz/858.5-860 MHz in the Southeast.

Second, although the Public Safety Organizations based their request on the assumption that the band reconfiguration would not directly impact Public Safety Category channels in the 809.75-815 MHz/854.75-860 MHz segment of the 800 MHz band,⁹ this assumption is inaccurate for the unique band plan in the Southeast. As mentioned above, the band reconfiguration will directly impact all Public Safety licensees in the 813.5-816 MHz/858.5-861 MHz portion of the ESMR band because they must relocate to the non-ESMR band. The band reconfiguration will

⁷ *Id.* at 15058 ¶ 166.

⁸ In re Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels, WT Docket No. 02-55, *Supplemental Order and Order on Reconsideration*, 19 FCC Rcd 25120, 25156 ¶ 81 (2004) (holding that non-ESMR systems may not operate in the ESMR portion of the 800 MHz band because such operations would "undercut one of the basic tenets of this proceeding: that incompatible "high-site" non-ESMR technology must be segregated from "low-site" ESMR technology if unacceptable interference is to be avoided") [hereinafter *Supplemental Order*].

⁹ *Public Safety Organizations' Petition* at 2-3.

also potentially impact Public Safety licensees in the 812.5-813.5 MHz/857.5-858.5 MHz Expansion Band. The Public Safety Organizations themselves observed that the freeze should continue to apply to licensees operating in the Expansion Band because the band reconfiguration could directly impact them.¹⁰ Because the Expansion Band in the Southeast is 812.5-813.5 MHz/857.5-858.5 MHz, the FCC should, consistent with the Public Safety Organizations' view, retain the freeze for these channels.

Finally, the retention of the freeze above 812.5/857.5 MHz in the Southeast is in the public interest. The FCC has repeatedly affirmed that a "freeze is necessary in order to maintain a stable spectral landscape during the reconfiguration process in each region."¹¹ The FCC also observed that there is "no alternative to a freeze if band reconfiguration is to be timely accomplished."¹²

¹⁰ *Id.*

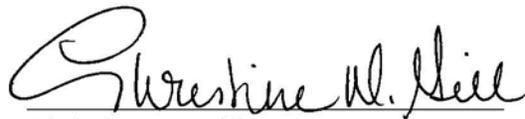
¹¹ Wireless Telecommunications Bureau Announces that 800 MHz Band Reconfiguration Will Commence June 27, 2005, in the NPSPAC Regions Assigned to Wave 1 and Specifies 800 MHz Reconfiguration Benchmark Compliance Dates, WT Docket No. 02-55, *Public Notice*, DA 05-1546 (2005); *Supplemental Order*, 19 FCC Rcd at 25159 ¶ 87; *Report and Order*, 19 FCC Rcd at 15078 ¶ 204.

¹² *Report and Order*, 19 FCC Rcd at 15078 ¶ 204.

WHEREFORE, THE PREMISES CONSIDERED, SouthernLINC Wireless respectfully requests that in the event the FCC decides to grant the Public Safety Organizations' request for relief from the 800 MHz freeze, the FCC continue to apply the freeze on applications for Public Safety Category channels above 812.5/857.5 MHz in the Southeastern United States during the 800 MHz band reconfiguration.

Respectfully submitted,

SOUTHERN COMMUNICATIONS SERVICES,
INC. D/B/A SOUTHERNLINC WIRELESS



Christine M. Gill
Jeffrey L. Sheldon
MCDERMOTT WILL & EMERY LLP
600 Thirteenth Street, N.W.
Washington, D.C. 20005
202.756.8000

Michael D. Rosenthal
Director of Legal and External Affairs
SouthernLINC Wireless
5555 Glenridge Connector, Suite 500
Atlanta, Georgia 30342
678.443.1500

Attorneys for SouthernLINC Wireless

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CERTIFICATE OF SERVICE

I, Christine Biso, do hereby certify that on this 9th day of June 2005, a copy of the foregoing
“Comments of SouthernLINC Wireless on Petition for Clarification or Partial Reconsideration”
was sent by first-class mail, postage prepaid, to the following:

Michael J. Wilhelm
Chief, Public Safety and Critical Infrastructure Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Roberto Mussenden
Public Safety and Critical Infrastructure Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Robert M. Gurss
Director, Legal & Government Affairs
Association of Public-Safety Communications
Officials-International
1725 DeSales Street, NW, Suite 808
Washington, DC 20036

Counsel for
Association of Public-Safety Communications Officials-International, Inc.
International Association of Chiefs of Police
International Association of Fire Chiefs, Inc.
International Municipal Signal Association, Inc.
Major Cities Chiefs Association
Major County Sheriffs' Association
National Sheriffs' Association

/s/Christine Biso_____

Christine Biso