

October 17, 2005

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Submission – WT Docket No. 02-55 – Preferred Communication Systems, Inc. – Demonstration Of Lack Of Spectrum In Major Cities To Provide “Comparable Facilities.”

Dear Ms. Dortch:

A fundamental principle and commitment of the 800 MHz rebanding plan approved by the Commission in WT Docket No. 02-55 (the “Plan”) is that relocated licensees, including public safety, Business and Industrial/Transportation (“BILT”) and commercial Specialized Mobile Radio (“SMR”) must receive “comparable facilities” in their new “locations.” The Commission no doubt concluded that the spectrum shifts and trade offs required by the Plan were sufficient to satisfy that commitment.

The attached analysis raises substantial doubts about the validity of that conclusion in a number of major U.S. cities. It methodically demonstrates that in those cities there inevitably a spectrum shortfall that will, of necessity, deprive some licensees of “comparable facilities.” For example, in Boston, Massachusetts, there will be a shortfall of 119 channels to meet that standard. In Miami, Florida, there will be a shortfall of 106 such channels.

The analysis was performed by Concepts To Operations, Inc. (“CTO”), an experienced telecommunications and information systems engineering and consulting firm that has actively participated in this docket on a number of occasions. Indeed, in November of 2004, an earlier analysis by CTO first raised a question about the Commission’s assumptions.

In its recent Memorandum Opinion and Order, FCC 05-174, dated October 5, 2005, the Commission, in discussion the “comparable facilities” requirement allowed for the “possibility that an engineering analysis may be appropriate...in a specific case,” but rejected the idea of a



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“market-by-market analysis.” At the same time, based on the specific situation in Atlanta, the Commission was prepared to address a channel shortfall problem therein.

The CTO Report provides an analysis of over 570 cities in the U.S. and reveals channel deficits in many of them. Thus, the rebanding plan in these communities cannot be carried out without addressing these discrepancies. It would be irresponsible for the Commission to continue the implementation of the rebanding plan without substantially addressing this analysis.

Pursuant to Section 1.1206(b) of the Commission’s rules, this letter is being filed electronically through ECFS.

Respectfully submitted,

Preferred Communication Systems, Inc.

By: 
Paul C. Besozzi

cc: Charles M. Austin
Michael J. Wilhelm
Office of Chairman Kevin J. Martin
Office of Commissioner Kathleen Q. Abernathy
Office of Commissioner Michael J. Copps
Office of Commissioner Jonathan S. Adelstein
Transition Administrator