

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

IN THE MATTER OF:

Former Nextel Communications, Inc.)	
Upper 700 MHz Guard Band Licenses)	WT Docket No. 06-169
and Revisions to Part 27 of the)	
Commission's Rules)	

Development of Operational, Technical)	
and Spectrum Requirements for Meeting)	
Federal, State and Local Public Safety)	WT Docket No. 96-86
Communications Requirements Through)	
the Year 2010)	

January 23, 2007

Rebuttal Comments of the Commonwealth of Pennsylvania to Joint Comments of Regional Planning Committee 20, Regional Planning Committee 42 (700 MHz), The State of Maryland and The Commonwealth of Virginia filed on November 13, 2006 (Joint Comments)

The Commonwealth of Pennsylvania (COP) is a licensee of the Commission in the Public Safety Radio Services, and specifically for purposes of this filing, a license of the State Use channels as defined in WT Docket 96-86. As a licensee of "state use" channels the Commission places special responsibility for the licensing and management of this portion of the 700 MHz spectrum with the Governor of the State.

The COP finds in the Joint Comments certain irregularities and incorrect statements that directly affect our license of this spectrum and would through this rebuttal offer clarification to the Commission on these issues.

1. In the Joint Comments¹ was stated that:

In October 2004, the State of Maryland, the Commonwealth of Virginia, and the District of Columbia concluded a series of meetings to equitably distribute the State set-aside channels and to alleviate potential cross-border interference issues. The collective group adopted a common 12 Cell Channel Grouping plan methodology, based upon the model of the New York Statewide Wireless Network. This channelization plan has been vetted with the states surrounding both Maryland and Virginia, including, but not limited to, Delaware, Pennsylvania, West Virginia, North Carolina, South Carolina and Kentucky.

Under the Commission's Docket 86-96, certain responsibilities were entrusted to the Governor of each state, in that:

Upon receipt and processing of a state's application, we will issue a license directly to the governor of each state, or its designee²

In the Commonwealth of Pennsylvania, The Honorable Governor Edward G. Rendell has designated the Office of Public Safety Radio (OPRS) as his designee for licensing and administration of the "state use" spectrum. As the official designee of the Governor, OPRS has not received or concurred with any allocation of spectrum along the border with Maryland, West Virginia, Delaware or Virginia as alluded in the Joint Comments. OPRS welcomes the opportunity to discuss this issue with similarly authorized entities in surrounding states, but does not recognize any authority of Regional Planning Committees to manage the "state use" spectrum. The COP has concern that the 700 MHz plan for NCC Region 20 includes the referenced state use channel plan. The Commission expressly removed the "state use" channels from Regional Planning Committee authority unless and until the state fails to license or implement the channels.

The Commission was clear that:

¹ Joint Comments pages 6 and 7

² FCC 00-348 THIRD MEMORANDUM OPINION AND ORDER AND THIRD REPORT AND ORDER WT Docket No. 96-86 - Para 61

What ever part of this 2.4 megahertz that a state has not applied for by December 31, 2001, will revert to General Use and be administered by the relevant RPC (or RPCs in the instances of states that encompass multiple RPCs).³

The COP is troubled by the inclusion of ‘state use channels in the Region 20 plan and the exclusion of Pennsylvania in developing the allocation mechanism and determination.

We are supportive of the efforts to establish a “state use” plan and welcome meaningful discussion by authorized state representatives. The COP is fully cognizant that, if the Commission guidelines which utilize a 40 dBu F(50,50) service contour at the state border based upon Section 73.699 (R6602 measured curves) are used as the exclusive spectrum management technique, intolerable interference with result without incorporation of a channel use plan. This is due to the interference contour of each site being approximately 18 dB less in signal strength and calculated to F(50,10) reliability. This interference contour problem highlights the need for states to enter into meaningful planning along the borders.

Without an agreed channel plan the COP expects that no bordering state will project a service contour into Pennsylvania; and that Pennsylvania is under no obligation to honor any plan developed without consultation by limiting interference signals, which under the Commissions definitions will extend beyond the Commonwealth borders where the 40 dBu contour stops.

2. The COP is further troubled with the statement in the Joint Comments⁴:

³ FCC 00-348 THIRD MEMORANDUM OPINION AND ORDER AND THIRD REPORT AND ORDER WT Docket No. 96-86 - Para 60

⁴ Joint Comments at page 29

As an example of the need for additional channels, in a reasonably compact area such as Regions 20 and 42, even the ninety-six (6.25 KHz) narrowband channel pairs established for state use are easily consumed when multiple states and other authorized users such as the Commonwealth of Virginia, District of Columbia, and State of Maryland are geographically proximate.

The COP is currently implementing an 800 MHz radio system and plans to incorporate “state use” channels into the system to augment coverage and capacity. The system we are implementing is currently capable of operating in a 6.25 kHz equivalency mode.

We are concerned that the Joint Comments have not planned to account for 192 state use channels spaced at 6.25 kHz. The COP is supportive of Commission efforts to utilize the spectrum in the most efficient way. There must be an accounting of 192 state use channels no later than December 31, 2017.

3. Conclusion

The COP has not been consulted during the development by the Joint Commenter’s of allocation of the “state use” channels. We believe the Regional Planning Committees lack the status to prepare, enforce, or proffer to the Commission such a plan and to obligate the Governors of the individual states, unless the Governor has expressly authorized the regional Planning Committee to be the designee. The COP is ready and willing to discuss these issues with all surrounding states