

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

In the Matter of)	
)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems)	CC Docket No. 94-102
)	
Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones)	WT Docket No. 01-309
)	
Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services)	WT Docket No. 03-264
)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules)	WT Docket No. 06-169
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010)	WT Docket No. 96-86
)	
Declaratory Ruling on Reporting Requirement under Commission's Part 1 Anti-Collusion Rule)	WT Docket No. 07-166
)	

**COMMENTS OF MOTOROLA, INC.
IN SUPPORT OF THE PETITIONS FOR RECONSIDERATION
OF THE COMMONWEALTH OF VIRGINIA AND OF PIERCE TRANSIT**

Motorola, Inc. (“Motorola”) hereby submits these comments in support of the Petitions for Reconsideration filed by the Commonwealth of Virginia and Pierce Transit, both in response to the above-captioned Second Report and Order.¹

¹ *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands; Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling*

In creating the new 700 MHz band plan, the Commission consolidated the spectrum allocated for public safety narrowband operations into a single block. Motorola supports this consolidation because it will result in more efficient use of the spectrum, thereby allowing more spectrum to be used to provide broadband services to public safety. For those public safety licensees that have initiated or completed the installation of 700 MHz narrowband equipment in conformance with the previous band plan, the licensee of the Upper 700 MHz D block will be financially responsible for modifying and rebanding public safety equipment to conform to the newly consolidated narrowband block.² In order to minimize uncertainty and to cap costs, the Commission prohibited authorization of any new narrowband operations in the future broadband channels (Channels 63 and 68 and the upper 1 megahertz of Channels 64 and 69) after August 30, 2007 and deemed any equipment deployed in those frequencies subsequent to August 30, 2007 ineligible for relocation funding.³

Systems; Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones; Biennial Regulatory Review - Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services; Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in The 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements through the Year 2010; Declaratory Ruling on Reporting Requirement under Commission's Part 1 Anti-Collusion Rule, WT Docket Nos. 06-150, 01-309, 03-264, 06-169, 96-86, 07-166, CC Docket No. 94-102, and PS Docket No. 06-229, Second Report and Order, FCC 07-132 (rel. Aug. 10, 2007) ("Order" or "Second Report and Order").

² See Second Report and Order at ¶ 12.

³ Second Report and Order at ¶¶ 333-334; *New Public Safety Narrowband Operations Outside of the 700 MHz Consolidated Narrowband Blocks Prohibited as of August 30, 2007*, Public Notice, PS Docket No. 06-229, WT Docket No. 96-86, DA 07-3644 (PSHSB, rel. Aug. 16, 2007). On October 5, 2007, the Commission announced that 700 MHz public safety licensees must file information for such equipment in operation as of August 30, 2007 by October 23, 2007 in order to be eligible for reimbursement of

The Commonwealth of Virginia and Pierce Transit seek reconsideration of these prohibitions and limitations. Motorola agrees with the Commonwealth of Virginia and Pierce Transit that the Commission must ensure that the reconfiguration process does not impede the on-going deployment of public safety systems. Like numerous other public safety entities, the Commonwealth of Virginia and Pierce Transit are in the process of deploying new 700 MHz narrowband systems.

The Commonwealth of Virginia is currently in the middle of a five-year process for deploying a statewide public safety radio communications system (STARS). STARS facilitates interoperability between 22 participating state agencies and 134 local communications systems in Virginia.⁴ The Commonwealth completed installation of approximately 64 percent of its STARS 700 MHz portable radios and mobile repeaters.⁵ Virginia still needs to deploy the remainder of the system, but such deployment would violate the Second Report and Order and would be at a great cost to the Commonwealth of Virginia, who would be responsible for rebanding costs for that remainder.

Pierce Transit has been in the process of deploying its 700 MHz system since March 2006. The system's other radio system is more than 17 years old and is experiencing

related relocation costs. *Public Safety and Homeland Security Bureau Announces an October 23, 2007 Deadline for Filing 700 MHz Relocation Certification Information*, Public Notice, PS Docket No. 06-229, WT Docket No. 96-86, DA 07-4168 (PSHSB rel. Oct. 5, 2007).

⁴ Petition for Reconsideration, Commonwealth of Virginia, WT Docket Nos. 06-150, 01-309, 03-264, 06-169, 96-86, 07-166 CC Docket No. 94-102, and PS Docket No. 06-229 at 5 (Sept. 24, 2007) (“Virginia Petition for Reconsideration”).

⁵ Virginia Petition for Reconsideration at 5.

multiple failures.⁶ Pierce Transit paid for the 700 MHz radio system in December 2006; installation of its master site, prime site and two remote sites is complete.⁷ Deployment of more than 650 mobile and portable radios is scheduled to take place between November 2007 and June 2008. Such deployment, however, would violate the Second Report and Order and would require Pierce Transit to incur an enormous financial burden, which they may not be able to bear. As such, Pierce Transit now has “a partially completed and partially operational 700 MHz voice radio system and CAD/AVL data communications system for which it has paid over \$31 million,” but, absent relief from the Second Report and Order, Pierce Transit cannot fully construct and operate the system without great cost.⁸

In June 2007, before the Commission released the Second Report and Order, the National Public Safety Telecommunications Council (NPSTC) suggested a four-step process to implement the consolidation and retuning process for the narrowband spectrum.⁹ NPSTC proposed that the retuning be completed pursuant to the new consolidated band plan by February 17, 2009, the scheduled date for the DTV transition.¹⁰ The process included obtaining detailed information from licensees regarding deployed systems in order to

⁶ Petition for Reconsideration, Pierce Transit, WT Docket Nos. 06-150, 01-309, 03-264, 06-169, 96-86, 07-166, CC Docket No. 94-102, and PS Docket No. 06-229 at 3 (Sept. 24, 2007) (“Pierce Transit Petition for Reconsideration”).

⁷ Pierce Transit Petition for Reconsideration at 4.

⁸ Pierce Transit Petition for Reconsideration at 6.

⁹ See Letter from Vincent R. Stile, Chair, National Public Safety Telecommunications Council to the Honorable Kevin Martin, Chairman, Federal Communications Commission, CC Docket No. 94-102, WT Docket Nos. 96-86; 01-309; 03-264; 06-150; 06-169, PS Docket No. 06-229 at 3 (June 25, 2007) (“NPSTC June 25, 2007 Ex Parte”)

¹⁰ NPSTC June 25, 2007 Ex Parte.

develop a more accurate understanding of the actual costs of consolidation and to provide an orderly transition minimizing any disruption to public safety communications.¹¹

Motorola is dedicated to helping the public safety community and the Commission implement the new band plan as quickly and efficiently as possible and has continually supported NPSTC's suggested four-step process.¹² To assist these efforts, Motorola provided a cost estimate for rebanding in June 2007.¹³ At the time, Motorola made clear that this estimate was based on the best information available, that it was imperfect and subject to change, and that actual costs should in fact be reimbursed.¹⁴ Accordingly, Motorola supports the petitioners' requests for reconsideration seeking changes so as to not impede deployment of public safety systems and to reimburse actual costs incurred as a result of reconfiguration.

The Virginia and Pierce Transit Petitions for Reconsideration are consistent with the recommendations of NPSTC and Motorola that public safety entities need at least one year from the adoption of a final band-plan to allow them to continue to deploy much needed communications systems. Such an approach allows time for an orderly transition that would still be completed by the end of the DTV transition, when the spectrum is to

¹¹ NPSTC June 25, 2007 Ex Parte.

¹² See Letter from Steve B Sharkey, Director, Spectrum and Standards Strategy, Motorola, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 94-102, WT Docket Nos. 96-86; 01-309; 03-264; 06-150; 06-169, PS Docket No. 06-229 (June 29, 2007) ("Motorola June 29, 2007 Ex Parte").

¹³ See Motorola June 29, 2007 Ex-Parte Letter.

¹⁴ See Motorola June 29, 2007 Ex-Parte Letter ("The process proposed by NPSTC includes a census phase where information is gathered from the licensees and which will provide more precise information regarding the costs of reconfiguration.")

be vacated by broadcasters and be fully available for use by new services.¹⁵ Absent relief from the current rules, states such as Virginia and systems such as the Pierce Transit would be required to implement the remainder of its system on the new frequencies within the consolidated narrowband spectrum, creating the potential for disruption to critical communications.¹⁶

By interrupting deployment of planned public safety systems, the Commission has imposed significant burdens on those public safety entities that were in the process of deploying planned communications systems in the 700 MHz band. The Commission's Second Report and Order precludes access to crucial interoperable public safety systems by making it virtually impossible for public safety to effectively implement systems that they have already spent significant resources planning and implementing. Moreover, forcing public safety to bear the cost of rebanding any new systems may have the same effect as prohibiting deployment of these systems; budgets have been set and money has been paid.¹⁷ The cost to public safety is not justified by the marginal benefit of capping costs of rebanding. In fact, the incremental cost of requiring the D block winner to fund retuning of systems already in the midst of deployment through July 2008, as NPSTC had proposed, versus the August 2007 date adopted by the Commission, is estimated to be less than one half percent of the \$1.33 billion D block auction reserve price set by the

¹⁵ See Motorola June 29, 2007 Ex-Parte Letter.

¹⁶ Virginia Petition for Reconsideration at 5-6.

¹⁷ Pierce Transit Petition for Reconsideration at 15 (noting that if the Pierce Transit system is unable to obtain funding for rebanding, Pierce Transit may be left with a system that would be rendered inoperable).

Commission.¹⁸ The public interest certainly supports allowing states and local governments to deploy much needed public safety systems without significant expense and delay.

Motorola appreciates the Public Safety and Homeland Security Bureau's recent attention to the case-by-case requests from various licensees in the midst of 700 MHz narrowband deployment to waive the August 30, 2007 deadline so a more realistic timetable can be followed in transitioning from the previous to the new band plan. Motorola believes that the Petitions for Reconsideration by the Commonwealth of Virginia and Pierce Transit are in essence attempting to solve the same problem and therefore deserve to be granted.

For these reasons, Motorola supports the Commonwealth of Virginia Petition for Reconsideration and the Pierce Transit Petition for Reconsideration and urges the Commission to realign its 700 MHz narrowband transition rules to support the needs of public safety licenses in the midst of system deployment.

Respectfully Submitted,

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¹⁸ *Auction of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum Opening Bids, Reserve Prices, Upfront Payments, and Other Procedures for Auctions 73 and 76, Public Notice, AU Docket No. 07-157, DA 07-4171 (rel. Oct. 5, 2007).*