

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
)	
New 800 MHz Band Plan for U.S. – Canada)	
Border Region)	
_____)	

REPLY COMMENTS
OF THE
STATE OF MICHIGAN

The State of Michigan (the “State” or “Michigan”) hereby submits these reply comments in response to the Federal Communications Commission (“FCC” or “Commission”) *Further Notice of Proposed Rulemaking* in the above-captioned proceeding.¹ A number of parties, including Michigan, submitted comments with respect to the Commission’s proposal for various aspects of 800 MHz frequency usage in the Canadian Border Regions (“Border Region(s)"). While it is evident that the issues involved in this matter are complex, the record is entirely clear on at least one point: the public safety community believes adoption of a NPSPAC allocation in the border regions that is consistent with the NPSPAC allocation in the rest of the nation should be a key priority in the Commission’s decision making process.

**I. THE PUBLIC INTEREST WOULD BE SERVED BY RETENTION OF A
CONSISTENT NATIONWIDE NPSPAC ALLOCATION WITH 12.5 KHZ
CHANNEL SPACING**

¹ *Further Notice of Proposed Rule Making*, WT Docket No. 02-55, DA 07-4489 (rel. Nov. 1, 2007) (“FNPR”).

In its comments in this proceeding, the State emphasized the vital importance of the FCC maintaining a consistent 3 MHz NPSPAC allocation with 12.5 kHz channel spacing at 806-809/851-854 MHz throughout the nation. While Michigan recognized that the limited – and varying – amounts of spectrum in the various Canadian Border Regions (“Border Regions”) would make achieving that objective a challenge, it nonetheless stated the following:

The fundamental purpose of the 800 MHz rebanding proceeding is described in its title: “Improving Public Safety Communications in the 800 MHz Band.” Thus, the State of Michigan, which has endured interference prior to and throughout the reconfiguration process, cannot support a “solution” that would result in fragmentation of existing NPSPAC operations in this state. Fragmentation would severely impact NPSPAC operations within the MPSCS, as well as interoperable communications with adjoining or proximate non-border jurisdictions. Accordingly, any rebanding plan that leads to such a result would not be acceptable to the State.²

The State’s position was affirmed by commenting public safety parties. For example, NPSPAC Planning Region 43 explained it as follows:

We recommend the Commission assign the channels from 806-809.00/851-854.00 with 12.5 kHz spacing and reduced deviation as is currently required for the NPSPAC band.³

Similarly, the Region 33 (Ohio) 800 MHz Regional Planning Committee indicated that it had reviewed and endorsed Michigan’s comments in this proceeding and noted that “[b]esides sharing a lengthy border, both state’s host similar statewide radio systems and the adoption of a like band plan will make frequency sharing and interstate interoperability much easier and more reliable.”⁴ The joint Comments of the Association of Public-Safety Communications Officials-International, Inc. (“APCO”), the International Association of Chiefs of Police (“IACP”), and the International Association of Fire Chiefs, Inc. (“IAFC”) (the “Public Safety Organizations”) emphasized both that those organizations supported the FCC’s plan insofar as it “maintains

² State of Michigan Comments at 7.

³ NPSPAC Planning Region 43 Comments at 4.

⁴ Region 33 (Ohio) 800 MHz Regional Planning Committee Comments at 2.

consistency with non-border area frequency assignments to the extent possible”⁵ and that they “support the consensus proposals of public safety entities in each border region and urge the Commission to follow their recommendations.”⁶

The State explained in its comments that retention of a nationally consistent NPSPAC allocation would improve efficient use of spectrum and facilitate interoperability between and among Border Region and non-Border Region public safety agencies, as well as within networks such as the statewide Michigan Public Safety Communications System (“MPSCS”) that operate both within and outside of Border Regions.

II. IT IS ESSENTIAL THAT PUBLIC SAFETY INCUMBENTS ARE ALLOCATED FULLY COMPARABLE, USABLE CHANNELS

The FNPR properly reaffirms the fundamental predicate underlying the 800 MHz reconfiguration process: “All relocating licensees will receive comparable spectrum assignments as defined in prior Commission orders in this proceeding.”⁷ Indeed, the right to “comparable” replacement spectrum is the standard pursuant to which all FCC-ordered band relocations have been conducted.

As detailed in the comments in this proceeding, spectrum limitations in various Border Regions raise the very real concern that the spectrum to which incumbents are to be relocated would not satisfy the comparability standard under other than a meaningless, legalistic interpretation. Of course, if the FCC adopts the State’s recommendation that the Border Region NPSPAC allocation mirror the 3 MHz NPSPAC band with 12.5 kHz channel spacing available in the rest of the nation, then Michigan and other NPSPAC incumbents in Border Regions clearly will receive comparable replacement spectrum.

⁵ Public Safety Organization Comments at 2.

⁶ *Id.*

⁷ FNPR at ¶ 7.

However, if the Commission were to choose another approach, meeting the comparability requirement will become substantially more problematic. Specifically, as detailed in its comments in the proceeding, some of the NPSPAC channels on which Michigan currently operates are U.S. secondary. Because these channels are “secondary” to Canadian NPSPAC spectrum, they have been fully usable by the State, consistent, of course, with the requirements governing such secondary operations.

The same could not be expected if those channels were replaced with Canadian prime frequencies allocated for use by Telus or perhaps even other entities engaged in commercial telecommunications or other non-public safety communications activities. This is not meant as criticism of those entities’ use of their authorized spectrum which presumably is fully compliant with applicable rules. It is intended to highlight that not all channels are functionally equal even if they ostensibly provide the same legal rights.

In practical terms, this real world distinction would be devastating to the MPSCS. Its current secondary channels are usable **because** they are deployed in Canada in compatibly designed and operated public safety systems. The same would not be true if Michigan’s operations were to become secondary to the facilities of, for example, a system that utilized a cellular architecture network – the very type of network that the FCC found in this proceeding to be the cause of interference to public safety systems. The State already experiences interference from Nextel’s iDEN network and has a full appreciation for the destructive impact that a cellular system can have on Michigan’s public safety operations.

The State is persuaded that the right decision is for the FCC to provide a full 3 MHz U.S. primary NPSPAC allocation throughout the Border Regions and, specifically, to do so in Regions 3, 4 and 7 in which the MPSCS operates. However, if the FCC intends to give serious

consideration to a different approach, before adopting such rules it must first develop a detailed site-by-site, channel-by-channel frequency plan for each public safety incumbent in each Border Region to ensure that the replacement spectrum available to each will, in reality, provide true comparability, not just a rote, legalistic equivalency.

III. CONCLUSION

The MPSCS was developed and deployed to provide essential public safety communications to the citizens of the State. Michigan again urges the Commission to adopt a plan that will maintain the integrity of the MPSCS and promote its continued use in the protection of safety of life and property within the State, consistent with the position expressed above.

Respectfully submitted,

THE STATE OF MICHIGAN

/s/ Mike Scieszka
Acting Director
Michigan Public Safety Communications System
("MPSCS") or State of Michigan
4000 Collins Rd.
P.O. Box 30631
Lansing, MI 48909-831
Tel: 517-336-6620

Counsel:

Elizabeth R. Sachs
Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tysons Blvd., Ste. 1500
McLean, VA 22102
(703) 584-8678

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