

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Improving Public Safety)	WT Docket No. 02-55
Communications in the 800 MHz Band)	
)	
New 800 MHz Band Plan for Puerto Rico)	
and the U.S. Virgin Islands)	
)	

PETITION FOR RECONSIDERATION OF CONCEPTS TO OPERATIONS, INC.

Concepts To Operations, Inc. (“CTO”) has reviewed the Third Report and Order and Third Further Notice of Proposed Rule Making and provides the following comments.

The Plan provided by the TA which is adopted in this proceeding does conform to the criteria specified by the Commission as stated in the Background section.

- The non-ESMR band plan must fully accommodate all non-ESMR licensees, including those that must be relocated from the Upper 200 channels.

- The band plan must include a guard band between the ESMR and non-ESMR bands unless there is insufficient spectrum to accommodate a guard band, in which case public safety systems must be protected against interference, *e.g.*, by locating mission-critical public safety systems as far as feasible from the ESMR band.

- Replacement spectrum in the ESMR band must be assigned to ESMR licensees and ESMR-eligibles in accordance with the Commission’s rules governing Economic

Area (EA) and site-based licenses. Sprint Nextel Corporation (“Sprint”) may receive no more spectrum in the ESMR band in Puerto Rico than it holds there currently in the 800 MHz band.

- If there is insufficient spectrum in the ESMR band to accommodate all ESMR systems and ESMR-eligibles, Sprint must surrender spectrum on a *pro rata* basis to the other licensees to meet the shortfall. If insufficient spectrum remains after Sprint has surrendered spectrum, then *pro rata* apportionment shall be used to determine each licensee’s share of the ESMR band. All ESMR and ESMR-eligible licensees must participate in such apportionment.

However, the lower portion of the band 806-809/851-854 MHz continues to be sparsely occupied, while the ESMR portion does not accommodate not only Sprint but the other ESMR and ESMR-eligible licensees.

In contrast the Alternate Reconfiguration Plan for Puerto Rico and the U.S. Virgin Islands prepared by Concepts To Operations, Inc. (August 2008)¹ provides for accommodating all existing Public Safety licensees (present NPSPAC, Interleaved and General Category) in the new NPSPAC band (806-809/851-854 MHz). This new NPSPAC band would still have unused frequencies and could accommodate other Public Safety users. Better opportunities for interoperability would be available in the new NPSPAC band and with the adjacent 700 MHz band for Public Safety users. This arrangement also provides additional protection from

¹ See Preferred Communications Comments-Second Further Notice of Proposed Rulemaking. WT Docket No. 02-55

interference, over and above the Guard band, by locating mission-critical public safety systems as far as feasible from the ESMR band.

With regard to the interleaved spectrum, CTO's plan provides 210 channels in 10.5 MHz (809-814.25/854-859.25 MHz) to accommodate existing Hi-site SMR, Business & Industrial users and allows for expansion.

CTO's plan provides for a Guard Band (814.25-815.25/859.25-860.25 MHz) to provide interference protection for Hi-site system mobile receivers from ESMR operations.

Because of the unique topography in Puerto Rico the Hi-Site users (both public safety and commercial) will be able, in many instances, to reuse frequencies in their allocated bands in both the north and the south portions of the island.

Finally CTO's alternative plan accommodates Sprint and the other ESMR and ESMR-eligible licenses in the 350 channels (815.25-824/860.25-869 MHz) in a Cellular-Like ESMR block.

A comparison of the CTO proposed plan, and the FCC plan is attached in Figure 1.

With regard to the same band plan for Puerto Rico being adopted for the U.S. Virgin Islands we note that a part of the U.S. Virgin Islands, St. John, is in close proximity to non U.S. territory and can constitute a situation requiring action similar to that required for portions of the United States bordering Canada and Mexico.

FIGURE 1 – COMPARISON CHART FOR THE 800 MHZ CTO PROPOSED PLAN AND FCC PLAN FOR PUERTO RICO AND THE U.S. VIRGIN ISLANDS

MHz	806	809	814.25	815.25				824	CTO Proposed Plan	
700 MHz Public Safety Band	NPSPAC and other Public Safety 230 Chan 6 MHz	Hi Site SMR, Business, Industrial 210 Channels 10.5 MHz	Guard Band*	Cellular Like ESMR Block 350 Channels 17.5 MHz				Cellular A & B		
MHz	851	854	859.25	860.25				869	FCC Plan	
MHz	806	809	815	816	816.5	817	821	824		
700 MHz Public Safety Band	NPSPAC Public Safety 6 MHz	Interleaved 12 MHz	Expansion Band	Extended Expansion Band	Smaller Guard Band**	ESMR 14 MHz		Cellular A & B		
MHz	851	854			860	861	861.5	862	866	869
			* Guard Band Cleared of all incumbent licensees.			** Smaller Guard Band Cleared of all incumbent licensees.				

CONCLUSION

The Commission may wish to consider the plan proposed by CTO, or some modification to it, instead of the TA Plan adopted by HS bureau because it would provide for more efficient use of the spectrum for both Puerto Rico as well as the U.S. Virgin Islands. The proposed CTO channel plan also provides for expansion possibilities for Hi-Site commercial and public safety users in addition to supporting all present licensees and not require them to give up all or portions of their 800 MHz license rights.

Respectfully submitted,

_____/s/_____
 Alejandro A. Calderon
 Stanley I. Cohn
 Concepts To Operations, Inc.
 801 Compass Way, Suite 217
 Annapolis, MD 21401
 (410) 224-8911

July 22, 2010