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September 7, 2001

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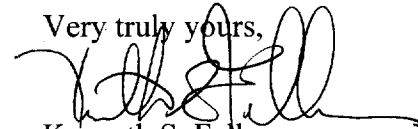
Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, SW, TW-B204
Washington, D.C. 20554

Re: LSGAC Advisory Recommendation No. 25

Dear Ms. Salas:

On behalf of the Commission's Local and State Government Advisory Committee, I am hereby submitting an original and two copies of the LSGAC's Advisory Recommendation No. 25 with respect to "Supporting Reconsideration in WT Docket No. 99-168 as Requested by the Public Safety National Coordination Committee, and Adoption of Zero Tolerance Policy for Interference with Public Safety Communications."

Very truly yours,


Kenneth S. Fellman
Chairman, LSGAC

KSF/eaj

Enclosure

cc: The Honorable Michael K. Powell, Chairman (w/ encl.)
The Honorable Kathleen Q. Abernathy, Commissioner (w/ encl.)
The Honorable Michael J. Copps, Commissioner (w/ encl.)
The Honorable Kevin J. Martin, Commissioner (w/ encl.)
LSGAC Members and Staff (w/encl; via email)

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**FCC Local and State Government Advisory Committee
Advisory Recommendation Number 25:**

**Supporting Reconsideration in WT Docket No. 99-168
as Requested by the Public Safety National Coordination Committee,
and Adoption of Zero Tolerance Policy for Interference with
Public Safety Communications**

I. Background

The Local and State Advisory Committee to the FCC (LSGAC) is increasingly concerned by reports of interference to public safety communications facilities operating in the 800 MHz band. These reports are especially troubling because breakdowns in these networks place citizens and safety personnel in immediate personal danger. The LSGAC is continuing to research and document tangible examples of these kinds of interference and what positive steps can be taken to address the problem.

For the past several years, the (LSGAC) has appointed an official liaison to the Public Safety National Coordination Committee (NCC), whose primary mission is to make recommendations to the FCC regarding maximizing effectiveness of the 700 MHz band. This liaison has worked to ensure effective communication between the LSGAC and NCC, and the LSGAC applauds the NCC for its on-going work on these issues.

II. The NCC and WT Docket No. 99-168

On June 11, 2001, NCC Steering Committee member Harlin R. McEwen submitted an ex parte letter to Chairman Powell outlining the NCC's support for the National Public Safety Telecommunications Council's Petition for Reconsideration of the *Second Memorandum Opinion and Order* in WT Docket No. 99-168.

In this letter (see attachment), the NCC:

1. Suggests that the joint NPSTC/Telecommunications Industry Association study, Protection of Public Safety Systems from 700 MHz CMRS Band Interference, shows "CMRS stations in the 777-792 MHz band would, in fact, cause harmful interference to both mobile receivers and base station receivers in the 700 MHz public safety band unless the Commission adopts more stringent out-of-band emission limits or prohibits high power transmitters in this band segment by reverting to its original band plan."
2. Recognizes that "the date for filing oppositions to the NPSTC petition for reconsideration passed without any party taking issue with TIA's methodology, the assumptions it employed or the ultimate conclusion it reached concerning harmful interference from high power CMRS transmitters in the 777-792 MHz band."

3. Claims that “the TIA study stands, in short, as a persuasive showing that critical communications involving the safety of life and property will be interfered with unless the Commission acts to impose more stringent out-of-band emission limits on high power transmitters in the 777-792 MHz CMRS band or prohibits the use of such transmitters in that band segment.”


The NCC concludes:

“There is no more critical recommendation that the NCC can make at this juncture than to urge the Commission not to hobble the 700 MHz public safety band from the outset with an interference environment that would render public safety receivers inoperable in the vicinity of high power CMRS transmitters. No less than a “zero tolerance” policy against interference in this band will suffice to maintain the integrity of public safety communications. The NCC therefore endorses the NPSTC petition for reconsideration and its accompanying technical study and urges the Commission to act expeditiously to grant the relief requested therein.”

Recommendations:

1. The LSGAC supports the NCC conclusions as outlined in their June 11, 2001 letter to Chairman Powell, particularly:
 - A. A zero-tolerance policy related to interference in the 700 MHz band.
 - B. Reconsideration of the Second Memorandum Opinion and Order in WT Docket No. 99-168 based on the NPSTC petition and study.

Respectfully submitted on this 7th day of September, 2001.

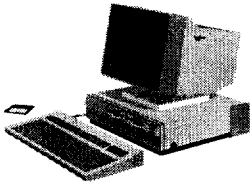

Kenneth S. Fellman, Chairman
LSGAC

Harlin R. McEwen

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June 11, 2001

Hon. Michael Powell
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Ex parte

REF: WT Docket No. 99-168

Dear Mr. Chairman:

I write in my capacity as a member of the Steering Committee of the Public Safety National Coordination Committee (NCC). At its May meeting in St. Louis, the Steering Committee reached consensus on a recommendation to be forwarded to the Commission in support of the Petition for Reconsideration filed in the referenced proceeding by the National Public Safety Telecommunications Council (NPSTC). This letter constitutes the Steering Committee's recommendation. I am available at your convenience to discuss any of the matters raised below.

In brief, the NPSTC petition requests the Commission to rescind its decision to allow high power commercial base stations in the 777-792 MHz band because of the great potential for interference that such stations pose to public safety communications in the 700 MHz public safety band; or, in the alternative, to mitigate such interference by imposing more stringent out-of-band emission limits on CMRS transmitters.

The initial determination, in the *Memorandum Opinion and Order and Further Notice of Proposed Rule Making* in this proceeding,¹ allowing high power stations in the

¹ Service Rules of the 746-764 and 776-794 MHz Bands and Revisions to Part 27 of the Commission's Rules; Carriage of the Transmissions of Digital Television Broadcast Stations; Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, WT Docket No 99-168, CS Docket No. 98-120, MM Docket No. 00-83, *Memorandum Opinion and Order and Further Notice of Proposed Rule*

777-792 MHz band, was premised on the bare assumption that the Commission's out-of-band emission standards were adequate protection against interference. In comments, Motorola had argued that those standards were inadequate; but the Commission disregarded Motorola's arguments because they were not supported by a technical analysis.² Subsequently, Motorola filed a petition for reconsideration incorporating a technical analysis demonstrating that interference would occur. The Motorola petition was opposed by ArrayCom, Inc., Bell South Corporation, TRW, Inc., and Adaptive Broadband Corporation, which took issue with Motorola's methodology and questioned the assumptions underlying its technical analysis. The Commission then sided with the opposing parties and issued a *Second Memorandum Opinion and Order* denying the Motorola petition on the ground that "Motorola's technical assumptions are overly pessimistic and restrictive . . ."³

Subsequently, NPSTC sought reconsideration of the *Second Memorandum Opinion and Order* and accompanied its filing with an authoritative technical study, Protection of Public Safety Systems from 700 MHz CMRS Band Interference, prepared by the Telecommunications Industry Association (TIA). That study shows that CMRS stations in the 777-792 MHz band would, in fact, cause harmful interference to both mobile receivers and base station receivers in the 700 MHz public safety band unless the Commission adopts more stringent out-of-band emission limits or prohibits high power transmitters in this band segment by reverting to its original band plan.

The date for filing oppositions to the NPSTC petition for reconsideration passed without any party taking issue with TIA's methodology, the assumptions it employed or the ultimate conclusion it reached concerning harmful interference from high power CMRS transmitters in the 777-792 MHz band. Surely, if the TIA analysis were at all flawed, or if the out-of-band emission limits proposed in the TIA study were unduly burdensome for potential CMRS licensees, then oppositions to the NPSTC petition for reconsideration would have been filed, most notably by the parties that opposed the Motorola petition *supra*. However, there were no such oppositions.

All filings made in response to the NPSTC petition have endorsed the TIA study and supported its recommendations. Those parties supporting the petition included major equipment manufacturers Motorola and Com-Net Ericsson and major wireless carrier Nextel, in addition to multiple public safety organizations and agencies. The Technology Subcommittee of the NCC has analyzed the TIA report and found it technically unassailable. The TIA study stands, in short, as a persuasive showing that critical communications involving the safety of life and property will be interfered with unless the Commission acts to impose more stringent out-of-band emission limits on high power transmitters in the 777-792 MHz CMRS band or prohibits the use of such transmitters in that band segment.

Making, 15 FCC Rcd 20845(2000).

² *Id.* at ¶ 9.

³ Service Rules of the 746-764 and 776-794 MHz Bands and Revisions to Part 27 of the Commission's Rules; Carriage of the Transmissions of Digital Television Broadcast Stations; Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, WT Docket No 99-168, CS Docket No. 98-120, MM Docket No. 00-83, *Second Memorandum Opinion and Order*, 16 FCC Rcd 1239 (2001) at ¶ 6.

The NCC was chartered to provide the Commission with recommendations concerning public safety use of the newly available 700 MHz spectrum.⁴ There is no more critical recommendation that the NCC can make at this juncture than to urge the Commission not to hobble the 700 MHz public safety band from the outset with an interference environment that would render public safety receivers inoperable in the vicinity of high power CMRS transmitters. No less than a “zero tolerance” policy against interference in this band will suffice to maintain the integrity of public safety communications. The NCC therefore endorses the NPSTC petition for reconsideration and its accompanying technical study and urges the Commission to act expeditiously to grant the relief requested therein.

Respectfully submitted,

Harlin R. McEwen
National Coordination Committee

cc: Hon. Gloria Tristani
Hon. Kathleen Q. Abernathy
Hon. Michael J. Copps
Hon. Kevin Martin, Commissioner-designate
Thomas Sugrue
Kathleen Wallman
Kathleen Ham-O’Brien
D’wana Terry
Jeanne Kowalski
Michael Wilhelm
Martin Liebman

⁴ See The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communication Requirements Through the Year 2010; Establishment of Rules and Requirements for Priority Access Service, *First Report and Order and Third Notice of Proposed Rule Making* 14 FCC Rcd 142 (1998) at ¶ 92.