

August 25, 1999

Ex parte document

Ms. Magalie Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Madam Secretary:

Herewith, pursuant to Section 1.1206 of the Commission's rules, are two copies of an *ex parte* document filed by the National Coordination Committee in the proceeding captioned: Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99-168, *Notice of Proposed Rulemaking*.

Respectfully submitted,

Michael J. Wilhelm
Designated Federal Officer
National Coordination Committee

National Coordination Committee

The Honorable William E. Kennard
Chairman
Federal Communications Commission
Washington, D.C. 20554

Re: Notice of Proposed Rulemaking
Service Rules for 746-764 and 776-794
MHz Bands, and Revisions to Part 27 of the
Commission's Rules
WT Docket No. 99-168

Dear Chairman Kennard:

I am writing to you in my capacity as Chair of the National Coordination Committee (NCC) regarding the Commission's pending proceeding addressing the service rules for the 746-764 and 776-794 MHz Bands and the Revisions to Part 27 of the Commission's rules. I write with the assent of the NCC's Steering Committee.

On August 6, 1998,¹ the Commission adopted rules for the 24 megahertz of spectrum committed to public safety communications in the 764-776/794-806 MHz frequency bands, which are immediately adjacent to the spectrum subject to the pending proceeding. The Commission's reallocation of this spectrum from television broadcast services to public safety services is an important commitment to the police, fire, emergency services and other public safety agencies throughout the country.

The NCC was established by the Commission to recommend rules relating to the 700 MHz public safety band, particularly in the area of interoperability. As the Commission moves to establish rules for the frequency bands immediately adjacent to those allocated for public safety, it is vital that these rules recognize the critical responsibilities that are carried out in the public safety bands and ensure that uses in the 746-764 and 776-794 MHz bands not interfere with public safety. Otherwise, the commitment made to public safety will be compromised. Moreover, it is important that the rules encompass remedies beyond economic recoupment and provide a tangible opportunity for public safety communications to be protected in advance of the adjacent services facilities being constructed and commencing transmissions that cause interference.

The Commission recognizes the significant challenge in managing interference between technically dissimilar services as well as providing an effective regulatory mechanism.² This challenge applies as much to the bands adjacent to those involved in the present proceedings as to those that will have to share

¹ Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, WT Docket No. 96-86, *First Report and Order and Third Notice of Proposed Rule Making*, September 29, 1998.

² Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99-168, *Notice of Proposed Rulemaking*, June 3, 1999, at ¶ 7.

within these bands. The NCC comprehends that innovative service rules developed as a result of flexible use allocation³ may maximize the use of the spectrum. Yet substantial harm will accrue to public safety communications by relying solely on private and post interference remedies. The service rules for the 746–764 and 776-794 MHz Bands and the Revisions to Part 27 of the Commission’s rules must do more than assume that users will adhere to non-interference standards. Although this is unobjectionable as a general premise, it is critical that the rules the Commission sets for this spectrum recognize the impact these services can have on the adjacent public safety bands. It is also imperative that the rules and revisions to Part 27 specifically preclude transmissions causing interference to public safety communications.

The rules and policies the Commission establishes must provide strong, well-defined interference guidelines because uses encompassing high power, wide area operations, such as new television broadcast operations immediately adjacent to public safety bands, would create severe interference issues. The types and nature of non-broadcast commercial mobile radio operations adjacent to public safety operations must also be scrutinized. Adjacent channel systems must be compatible with similar ERP, antenna location, and adjacent channel coupled power. Importantly, the service rules and revisions must recognize that the adjacent public safety spectrum will be heavily occupied with communications critical to the safety of life and property. Adequate protection of this spectrum is therefore essential.

In summary, the National Coordination Committee urges the Commission to amend its proposal of “flexible use” to include specific parameters that adequately protect public safety communications from interference and to provide a tangible means for public safety agencies to determine whether particular uses will cause disruption to their critical responsibilities prior to initial transmission.

Respectfully,

Kathleen M. H. Wallman
Chair
National Coordination Committee

cc: Hon. William E. Kennard Ari Fitzgerald
Hon. Susan Ness Daniel Connors
Hon. Harold Furchtgott-Roth Robert Calaff
Hon. Michael Powell Peter Tenhula
Hon. Gloria Tristani Karen Gulick
Thomas Sugrue D’wana Terry
Kathleen Ham-O’Brien

³ *Id.* at ¶ 6.

