



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
445 12TH STREET, S.W.  
WASHINGTON, D.C. 20554

**DA 99-1431**

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> <ftp.fcc.gov>

**Released: July 21, 1999**

## **WIRELESS TELECOMMUNICATIONS BUREAU INCORPORATES NEXTEL COMMUNICATIONS, INC. WAIVER RECORD INTO WT DOCKET NO. 99-87**

*Seeks Comment on Licensing of PMRS Channels in the 800 MHz Band for Use In Commercial SMR Systems*

**WT DOCKET NO. 99-87 Comment Deadline: August 2, 1999**

**WT DOCKET NO. 99-87 Reply Comment Deadline: September 16, 1999**

On July 21, 1999, the Wireless Telecommunications Bureau (Bureau) issued an *Order* conditionally granting in part and denying in part 50 Requests for Waiver submitted by Nextel Communications, Inc. (Nextel) in conjunction with applications seeking the Commission's consent to assignment of Part 90 Private Mobile Radio Service (PMRS) Business channels from various entities to Nextel.<sup>1</sup> In its waiver requests, Nextel indicated that it desired to utilize these PMRS frequencies for Commercial Mobile Radio Service (CMRS) operation in its 800 MHz Specialized Mobile Radio (SMR) systems.<sup>2</sup> Nextel sought waiver of Sections 90.617 and/or 90.619 of the Commission's rules,<sup>3</sup> because these rules do not permit the authorization of SMR systems on Business Radio Category and Industrial/Land Transportation Category channels.

In the *Nextel Order*, the Bureau conditionally granted Nextel's waiver requests to the extent that Nextel will use the PMRS frequencies predominantly to relocate incumbent licensees on the upper 200 channels of the 800 MHz band.<sup>4</sup> However, the Bureau denied Nextel's waiver requests to the extent that Nextel sought a waiver for the purpose of incorporating PMRS Business channels in its CMRS system.<sup>5</sup>

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<sup>1</sup> Applications of Nextel Communications, Inc. and Associated Rule Waiver Request of 47 C.F.R. §§ 90.617(c) and 90.619(b), *Order*, DA 99-1404 (rel. July 21, 1999) ("*Nextel Order*").

<sup>2</sup> See Wireless Telecommunications Bureau Seeks Comment on Nextel Communications, Inc. Waiver Requests Associated With Its Proposed Acquisition of Private Mobile Radio Service Business Channels, *Public Notice*, DA 98-2206 (Oct. 28, 1998) ("*Nextel Waiver Public Notice*").

<sup>3</sup> 47 C.F.R. §§ 90.617, 90.619.

<sup>4</sup> *Nextel Order* at ¶¶ 26, 30.

<sup>5</sup> *Id.* at ¶ 27.

In the *Nextel Order*, the Bureau concluded that the practical effect of granting Nextel's waiver requests would have been to establish a policy of general applicability for all Private Land Mobile Radio (PLMR) channels.<sup>6</sup> Thus, the Bureau determined that the issue of incorporating PMRS channels into CMRS systems was better addressed in a rulemaking proceeding than in a rule waiver proceeding.<sup>7</sup> The Bureau noted that the Commission recently adopted a *Notice of Proposed Rule Making*<sup>8</sup> seeking comment on the impact of the Balanced Budget Act of 1997<sup>9</sup> on the Commission's licensing schemes for private radio services.<sup>10</sup> In light of the ongoing proceeding examining licensing issues concerning private spectrum in the 800 MHz band, as well as other bands, the Bureau decided that it would not grant a broad waiver of existing licensing rules for the 800 MHz band.<sup>11</sup>

In the *Balanced Budget Act Notice*, the Commission noted Nextel's pending waiver requests in seeking comment on whether it should consider the purpose for which spectrum is used or allocated in deciding whether to implement geographic area licensing.<sup>12</sup> The Bureau issues this Public Notice as a supplement to the *Balanced Budget Act Notice*. We specifically incorporate the record gathered in response to Nextel's waiver requests into WT Docket No. 99-87<sup>13</sup> and seek comment on the underlying issues raised by Nextel's waiver requests. Specifically, the Bureau seeks comment on whether the Commission should amend its licensing rules for the 800 MHz band to allow the incorporation of PMRS channels into a CMRS system. The Bureau seeks comment on whether the licensing of PMRS frequencies in the 800 MHz band for commercial SMR use would serve the public interest. If parties believe it would be in the public interest to allow PMRS channels in the 800 MHz band to be incorporated into a CMRS system, but only under certain conditions, they should describe these conditions and address how they should be implemented and enforced.

Comments and reply comments submitted in response to this Public Notice will be incorporated as part of the record in WT Docket No. 99-87, and addressed by the Commission in that proceeding. Interested parties may file comments on or before August 2, 1999. Parties interested in submitting reply comments must do so on or before September 16, 1999. Parties should limit their comments to the issue of licensing PMRS spectrum in the 800 MHz band for commercial SMR use.

All comments should reference WT Docket No. 99-87 and should be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, DC 20554. In addition, courtesy copies of each filing should be sent to Gary D. Michaels, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, and Ramona Melson, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Washington, DC 20554. A copy of each filing should also be sent to International

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<sup>6</sup> *Id.* at ¶ 31.

<sup>7</sup> *Id.*

<sup>8</sup> See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, WT Docket No. 99-87, *Notice of Proposed Rule Making*, FCC 99-52 (rel. March 25, 1999) ("*Balanced Budget Act Notice*").

<sup>9</sup> Pub. L. No. 105-33, Title III, 111 Stat. 251 (1997).

<sup>10</sup> *Nextel Order* at ¶ 32.

<sup>11</sup> *Id.*

<sup>12</sup> See *Balanced Budget Act Notice* at ¶ 69 n.201.

<sup>13</sup> A list of the submissions filed in response to Nextel's waiver requests is provided in Appendix A.

Transcription Services, Inc., 445 Twelfth Street, S.W., Room CY-B400, Washington, DC 20554.

Copies of comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center, Room CY-A257, 445 Twelfth Street, S.W., Washington, DC 20554. Copies also may be obtained from International Transcription Services, Inc., 445 Twelfth Street, S.W., Room CY-B400, Washington, DC 20554, (202) 314-3070.

This is a permit-but-disclose proceeding. *Ex-parte* presentations are permitted provided that they are disclosed as specified in the Commission's rules.<sup>14</sup>

For further information, contact Gary D. Michaels of the Auctions and Industry Analysis Division, (202) 418-0660, or Ramona Melson of the Public Safety and Private Wireless Division, (202) 418-0680, Wireless Telecommunications Bureau.

By the Chief, Wireless Telecommunications Bureau.

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<sup>14</sup> See generally, 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206.

## APPENDIX A

### COMMENTS, REPLY COMMENTS AND EX PARTE PRESENTATIONS

#### COMMENTS

Ad Hoc 800 MHz Licensees' Committee  
Aeronautical Radio Inc. (ARINC)  
American Mobile Telecommunications, Inc.  
American Petroleum Institute  
Auto Warehousing Company  
The Boeing Company  
EDW. C. Levy Co.  
Alan Hansel  
Industrial Telecommunications Associations  
MFRAC, Inc.  
Majestic Communications  
Mobex Communications, Inc.  
Motorola, Inc.  
Nextel Communications, Inc.  
PCIA  
Pfieffer Electronics Corp.  
Radio Link Communications  
Ray's Electronics  
Repeater Communications Corp.  
Saia Communication, Inc.  
Small Business in Telecommunications  
Sound Systems, Inc.  
Joyce Syverson  
TJ Communications  
UTC  
VASU Systems  
Waste Management, Inc.  
Yellow Services, Inc.

#### REPLY COMMENTS

Ad Hoc 800 MHz Licensees' Committee  
American Mobile Telecommunications, Inc.  
Auto Warehousing Company  
Chadmore Wireless Group  
ITA  
MFRAC, Inc.  
Majestic Communications  
Pfieffer Electronics Corp.  
Ray's Electronics  
Repeater Communications Corp.  
Sound System, Inc.  
TJ Communications  
Yellow Services, Inc.  
Waste Management, Inc.

EX PARTE PRESENTATIONS

The Boeing Company	July 2, 1999
ITA	June 28, 1999
Nextel Communications, Inc.	June 14, 1999
MFRAC, Inc.	May 26, 1999
Equistar Chemicals, LP	May 20, 1999
ITA	May 17, 1999
Nextel Communications, Inc.	April 30, 1999
Nextel Communications, Inc.	April 15, 1999
Nextel Communications, Inc.	March 23, 1999
Nextel Communications, Inc.	March 18, 1999