



August 4, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

In Re: WT Docket 02-55

Dear Chairman Martin:

This letter is in response to a letter dated July 27, 2006 by EF Johnson (“EFJ”) objecting to a proposal by Motorola that would help advance reconfiguration of the 800 MHz band and would provide public safety licensees greater control over the timing and method for replacing radios.¹ EFJ has mischaracterized Motorola’s proposal by attributing to Motorola a purpose and effect that is neither stated nor intended in Motorola’s July 6th letter.² Motorola’s proposal does not disadvantage other manufacturers and by opposing the proposal EFJ risks prolonging the potential for interference to public safety.

Contrary to EFJ’s claims that Motorola’s proposal would somehow compel public safety licensees to do something they may not want to do, Motorola’s proposal would provide licensees greater control over the timing and choices made for reconfiguration, not less control. As explained in the July 6th letter, allowing licensees to begin replacing radios or changing software as early as possible – if they chose to - could allow them to better integrate the radio work into the normal maintenance schedule and allow them to minimize the disruption of day-to-day operations.³ Providing this option in no way forces licensees to participate, nor would it require them to choose any specific radio model or allow access to their system or radios that they have not fully authorized. Licensees would continue to be able to choose equipment that best suits their needs in accordance with the comparable facilities contemplated by the Commission,⁴ regardless of whether the replacement is a Motorola radio or that of another manufacturer. Motorola has never stated or implied otherwise. Any work conducted or equipment supplied would also be subject to appropriate agreements and contracts and fully within the framework of the Commission’s decision.

The proposal made by Motorola is an outgrowth of concerns expressed by public safety customers who recognize how long it will take to physically replace radios, especially vehicle-mounted mobile units. Motorola believes that it was important to raise this issue that, if not addressed in some fashion, will force undue burdens on 800 MHz NPSPAC licensees who have large numbers of radios to replace or reband. As clearly stated in the July 6th letter, this proposal would give licensees the option

¹ See letter to Chairman Kevin J. Martin from Robert Donohoo, Vice President and General Counsel, EF Johnson, Inc., dated July 27, 2006.

² See letter to Catherine Seidel, Acting Chief Wireless Telecommunications Bureau, from Steve Sharkey, dated July 6, 2006 (“Motorola letter”).

³ Motorola letter at 4.

⁴ See, *In the Matter of Improving Public safety Communications in the 800 MHz Band*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, 19 FCC Rcd 1469, released August 6, 2004, at para. 178.

to begin work as early as possible and to better control the timing of activity. It did not propose to undermine the rights of licensees or to require them to do anything that would not be in their interest. Nor should it slow down the process of negotiating an agreement to reconfigure the full system. On the contrary, once a licensee has begun the work of replacing radios, Motorola would expect that the licensee would be fully committed to the process and would want to complete remaining reconfiguration activities as quickly as possible. It is unfortunate that EFJ would suggest otherwise

EF Johnson Fabricates Claims not Supported by Any Facts

EFJ mischaracterizes Motorola's proposal to allow licensees to begin replacing radios or upgrading software as a "replacement mandate."⁵ No such mandate was ever stated or implied by Motorola. Motorola's proposal was clearly stated as "Allowing licensees to begin replacing radios."⁶ The clear meaning is that licensees would determine whether and when to participate in an early replacement program.

EFJ claims that Motorola's proposal would "remove from public safety licensees the full right to participate in the planning and negotiation of their own reconfigurations."⁷ Again, none of this was stated or implied by Motorola. In the July 6th letter, we stated that we had identified which radios were not capable of operating in accordance with the new band plan and would therefore have to be replaced to accommodate the new 800 MHz band plan. Motorola did not state or imply that licensees should be forced to stay with the same manufacturer. Ultimately the choice should be made by the public safety entity pursuant to an agreement with Sprint Nextel.

EFJ claims that "Motorola seeks to have certain portions [of reconfiguration] carried out pursuant to an agreement between Motorola, the Transition Administrator and Sprint Nextel, in which individual licensees have no participation." Again, EFJ has fabricated intent that was not in Motorola's proposal. Motorola merely requested that the Commission support development of a process to allow licensees to replace radios or change software in a timeframe better aligned with and less disruptive to individual entities' needs. Motorola merely sought support for a process to allow some of the more time consuming aspects of a physical reconfiguration to move forward in parallel with negotiations for reconfiguring the full system. Development of the process would clarify exactly what agreements are necessary and the licensee would, of course, be integral to any activity with respect to its system.

Motorola clearly explained the difficulty of replacing radios in a compressed timeframe. *It is not Motorola's ability to manufacture and ship sufficient radios that will be the issue*, rather it is the ability of a public safety licensee to pull a sufficient number of mobile units out of service for replacement in a compressed timeframe without completely disrupting its core mission to protect the public that will be the issue. EFJ has not attempted to address this issue or find fault in Motorola's calculations that demonstrate the difficulty in meeting the Commission's implementation schedule for reconfiguration absent a change in process

⁵ EFJ letter at 2.

⁶ Motorola letter at 4 [emphasis added].

⁷ EFJ Letter at 5.

Motorola Reaffirms its Call for Action

Motorola has not asked the Commission to adopt any new rules to allow the early deployment of radios, nor do we believe that new rules are necessary. Motorola did seek to raise awareness of an increasingly significant impediment to meeting the Commission's deadline for rebanding under the current process and suggested a constructive action to help address the problem. Motorola reaffirms its request that the Commission support and provide oversight for development of a process to allow public safety licensees to begin replacing radios or changing software at the earliest possible opportunity, even prior to reaching an agreement for reconfiguring the entire system.

The Commission has a critical role in helping focus the legitimate efforts of Sprint Nextel and the Transition Administrator as they work with public safety to find the most effective and efficient mechanism to implement the reconfiguration. The Commission's efforts in support of streamlining the current process so that it provides greater flexibility to accommodate the needs of public safety while advancing reconfiguration are just one part of this role. Motorola urges all parties involved to not be distracted by the erroneous claims of EFJ and welcomes a collaborative discussion focused on improving the process to more quickly and less disruptively address the public safety interference issues the 800 MHz rebanding program was designed to resolve.

Sincerely,



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