



July 28, 2017

**Via ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: NOTICE OF EX PARTE, WT Docket No. 10-112

Dear Ms. Dortch:

On July 26, 2017, James B. Goldstein, Senior Counsel, Legal and Government Affairs for Sprint Corporation (“Sprint”) met with Roger Noel, Division Chief, Kathy Harris, Deputy Chief and Joyce Jones, Attorney-Advisor, of the Mobility Division of the Wireless Telecommunications Bureau to discuss the draft Second Report and Order released by the Federal Communications Commission (“Commission”) on July 13, 2017.

Sprint first addressed the significant challenges nationwide carriers, such as Sprint, might face in complying with the Commission’s proposed Safe Harbor standard that the renewal applicant certify that it met or exceeded its applicable final initial license term construction benchmark during the entire preceding ten-year license term when that license is subject to renewal. This language would appear to include never suffering any diminution of service below the benchmark by even 1% for any length of time. Sprint indicated that this Safe Harbor standard would likely be extremely challenging for even the most diligent carrier to satisfy and would therefore result in a large volume of Renewal Showings – not simple Safe Harbor renewal applications.

Sprint noted that many of its “initial construction” certifications (for 800 MHz and 1.9 GHz bands) were filed as far back as 2002. Sprint outlined the significant band transitions and technology changes it has undertaken since 2002, including the 800 MHz band reconfiguration where Sprint transitioned from 2G iDEN to its current 3G CDMA/4G LTE network,<sup>1</sup> the 2.5 GHz band where after a multi-year total reconfiguration of the band, Sprint/Clearwire first built a nationwide WiMAX network and then repurposed the spectrum and transitioned to a nationwide 4G LTE Network, and in the 1.9 GHz band where Sprint has been repurposing spectrum from 3G CDMA/EVDO to 4G LTE. Sprint described certain challenges it has faced in performing these network transitions, as well as the challenges it will continue to experience in the ongoing

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<sup>1</sup> Sprint notes that the 800 MHz band reconfiguration is not yet 100 % complete in the U.S. – Mexico Border markets, and was only completed in the rest of the non-border U.S. markets over the last five years. This has created numerous obstacles in transitioning its 800 MHz spectrum to its new 3G/4G LTE network.

buildout and maintenance of its networks which could result in circumstances where the Safe Harbor requirement cannot easily be met. This would have the unintended consequence of potentially a far greater number of fact-specific case-by-case Renewal Showings for Commission review which is exactly what the Commission has indicated it is trying to avoid through a streamlining process.

Sprint provided one example where due to the upcoming cancellation of a spectrum leasing arrangement, there will be a temporary cessation of operations on a block of spectrum while Sprint receives its leased-out spectrum back from the lessee and places that same spectrum back into service. Sprint highlighted that this transition from the lessee to Sprint cannot be scheduled to occur simultaneously to ensure no cessation of operations or immediate satisfaction of the formerly attained construction benchmark. Therefore, under the Commission's proposed rules, this likely very temporary cessation of operations, which would not run afoul of the Commission's old or new "permanent discontinuance" rules or impact any existing customers would cause Sprint to not meet the Safe Harbor standard. This circumstance in year-one of its ten-year license term (before rules are adopted in this proceeding) would then require Sprint to make a Renewal Showing when the license is next subject to a renewal over nine years from now. While the Commission staff indicated that this scenario, once explained in a Renewal Showing, would likely still lead to the renewal of the license, it would create the type of uncertainty that the proposed rules were attempting to remove.

Sprint also raised concerns that if licensees do not have sufficient lead time to ensure compliance with these new requirements then licensees could face significant challenges in compiling and maintaining years' worth of relevant data that would be required for the Renewal Showing or to document meeting the Safe Harbor standard. Sprint raised concerns that even when a licensee fully expects to meet the Safe Harbor requirement in a heavily populated area with a densely built out network, it would still need to engage in these same onerous data collection measures to be able to make the Safe Harbor certification itself or to prepare itself in the unlikely event of a late license-term network challenge that would cause a licensee to not meet the Safe Harbor standard.

Sprint indicated that it generally supported the T-Mobile suggestion, in its *ex parte* dated July 25, 2017, that a "substantial" use component could be incorporated in the Commission's Safe Harbor standard to better account for technology changes or other network challenges to allow for reductions in service. Sprint and Bureau staff discussed that a Safe Harbor change of this sort might also require a duration component so that a licensee who reduced service below the benchmark by a reasonable amount did not do so for more time than was necessary to bring its network back up to its benchmark requirement. Sprint also suggested an approach where the Safe Harbor could be met even where there was a reduction in service of reasonable duration as long as the carrier could meet the final construction benchmark at the time of renewal.

Sprint also raised significant concerns with the Commission's proposed Regulatory Compliance certification that would be required for all applicants. Sprint explained that the proposed certification, as drafted, was far too broad, especially as it would be applied to nationwide carriers who likely all face a host of compliance-related proceedings of all types at all times. The broad nature of the current language would thereby cause licensees that would fall

squarely within the Safe Harbor requirement based on their extensive network deployment to still require case-by-case Renewal Showings because they could make the Regulatory Compliance certification based on a single investigation of any kind. Sprint requested that to the extent a certification or disclosure of this kind is necessary that this broad language be narrowed prior to adoption.

Pursuant to Section 1.1206 of the Commission's Rules, Sprint hereby files this *ex parte* letter into the docket of the above-referenced proceeding.

Respectfully submitted,

[/s/ James B. Goldstein](#)

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