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Before the
FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of the Commission's Rules
Regarding Installment Payment Financing
for Personal Communications Services
(PCS) Licensees

WT Docket No. 97-82

**SPRINT CORPORATION OPPOSITION TO PETITIONS FOR
RECONSIDERATION**

Pursuant to Section 1.429 of the Federal Communications Commission's ("FCC" or "Commission") rules, Sprint Corporation¹ ("Sprint") submits the following Opposition to Petitions for Reconsideration of the Commission's Second Report and Order in the above-captioned proceeding.²

Sprint opposes arguments posed by several licensees in their Petitions for Reconsideration requesting additional relief from their debt obligations. Particularly, Sprint opposes arguments supporting the ability of distressed licensees who return spectrum to subsequently reacquire that spectrum at reauction. As stated in Sprint's comments and its Petition for Reconsideration, allowing this reacquisition of spectrum undermines the integrity of the auction process by encouraging participants to bid without regard to financial ability or market realities, in the knowledge that they can later surrender their

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¹ Sprint Corporation holds a 40% general and limited partnership interest in Sprint Spectrum, L.P., which holds 30 A and B Block Personal Communications Service ("PCS") licenses. In addition, Sprint holds 160 D and E Block licenses through its wholly-owned subsidiary SprintCom, Inc.

² Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, Second Report and Order and Further Notice of Proposed Rule Making, WT Docket No. 97-82, FCC 97-342 (Oct. 16, 1997) ("Second Report and Order").

licenses if their bids prove to be imprudent and rebid at a likely discount at reauction. Sprint urges the Commission to reconsider its amnesty option and eliminate the possibility of reacquiring surrendered spectrum altogether. Certainly, this elective should not be extended, as some petitioners would have, to apply to the disaggregation and prepayment options.

Sprint also opposes arguments posed by several licensees that the prices paid under the prepayment option should be adjusted by 15% to 16.5% to reflect the net present value of foregone installment financing. This is a reiteration of a proposal made in comments and rejected by the Commission in the Second Report and Order as unfair to other bidders and detrimental to the integrity of the auction process. While Sprint does not object to a reasonable adjustment to reflect interest rates available to individual licensees at the time the license was issued, discounting the amount owed by a factor greater than that would effectively reduce the price bid and afford a windfall to licensees electing this option.

Sprint opposes the arguments posed by NextWave and others that the Commission should apply a licensee's full down payment toward the disaggregation and prepayment options. As the Commission stated in the Second Report and Order, were this permitted, it would be unfair to licensees who choose to continue to pay under their existing obligations, and to bidders who were unsuccessful in the auction. Furthermore, there would be no deterrent against bidding excessively in auctions.

Sprint also opposes the further deferral of payment obligations sought by several commenters and reiterated in Petitions for Reconsideration. As the Commission acknowledged in the Second Report and Order, further delay puts C block licensees at a competitive disadvantage, making attracting investment capital difficult; creates a cloud of uncertainty over the wireless sector; and unjustly enriches defaulting licensees by affording them financing opportunities not available to those who in good faith fulfilled their payment obligations.

I. The Commission should not allow licensees seeking relief under the amnesty option to participate in the reauction of returned C Block Spectrum.

The Second Report and Order offered C-block licensees three options for debt relief from their payment commitments to the U.S. Government. Two of these options, the disaggregation and prepayment options, allowed licensees to surrender their licenses in exchange for debt relief, but prohibited licensees choosing those options from participating in reauction of C Block spectrum. The third option, the amnesty option, however, unjustly allowed licensees to both surrender their licenses and receive relief from their payment obligations, and subsequently participate in the reauction of returned C Block spectrum at a discount.

As stated Sprint's Petition for Reconsideration, Sprint urges the Commission to reconsider the amnesty option and prohibit all bidders seeking debt relief from subsequently reaquiring the same licenses they have surrendered. The amnesty option is not supported by the record, undermines the integrity of the auction process, discriminates against licensees that have fulfilled their commitments, and would unjustly enrich licensees that select the amnesty option and later bid for the same spectrum at a likely discount. Sprint opposes arguments posed by NextWave and others³ in their Petitions for Reconsideration advocating the expansion of this elective to return spectrum and subsequently bid on it at reauction to include not only bidders choosing the amnesty option, but also those choosing the disaggregation or prepayment options. As the Commission expressly noted in the Second Report and Order with respect to licensees choosing disaggregation or prepayment, bidding in a reauction would unjustly enrich those licensees and discriminate against other licensees and auction participants. Reacquisition of spectrum by licensees choosing amnesty, is equally likely to have these undesirable effects.

³ Northern Michigan PCS Consortium and Wireless 2000 Inc. agree with NextWave that licensees choosing the disaggregation option should be permitted to bid on returned spectrum at reauction.

II. The Commission should reject arguments by NextWave and others that the prepayment option be discounted by 15% to 16.5% to reflect the net present value of money.

Sprint opposes arguments posed by NextWave and others that the prices paid under the prepayment option should be adjusted by 15% to 16.5% to reflect the net present value of foregone installment financing.⁴ This argument was already presented to the Commission and properly rejected as unfair and outside normal commercial practices. Discounting the amount owed by a factor greater than interest rates available to individual licensees at the time the license was issued would effectively provide a licensee electing this option with a windfall.⁵ As the Commission stated in the Second Report and Order, “[I]t is fair to other bidders and to the credibility and integrity of our rules for the prepayment to be the amount of the outstanding debt for the net high bid. In other words, licensees should pay what they bid. ...To discount the amount of the principal, as has been suggested, would unfairly permit a windfall to the licensee electing this option.”⁶

III. The Commission should reject arguments by NextWave and others that licensees choosing the disaggregation and prepayment options be allowed to apply 100% of their down payments to amounts due under both options.

Sprint opposes the argument posed by NextWave and others in their Petitions for Reconsideration that licensees choosing the disaggregation and prepayment options should be permitted to apply the whole of their downpayments to amounts due. This argument was posed by commenters and rejected by the Commission in the Second Report and Order, where it wrote:

If licensees were able to use all of their down payment, they would recoup in full what they paid, and there would be no deterrent effect against bidding

⁴ NextWave at 9, see also Alpine at line 19, Prime Matrix, Fox Communications, Federal Network, Wireless Nation, Inc., United Calling Network, Cellexis, MFRI, RFW PCS, Inc., Leifer Marter Architects, Koll Telecommunication Services, Christensen Engineering & Surveying, CVI Wireless, Airtel Communications, Inc., URS Greiner, Inc., Dorne & Margolin, Central Oregon Cellular, New Wave, Inc., OnQue, Inc., Northern Michigan PCS Consortium, Wireless 2000, Inc., Urban Communicators PCS L.P., Vincent D. McBride, Cellnet.

⁵ Sprint does not object to a reasonable adjustment reflecting interest rates available to individual licensees at the time the license was issued

⁶ Second Report and Order at line 66.

excessively in the auction or otherwise gaming the process. Thus, these rules could be ignored with impunity...To allow them to use 100% of those funds would be unfair to other C block licensees who choose to continue to pay under their existing obligations, and to bidders who were unsuccessful in the auction.⁷

IV. The Commission should not afford any further deferral of payment obligations.

Sprint opposes any further deferral of payment obligations. NextWave and others propose various restructuring plans that defer payments on their obligations. This is a reiteration of the argument made in NextWave's earlier comments⁸ which the Commission explicitly rejected, stating that it "will not entertain any requests for an extension of the March 31, 1998 deadline," and that it "believe[s] that any further deferral of payments would be unfair to unsuccessful bidders who may have withdrawn from the C Block when prices became too high, but might have remained had deferral opportunities been known."⁹ As several commenters noted and the Commission acknowledged, further delay puts C block licensees at a competitive disadvantage, making attracting investment capital to support build-out difficult; creates a cloud of uncertainty over the wireless sector, and unjustly enriches licensees who defaulted on their payment obligations by affording them financing opportunities not available to those who in good faith fulfilled their payment obligations.

V. Conclusion

As discussed above, Sprint urges the Commission to reconsider the amnesty option and restrict the ability of licensees electing this option to rebid on surrendered spectrum, as it does licensees electing the disaggregation and prepayment options. Further, Sprint urges the Commission to reject arguments posed in Petitions for Reconsideration promoting unreasonable and unfair prepayment discounts, excessive downpayment credits, or further

⁷ Second Report and Order at line 65.

⁸ NextWave Comments at 4.

⁹ Second Report and Order at line 30.

deferral of payment obligations. These arguments have already been considered and properly rejected by the Commission as unfair and not in keeping with the policy objectives of maintaining the integrity of the auction process, ensuring fairness to all auction participants, and resolving issues now rather than postponing problems.

Respectfully submitted,

SPRINT CORPORATION



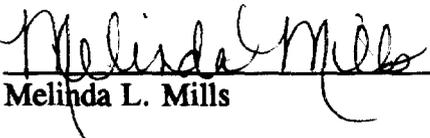
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December 29, 1997

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 29th day of December, 1997, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Sprint Corporation Opposition to Petitions for Reconsideration" in the Matter of Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, WT Docket No. 97-82, filed this date with the Secretary, Federal Communications Commission, to the persons on the attached service list.


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