Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz For Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems	)	ET Docket No. 00-258
Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use By the Mobile-Satellite Service	)	ET Docket No. 95-18
The Establishment of Policies and Service Rules for the Mobile-Satellite Service in the 2 GHz Band	)	IB Docket No. 99-81
Petition for Rule Making of the Wireless Information Networks Forum Concerning the Unlicensed Personal Communications Service	)	RM-9498
Petition for Rule Making of UTStarcom, Inc., Concerning the Unlicensed Personal Communications Service	)	RM-10024

COMMENTS OF SPRINT CORPORATION

Sprint Corporation hereby respectfully submits its comments on the Commission's Memorandum Opinion and Order and Further Notice of Proposed

Rulemaking ("FNPRM") in the above-captioned proceeding.[1] Sprint applauds the Commission for its decision in the initial Notice of Propose Rulemaking ("NPRM") in this matter, that MDS/ITFS licensees are providing valuable services in the 2500-2690 MHz ("2.5 GHz") band and should not be moved.[2] As Sprint noted in its filings in the initial NPRM, the 2150-2162 MHz band (MDS channels 1 and 2), is a critical part of Sprint's fixed wireless operations. The channels are used to provide upstream communications in each of the markets in which Sprint is providing first generation, broadband fixed-wireless services. For the same reasons that Sprint urged the Commission not to displace MDS/ITFS licensees in the 2.5 GHz band, Sprint urges the Commission not to reallocate the concomitant 2150-2162 MHz band or otherwise displace MDS service providers and their customers.

If, however, the Commission determines that reallocation of the 2150-2162 MHz band is essential in order to accommodate new advanced wireless services, Sprint urges it to designate for reallocation spectrum that is truly comparable to those bands and to ensure that all costs associated with relocation are reimbursed. Simultaneous to this filing, the Wireless Communications Association ("WCA") is filing comments in this docket, discussing in detail the ramifications of relocating incumbent users of the 2150-2162 MHz band. Sprint fully supports those comments.

I. Introduction

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[1] Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET No. 00-258, FCC 01-224, 66 FR 47618-01, *Further Notice of Proposed Rulemaking* (rel. Aug. 20, 2001).

[2] Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00-258, *Notice of Proposed Rule Making and Order*, 16 FCC Rcd 596 (2001) (NPRM).

In this Memorandum Opinion and Order and Further Notice of Proposed Rulemaking (FNPRM), the Commission continues its exploration of the possible use of frequency bands below 3 GHz to support the introduction of new advanced mobile and fixed terrestrial wireless services (advanced wireless services), including third generation (3G) and future generations of wireless systems. Specifically, the FNPRM seeks comment on reallocating spectrum in the 1910-1930 MHz, 1990-2025 MHz, 2150-2160 MHz, 2165-2200 MHz, and 2390-2400 MHz bands for new advanced wireless services.

The intent of the FNPRM is to determine how the proposed spectrum allocation options might work in conjunction with the options previously identified in the NPRM in order to facilitate the provision of new advanced wireless services. The Commission seeks comment on the potential for commercial use of the additional spectrum bands, the use of these or other bands for the relocation of other incumbent licensees or operators, the advantages or disadvantages of these options and the effect of the proposed allocations on existing and prospective users of the bands.

II. Discussion

In the FNPRM, the Commission proposes to reallocate the 2150-2160 MHz band for advanced wireless services, or for relocation purposes.[3] As Sprint noted in its comments in the initial NPRM, Sprint's predecessors in interest acquired rights to use the 2150-2162 MHz band and rights to various channels in the 2.5 GHz band at auction.[4] Sprint currently owns licenses to this spectrum and uses it to provide first generation fixed

[3] The 2150-2162 MHz band is designated for channel 1 and for channel 2A of MDS. More specifically, in the 50 largest markets, MDS uses two six-megahertz channels: channel 1 at 2150-2156 MHz and channel 2 at 2156-2162 MHz. In the rest of the country, channel 2 is replaced by a smaller channel 2A, which is four MHz at 2156-2165 MHz.

wireless service to 52,000 customers in 14 markets and video service to 100,000 customers in various markets across the country. Unless truly comparable spectrum is offered to current occupants of the 2150-2162 MHz band, and unless a plan is devised for the complete reimbursement of Sprint and its customers for relocation costs, Sprint would oppose any relocation plan.

Sprint and other companies have invested a great deal of money and time constructing MDS systems which are now providing valuable service to the public and which, as the Commission itself has recognized, hold great promise as an alternative to DSL and cable service.[5] Sprint recently announced the suspension of its deployment of first-generation two-way, broadband fixed-wireless services, but stated it would continue to provide service to its existing first generation customers, as well as its existing video service customers.[6] Sprint also stated that it would continue to test second generation fixed-wireless technology and that it "[r]emained hopeful that the next generation of MMDS technology will overcome many of today's limitations [Sprint has experienced with its deployment of first generation technology]."[7] Second generation MDS fixed-wireless technology promises to reduce, or hopefully eliminate, line-of-sight restrictions,

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[4] *See* http://www.fcc.gov/wtb/auctions/06/charts/6_cursum.gif

[5] In its Final Report, the Commission found that MDS licensees provide commercial video programming; and MDS providers, through their broadband fixed wireless services, provide a "significant opportunity for further competition with cable and digital subscriber (DSL) services in the provision of broadband services in urban areas and deliver broadband services to rural areas." *See* FCC Office of Engineering and Technology, Mass Media Bureau, Wireless Telecommunications Bureau and International Bureau, *Spectrum Study of the 2500-2690 MHz Band: The Potential for Accommodating Third Generation Mobile Systems, Final Report* ("Final Report") at 13.

[6] *See* Sprint Press Release, "Sprint to Terminate ION Efforts; Announces Additional Actions to Improve Competitive Positioning and Reduce Operating Costs in FON Group," Oct. 17, 2001, http://biz.yahoo.com/prnews/011017/cgw066_1.html.

[7] *See* "As it Cuts back on fixed –wireless service, Sprint considers using spectrum for mobile offerings," TR Daily, Oct. 18, 2001, (The president of Sprint's Global Markets Group identified "line-of-site issues" and "high installation costs" as limitations Sprint hoped to see overcome by second generation MMDS technology. Sprint also indicated that it was considering if and how Sprint could make use of the Commission's decision in the initial NPRM to permit mobile use of the 2.5 GHz band.)

lower installation cost because customers can install equipment themselves, and provide voice capability. Thus, Sprint hopes that the new technology will prove much more economically viable to deploy and operate and will offer customers many advantages over the existing service.

Sprint urges the Commission to stay the course in its approach to services provided in the 2.5 GHz and 2150-2162 MHz bands. As Sprint stated in its comments, "To abandon at this juncture an established policy that enthusiastically opened the 2.1 GHz and 2.5 GHz bands to advanced fixed wireless services would be an arbitrary departure from well-reasoned, existing Commission precedent."[8]

Were the Commission to deem it necessary to reallocate the 2150-2162 MHz band to advanced wireless service, thereby uprooting MDS operations and customers, the relocation costs would, as the WCA describes in detail in its comments, be substantial. Beyond requiring relocation spectrum that is fully cleared of incumbents and fully comparable to the 2150-2162 band into which they may migrate, all MDS licensees forced to relocate must be reimbursed all costs associated with the reallocation, including the cost of new equipment and customer migration/compensation.[9] Unlike other relocation proceedings which involved relocating internal microwave links, and under

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[8] *See* Comments of Sprint Corporation in re: Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00-258, Notice of Proposed Rulemaking and Order, FC No. 00-455 (Jan. 5, 2001), filed Feb. 22, 2001 ("Sprint Comments") at 6, citing *Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions*, Report and Order, 13 FCC Rcd 19112 (1998) ("*Two-Way Order*"), *recon.,* 14 FCC Rcd 12764, further *recon*., FCC 00-244 (July 21, 2000).

[9] *See, e.g*., *Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation*, 11 FCC Rcd 8825, 8843 (1997); *See* also Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, 8 FCC Rcd 6589, 6603 (1993).

which the Commission's *Emerging Technologies*[10] relocation policy might have been appropriate, in the case of the MDS/ITFS bands, the Commission would be forcing relocation of licensees who are providing service to thousands of residential and business customers. As Sprint discussed in detail in its earlier Comments, if MDS/ITFS licensees are to be relocated, the relocation rules must provide not only for licensee reimbursement, but also, in appropriate cases, for reimbursement of consumer replacement CPE costs and lessee/operator relocation costs. These additional costs were envisaged by the Commission in the *Emerging Technologies* proceeding for involuntary relocation and must be provided to MDS/ITFS. [11]

III. Conclusion

Sprint is providing valuable services to the public using the 2500-2690 MHz and 2150-2162 MHz bands. The Commission has recognized the significance of this service in the past and has encouraged deployment of operations in these bands. Sprint urges the Commission to follow the path taken in its earlier NPRM and allow MDS to continue operating in the 2150-2162 MHz band as it did in the 2500-2690 MHz band.

If the Commission determines that it must reallocate MDS operations to a new band, it must offer fully comparable spectrum and reimburse all relocation costs.

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[10] *See Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies*, Report and Order, 7 FCC Rcd 6886 (1992) ("Emerging Technologies First R&O"), Third Report and Order and Memorandum Opinion and Order, 8 FCC Rcd 6589 (1993).

[11] *See* Sprint Comments at 27, citing *Emerging Technologies First R& O* at 6890: "When the Commission initially established rules and policies for relocating incumbent fixed microwave licensees to accommodate emerging technologies in its Emerging Technologies proceeding, it stated that in the event of an involuntary relocation of an incumbent licensee, the emerging technology licensee must (1) guarantee payment of all costs of relocation to a comparable facility, including all engineering, equipment, site and FCC fees, and any reasonable, additional costs; (2) complete all activities necessary for placing the new facilities into operation, including engineering and frequency coordination; and (3) build and test the new system to determine comparability."

Respectfully submitted,

Sprint Corporation

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