

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

In the Matter of)	
)	
Improving Public Safety Communications)	WT Docket 02-55
in the 800 MHz Band)	
)	
Consolidating the 800 and 900 MHz)	
Industrial/Land Transportation and)	
Business Pool Channels)	
)	
Amendment of Part 2 of the Commission's)	ET Docket No. 00-258
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 Services)	
)	
Petition for Rule Making of the Wireless)	RM-9498
Information Networks Forum Concerning)	
the Unlicensed Personal Communications)	
Service)	
)	
Petition for Rule Making of UT)	RM-10024
Starcom, Inc. Concerning the Unlicensed)	
Personal Communications Service)	
)	
Amendment of Section 2.106 of the)	ET Docket No. 95-18
Commission's Rules to Allocate Spectrum)	
at 2GHz for Use by the Mobile Satellite)	
Service)	

**OPPOSITION OF CHOICE PHONE LLC TO PETITION FOR
RECONSIDERATION OF SPRINT NEXTEL CORPORATION**

Choice Phone LLC ("Choice"), through its undersigned attorneys, and pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, hereby opposes the Petition for Reconsideration ("Petition") filed in the above-captioned proceeding on January 27,

2006 by Sprint Nextel Corporation (“Sprint Nextel”)¹ insofar as the Petition requests that the Commission remove Guam and the Northern Mariana Islands from Wave 4 of the reconfiguration schedule. Sprint Nextel’s Petition requests that the Commission reconsider its recommendation to the Transition Administrator (“TA”) in the *Memorandum Opinion and Order*² to include American Samoa, Guam, the Northern Mariana Islands and facilities located in the Gulf of Mexico in Wave 4 of the reconfiguration schedule.³ Choice urges the Commission to deny the Sprint Nextel petition with respect to this request because Sprint Nextel’s stated reasons for the request do not apply to Guam and the Northern Mariana Islands.

Sprint Nextel states that reconfiguration in the areas that do not have NPSPAC regions *may be* both “unnecessary” and “infeasible.”⁴ As an example, Sprint Nextel asserts that “the Commission has never conducted an SMR auction for the Gulf of Mexico, and Sprint Nextel holds no spectrum rights there.”⁵ Sprint Nextel goes on to state that “[t]here appear to be few, if any, public safety licensees in the Gulf of Mexico.”⁶

Sprint Nextel’s example addresses only the Gulf of Mexico and certainly does not apply to Guam or the Northern Mariana Islands. The Commission has conducted an SMR

¹ See *Petition for Reconsideration of Sprint Nextel Corporation*, in WT Docket No. 02-55 (January 27, 2006).

² Improving Public Safety Communications in the 800 MHz Band; Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels, *Memorandum Opinion and Order*, 20 FCC Rcd 16015, FCC 05-174 (2005) (*MO&O*).

³ See Petition at 20-21.

⁴ *Id.* at 20.

⁵ *Id.*

⁶ *Id.*

auction for Guam and the Northern Mariana Islands⁷ and Sprint Nextel has purchased spectrum rights there.⁸ There are also a significant number of public safety licensees in Guam and the Northern Mariana Islands.⁹ Nothing in the Petition provides support for the proposition that reconfiguration for Guam or the Northern Mariana Islands would be “unnecessary” or “infeasible”; and Sprint Nextel’s stated reasoning for denying relocation for the Gulf of Mexico market does not apply to Guam and the Northern Mariana Islands market.

In addition, seeking reconsideration of the Commission’s recommendation in the *MO&O* will not achieve Sprint Nextel’s goals. As the Commission stated in the *MO&O*, “the Commission’s 800 MHz rules both prior to and subsequent to the *800 MHz R&O* and the *Supplemental Order* apply to...Guam [and] the Northern Mariana Islands.”¹⁰ Therefore, even if Sprint Nextel had shown that reconfiguration for Guam or the Northern Mariana Islands is “unnecessary” or “infeasible,” which, as shown above, it fails to do, this still would not allow the Commission to reconsider the application of its 800 MHz rules to Guam and the Northern Mariana Islands. Sprint Nextel is truly seeking reconsideration not of the Commission’s decision in the *MO&O* to include Guam and the Northern Mariana

⁷ Auction 34 was held from August 16, 2000 to September 1, 2000 and included the purchase of eight licenses in the Guam and Northern Mariana Islands market.

⁸ Sprint Nextel purchased license YCBEA173F and YCBEA173FF in the Guam and Northern Mariana Islands market in Auction 34.

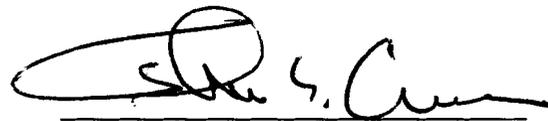
⁹ This includes the Guam Police Department and a Public Safety Pool license for the Municipality of Saipan. This fact was also implicitly recognized by the Commission in the *MO&O* which stated that “*in the case of the Gulf of Mexico*, [there are] few if any public safety facilities...” *MO&O* at para. 123 (emphasis added). Although the Commission was addressing Guam and the Northern Mariana Islands as well as the Gulf of Mexico in that paragraph, the Commission did not address its comments regarding the lack of public safety facilities to Guam and the Northern Mariana Islands. *Id.*

¹⁰ *Id.*

Islands in Wave 4, but of the relocation of licensees in those areas at all.¹¹ In order to do that, the Commission would have to reconsider the applicability of the 800 MHz rules to Guam and the Northern Mariana Islands, which is reconsideration Sprint Nextel cannot seek at this time.

In conclusion, Choice urges the Commission to deny Sprint Nextel's Petition for Reconsideration insofar as it addresses the relocation of licensees in Guam and the Northern Mariana Islands. Sprint Nextel has offered no justification for the Commission to reconsider its recommendation in the *MO&O* that licensees in Guam and the Northern Mariana Islands be relocated in Wave 4 of the reconfiguration schedule and cannot at this time request reconsideration of the applicability of the Commission's 800 MHz rules to those areas.

Respectfully submitted,



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¹¹ The Petition states “[t]he Commission should consequently reconsider the need to reconfigure the 800 MHz band in these markets.” Petition at 20.

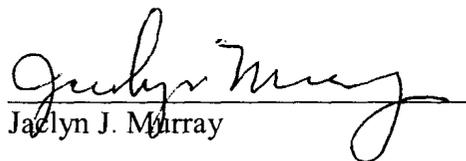
* Admitted only in Virginia, 2004. District of Columbia application pending. (Supervised by Thomas K. Crowe, a member of the District of Columbia bar).

CERTIFICATE OF SERVICE

I, Jaclyn J. Murray, a Legal Assistant with the Law Offices of Thomas K. Crowe, P.C., hereby certify that a copy of the foregoing "Opposition of Choice Phone LLC To Petition for Reconsideration of Sprint Nextel Corporation" was mailed by United States First Class Mail, postage prepaid, this 10th day of February, 2006 to the following persons:

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