



Federal Communications Commission
Washington, D.C. 20554

March 13, 2006

WT 02-55

RECEIVED

APR 28 2006

Federal Communications Commission
Office of the Secretary

The Honorable Trent Franks
U.S. House of Representatives
1237 Longworth Building
Washington, DC 20515

Dear Congressman Franks:

Thank you for your inquiry of February 1, 2006, in which you forwarded information provided by Mr. William K. Keane, Counsel to the Mohave County, Arizona Board of Supervisors ("Mojave County").

Mojave County has stated that it is concerned that the Commission's relocation rules for Broadcast Auxiliary Service (BAS) licensees in the 1990-2025 MHz frequency band adopted in its *Report and Order, Supplemental Order and Order on Reconsideration* and *Memorandum Opinion and Order* in WT Docket 02-55, the *Fifth Report and Order* in ET Docket No. 00-258, and the *Fourth Memorandum Opinion and Order* in ET Docket No. 95-18 (collectively, "800 MHz Public Safety Proceeding") may adversely impact its TV translator relay licensees in the band. According to Mojave County, Sprint Nextel has wrongly interpreted the Commission's decision in the *Memorandum Opinion and Order* to exclude Mojave County's TV translator relay operations from reimbursement for relocation. Mojave County believes that Sprint Nextel is mistaken, and has recently asked that the Commission clarify that TV translators such as those that serve Mojave County are eligible for relocation and reimbursement. The Commission is currently reviewing the Petition for Reconsideration or Clarification filed by Mojave County and discussed by Mr. Keane, as well as filings by other interested parties. These pleadings were submitted in response to the *Memorandum Opinion and Order* adopted on October 3, 2005 in the 800 MHz Public Safety Proceeding (WT Docket No. 02-55 and ET Docket Nos. 00-258 and 95-18).

As background, the rules that the Commission adopted in the 800 MHz Public Safety Proceeding were intended to address the problem of interference to public safety communications in the 800 MHz band. In this proceeding, Sprint Nextel agreed to reconfiguration of the band plan whereby it surrendered certain spectrum rights and agreed to incur certain relocation costs as a result of the 800 MHz band reconfiguration, in exchange for the use of ten megahertz of spectrum at 1.9 GHz (1910-1915 MHz and 1990-1995 MHz). Because the 1990-1995 MHz band is part of the larger 1990-2025 MHz band used by BAS, the Commission also established procedures for Sprint Nextel's relocation of BAS incumbents in the 1990-2025 MHz band, subject to the conditions and obligations imposed by the *Report and Order* and subsequent decisions in the 800 MHz Public Safety Proceeding. (Mojave County's subject stations currently operate on these frequencies.) Among other things, the decision required Sprint Nextel to reimburse the

No. of Copies rec'd 0
List A B C D E

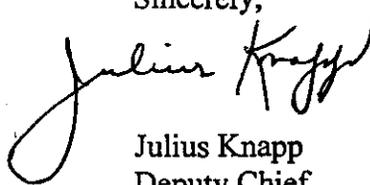
Federal Government for the value of the spectrum it was receiving, less the value of the spectrum it was giving up and any costs it incurred in relocating incumbent licensees – including BAS entities.

As for which incumbents would be entitled to reimbursed relocation, the Commission, in an earlier proceeding, had decided that an incumbent BAS facility could continue to operate on a primary basis until relocated by a new entrant, provided that the receipt date of the BAS licensee's initial application was prior to June 27, 2000. Initial applications filed after June 27, 2000 have been licensed on a secondary basis. The Commission concluded that new entrants, such as Sprint Nextel, would not be required to relocate secondary operations that, by rule, cannot cause harmful interference to primary operations nor claim protection from harmful interference from primary operations. The issue of the status of TV translator stations was not clearly addressed.

Mojave County's current petition specifically relates to a subsequent decision the Commission made in response to a letter request from Sprint Nextel, the Association for Maximum Service Television, Inc., and the National Association of Broadcasters filed in June 2005 ("June 2005 Letter"). The June 2005 Letter was limited to the specific issue of whether Sprint Nextel should be allowed to obtain credit against its obligations to the Federal Government for the costs of relocating secondary BAS incumbents licensed after June 27, 2000 but before November 22, 2004 (which represents the effective date of the 800 MHz Public Safety Proceeding). In its *Memorandum Opinion and Order* of October 5, 2005, the Commission, among other things, addressed the June 2005 Letter and allowed, but did not require, Sprint Nextel to relocate these secondary BAS operations, and allowed Sprint Nextel to obtain credit for these costs against its obligation to the Federal Government. Mojave County's petition for reconsideration relates to the scope of that decision and to which licensees are entitled to relocation and reimbursement.

Because this is a pending proceeding, I cannot speak to the merits of Mojave County's request. I assure you, however, that the Commission will give Mojave County's petition the fullest consideration. To that end, we will place a copy of this correspondence in the docket file of this proceeding.

Sincerely,



Julius Knapp
Deputy Chief
Office of Engineering & Technology

cc: Dan Hay
7121 West Bell Road
Suite 200
Glendale, AZ 85308