

LAWLER, METZGER, MILKMAN & KEENEY, LLC

2001 K STREET, NW
SUITE 802
WASHINGTON, D.C. 20006

REGINA M. KEENEY

PHONE (202) 777-7700
FACSIMILE (202) 777-7763

December 6, 2006

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WT Docket No. 05-286
Ex Parte Presentation

Dear Ms. Dortch:

On Tuesday, December 5, 2006, Luisa L. Lancetti, Vice President – Government Affairs, Wireless Regulatory, Sprint Nextel Corporation (“Sprint Nextel”) and I held separate meetings with Barry Ohlson, Senior Legal Advisor for Spectrum & International Issues to Commissioner Jonathan Adelstein, and John Branscome, Legal Advisor to Commissioner Michael Copps, regarding Sprint Nextel’s September 29, 2005 Request for Limited Waiver of the Commission’s Enhanced 911 (“E911”) rules. Kevin Joseph, Consultant to Sprint Nextel, also attended the meeting with Mr. Branscome.

At these meetings, we discussed the fact that there is good cause for granting Sprint Nextel’s request for a limited waiver of the December 31, 2005, Enhanced 911 benchmark requiring that 95% of Sprint Nextel’s active subscriber handsets be Global Positioning Satellite (“GPS”) capable. By law, the Commission is required to grant the requested waiver if Sprint Nextel satisfies the applicable waiver standard. As demonstrated in its waiver request and other filings in this proceeding, Sprint Nextel has met this standard. The unique circumstances that have undermined Sprint Nextel’s compliance efforts since 2001, as well as the steps it has taken to overcome those circumstances, provide compelling justification for a grant of Sprint Nextel’s requested relief.

A confluence of events beyond Sprint Nextel’s control prevented Sprint Nextel from meeting the handset penetration benchmark. Sprint Nextel’s compliance efforts were hindered by a delay in the availability of GPS-enabled handsets for its iDEN network. Since July 2004, Sprint Nextel has also had to overcome the effects of an unforeseeable, latent software defect in handsets supplied by Motorola. This software defect disabled GPS functionality on millions of iDEN handsets. Further, the rate of iDEN handset replacement by Sprint Nextel customers has been significantly lower than the Commission anticipated when it set the benchmark for GPS-enabled handset penetration. This lower-than-expected rate of iDEN handset replacement is due in large part to the fact that Sprint Nextel’s iDEN subscriber base historically has been weighted

Marlene H. Dortch
December 6, 2006
Page 2

towards small business and government customers, organizations that upgrade to new handsets more slowly than individual consumers. In light of these factors, and Sprint Nextel's efforts to overcome these obstacles, it would be inequitable and contrary to the public interest for the Commission to require Sprint Nextel's strict compliance with the benchmark rule.

Sprint Nextel respectfully submits that the requested waiver will not undermine the policies underlying the Commission's E911 rules. Sprint Nextel has demonstrated that it has taken concrete steps to come as close as possible to compliance with the Commission's E911 requirements, and has established a clear path to full compliance. Sprint Nextel has undertaken and will continue to pursue a number of activities to persuade customers to upgrade to GPS-enabled units. Most recently, Sprint Nextel has introduced dual-mode handsets that combine an iDEN push-to-talk feature with CDMA functionality for other voice and data services. The launch of these products is expected to further expedite the migration of customers to GPS-capable handsets.

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter is being filed electronically for inclusion in the public record of the above-referenced proceeding.

Sincerely,

/s/ Regina M. Keeney
Regina M. Keeney

cc: Barry Ohlson
John Branscome