

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of )  
 )  
City of Boston, Massachusetts ) **WT Docket No. 02-55**  
and Sprint-Nextel )  
 )  
Mediation No. TAM-11155 )

To: The Secretary, for forwarding to the Chief, Public Safety and Homeland Security Bureau

**STATEMENT IN SUPPORT OF PETITION FOR RECONSIDERATION**

1. The Mayor and City Council of Baltimore, Maryland (“Baltimore City”) hereby submits these comments in support of the Petition for Reconsideration (“Petition”) in the above-captioned matter, filed on behalf of the City of Memphis, Tennessee, *et al.* (“Memphis”), on December 21, 2006. The Petition seeks reconsideration of certain aspects of the Public Safety and Homeland Security Bureau’s (“Bureau”) post-mediation decision, DA 06-2556, released December 20, 2006 (“Boston Decision”).

2. The principal issue of concern to Baltimore City is the possibility that the Boston Decision may be deemed to have precedential impact with respect to the necessity for removing abandoned channels from Baltimore City’s 800 MHz band public safety mobile and portable radios after completion of the re-banding process.

3. Baltimore City justifies its participation in the same manner as Memphis did, pursuant to Section 1.106(b)(1) of the Commission’s Rules. Baltimore’s interest would be directly adversely affected were the Boston Decision to be used a precedent for denying Baltimore City reimbursement for the cost of removing abandoned channels. The particulars will be described herein. Baltimore City did not participate earlier, because it was not a party to the Boston mediation process and had no reason to monitor or attempt to intervene in any other

municipality's mediation; nor did Baltimore City have any reason to anticipate that the Bureau would rule against reimbursement for channel removal, given that unusable channels that remain in radios after rebanding represent a serious potential hazard in emergency situations.

4. There are several reasons why abandoned channels should not be left in radios.

They include:

a. Not all radios transmit only on channels that are assigned to them by a system controller that might be expected to prevent operation on unauthorized channels. For example, interoperability between public safety officers in different jurisdictions<sup>1</sup> is often achieved by using conventional rather than trunked channels, and a public safety officer will manually select an appropriate channel based on both identity of the other jurisdiction being contacted and the circumstances of the moment. If he or she selects an abandoned conventional channel by mistake, the result could be both dangerous delay in establishing a communication link and interference to Sprint-Nextel as the new user of the channel.

b. Similarly, in a trunked system, a public safety officer dealing with a jurisdictional emergency might have to make a manual decision as to which talk group to select, and an error would cause both delay and interference.

c. Selection of a channel or talk group is often made by a public safety officer under severe stress. The more choices that are available to the officer, the more chances there are for error. An error that delays establishing contact could easily cause loss of life and/or property. In addition, some public safety officers, particularly fire personnel, may be wearing protective gloves that are somewhat clumsy and can make it more difficult to scroll

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<sup>1</sup> Interoperability is a real-life important issue to Baltimore City, which is part of the CMARC (Central Maryland) consortium of public service agencies that have devoted, and will in the future continue to devote, significant time and financial resources to enhancing inter-jurisdictional radio interoperability and other mutual aid arrangements.

through talk groups. Having fewer, rather than more choices can be critical to the prompt establishment of a usable communication link.

d. If abandoned channels remain in the radios, then in the automatic channel access mode, a radio will have to search through more channel groups than necessary to find a control channel signal, so it will take longer to lock on to the correct group. This extra time will degrade real-time system performance, particularly in faded or weak RF environments where a radio may be adversely affected by the presence of a stronger signal on an abandoned channel group than the signal on the desired group. Locking on to the wrong channel group, even temporarily, can represent an intolerable hazard to public safety, leaving Baltimore City with a less effective, and possibly unsafe, radio system after rebanding than before.

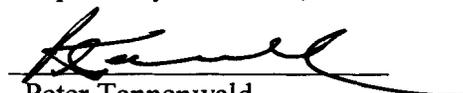
5. These are not all the reasons, and there is no need to discuss every reason here, or to meet any burden of proof, because this proceeding is not directed toward Baltimore City, and Baltimore City is not asking the Bureau to make any finding regarding the City's own specific needs. Indeed, there is no evidence at this point in time that there will even be a dispute between Baltimore City and Sprint-Nextel on the channel removal issue during negotiation of the City's Frequency Relocation Agreement. Hopefully, the entire matter will be resolved in negotiations between Baltimore City and Sprint-Nextel; and there will be no need for mediation, let alone referral of any dispute to the Bureau. Indeed, Baltimore City has reason to be optimistic that it will have an opportunity for a full and fair negotiation with Sprint-Nextel in light of Sprint-Nextel's letter of July 9, 2006, to the Commission, stating their view that the Boston Decision should be interpreted in light of the specific facts and circumstances of that case.

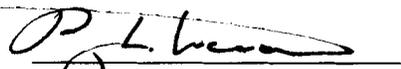
6. Nevertheless it appears to Baltimore City that the Boston Decision is in error on the channel removal issue; and regardless of whether the Boston Decision stands or is overturned or modified,<sup>2</sup> it is extremely important that if the Boston Decision stands, it be confined to the specific facts and circumstances of that case and not be cited or used as precedent with respect to other facts and circumstances in other jurisdictions. Removal of abandoned channels will be extremely important to Baltimore City, Baltimore City will explain the reasons to Sprint-Nextel, and Baltimore City strongly objects to any precedent suggesting that such removal from the City's system will not be a reimbursable cost.

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January 11, 2007

Respectfully submitted,

  
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<sup>2</sup> In addition to the Memphis Petition for Reconsideration, Boston filed a Petition for *De Novo* Review on December 28, 2006, requesting a hearing before an Administrative Law Judge.

**CERTIFICATE OF SERVICE**

I, Tracy L. Houchens, do hereby certify that on this 11<sup>th</sup> day of January, 2007, I have caused copies of the foregoing "Statement in Support of Petition for Reconsideration" to be sent by first class United States mail, postage prepaid, to the following:

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In addition, copies will be sent via electronic mail on the 12<sup>th</sup> day of January, 2007, to the following:

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Tracy L. Houchens