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Federal Communications Commission
Office of the Secretary

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Via Courier

Marlene H. Dortch
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Reply to Opposition to Supplement
WT Docket 03-66; Amendment of Parts 1, 21, 73, 74, and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 GHz Bands

Dear Ms. Dortch:

NY3G Partnership ("NY3G") hereby submits this reply to the Opposition of Sprint Nextel to NY3G's Supplement to Petition for Reconsideration. *See* Opposition to Supplement to Petition for Reconsideration (January 8, 2006) ("Opposition"). In the Supplement, NY3G proposed that the Commission amend its rules to permit co-channel licensees, upon Commission approval, to exchange or transfer service area territory between one another in order to facilitate intersystem coordination of co-channel operations or to reduce or mitigate the harmful effects of co-channel interference. Sprint Nextel, which controls a dominant block of BRS/EBS spectrum and has a strong interest in hampering the efforts of potential competitors to improve service, was the only party to oppose the Supplement, arguing primarily that the amendment is unnecessary and simply a pretext for revisiting the October 17, 2006 negotiation deadline established for co-channel licensees.

Sprint Nextel's arguments are without merit. As NY3G stated in the Supplement, while the Commission's rules provide some flexibility in negotiations between co-channel licensees after the deadline, the different service classifications and requirements for BRS and EBS licensees and the rigidity of the GSA boundaries may prevent such licensees from reaching optimal solutions. Neither channel-swapping nor secondary-market transactions, as Sprint Nextel suggests, eliminate any of these concerns. Moreover, nothing in the proposed amendment disturbs or challenges the October 17, 2006 negotiation deadline.

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There is also no reason to conclude, as Sprint Nextel does, that such negotiations would introduce "uncertainty" to the transition process. Such negotiating licensees operate on the same frequencies and have adjacent GSAs. Accordingly, any changes as to the common border between such licensees would not likely have a meaningful impact on any transition process.[1]

At bottom, the amendment is a neutral proposal designed to serve the public interest by allowing co-channel licensees to cooperate in making adjustments to their service areas to reflect changing consumer demands and service needs.[2] Accordingly, the Commission should reject Sprint Nextel's Opposition, and grant NY3G's proposed amendment to the Commission's rules.

Very truly yours,

Bruce D. Jacobs
Tony Lin
Counsel for NY3G Partnership

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[1] In any event, the necessity of coordinating co-channel operations will persist long after the transition period. Accordingly, the public interest benefits from permitting such agreements would outweigh any minor temporary set-backs to the transition process.

[2] For these same reasons, good cause exists to consider the Supplement even though it was not filed during the thirty-day window for submitting petitions for reconsideration.

CERTIFICATE OF SERVICE

I, Renee Williams, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this 25th day of January 2007 I served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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*Via hand delivery

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