

BEFORE THE COPY ORIGINAL  
Federal Communications Commission  
Washington, D.C. 20554

FILED/ACCEPTED  
OCT 16 2007  
Federal Communications Commission  
Office of the Secretary

In the Matter of )  
)  
**CITY OF BOSTON** ) WT Docket No. 07-69  
)  
**and** ) Mediation No. TAM-11155  
)  
**SPRINT NEXTEL CORPORATION** )  
)  
Relating to Rebanding Issues in the 800 MHz )  
Band )

To: Richard L. Sippel  
Chief Administrative Law Judge

**ENFORCEMENT BUREAU'S MOTION TO SUSPEND FILING DEADLINES**

1. On October 15, 2007, Nextel Communications, Inc. ("Nextel") filed "Nextel Communications, Inc.'s Status Report" ("Status Report"). Based on the representations therein and for the reasons set forth below, the Enforcement Bureau respectfully requests the Presiding Judge to temporarily suspend the procedural deadlines set forth in *City of Boston et al.*, Order, FCC 07M-37 (ALJ, rel. October 9, 2007) ("October 9 Order").
  
2. On October 3, 2007, the captioned parties informed the Presiding Judge that they had reached agreement on all outstanding disputed issues which were to have been the subject at hearing in this proceeding.<sup>1</sup> In response thereto, the Presiding Judge issued his October 9 Order wherein he directed the captioned parties to incorporate their accord into a Frequency Reconfiguration Agreement ("FRA") and to submit such FRA to the Bureau for its consideration

<sup>1</sup> Joint request for Termination of Proceeding, filed by Nextel and Boston on October 3, 2007. No. of Copies rec'd 046  
List A B C D E

and review by October 15, 2007. In his October 9 Order, the Presiding Judge also directed the Bureau to provide written comments on the FRA by October 22, 2007.

3. The captioned parties did not submit an executed FRA to the Bureau for its consideration and review by the October 15, 2007, deadline. Rather, on that date Nextel filed the referenced Status Report, accompanied by drafts of *unexecuted* FRAs, in which it represented that the captioned parties were attempting to resolve a newly-raised request for reimbursement by Nextel of legal fees incurred by Boston's counsel. Nextel did not suggest a date by which it anticipated that the dispute might be resolved; however, it did reaffirm its commitment to executing an FRA once the captioned-parties had resolved this last disputed matter.

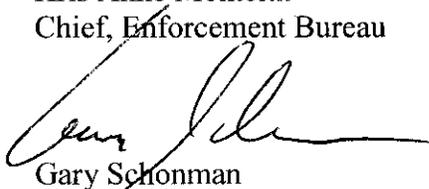
4. The Bureau does not believe that it would be an efficient use of its resources for it to review and comment on unexecuted drafts of FRAs. Unexecuted agreements are not binding and have no effect on the disposition of this proceeding. For this reason, the Bureau requests the Presiding Judge to suspend the October 22, 2007, deadline imposed in the referenced October 9 Order by which date the Bureau is required to submit written comments, and to establish a date certain by which the captioned-parties must execute an FRA or return to hearing status.

5. The Bureau further believes that in the event the captioned-parties execute an FRA, it would serve the public interest and be more efficient to the resolution of this proceeding for the captioned-parties to refer their FRA initially to the Commission's 800 MHz Transition Administrator ("TA"), which has the expertise to determine whether the FRA complies with all applicable 800 MHz rebanding-related rules, orders, and policies of the Commission. Indeed, the TA is the entity that has been specifically designated by the Commission to evaluate FRAs between Nextel and 800 MHz licensees that are to be rebanded. See *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, WT Docket No. 02-55, 19 FCC Rcd

14969 (2004), at §§ 190-200. Upon receipt of the TA's assessment of the FRA, the Bureau proposes to then file appropriate comments in this proceeding as to whether it would serve the public interest to terminate this proceeding based on the FRA.

6. Based on the foregoing, the Bureau respectfully requests the Presiding Judge to suspend the procedural dates specified in his October 9 Order and to set a firm date by which the captioned-parties must execute an FRA or return to hearing status. Furthermore, the Bureau requests the Presiding Judge (*after* the captioned-parties have resolved their last-remaining dispute, executed an FRA, and notified the Presiding Judge of such), to issue a further order (a) directing Boston and Nextel to jointly submit their FRA to the TA to determine whether the FRA substantially complies with all applicable 800 MHz rebanding rules, orders, and policies; and, if the TA approves the FRA, (b) directing the Bureau to file comments on whether there remain any outstanding issues requiring an evidentiary hearing and, if not, whether termination of the instant hearing would serve the public interest.<sup>2</sup>

Respectfully submitted,  
Kris Anne Monteith  
Chief, Enforcement Bureau



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October 16, 2007

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<sup>2</sup> The Bureau recognizes that such further order would have the effect of modifying the sequence of events contemplated in the October 9 Order by requiring review of the executed FRA by the TA and then the Bureau, rather than *vice versa*.

**CERTIFICATE OF SERVICE**

Kerri Johnson, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 16<sup>th</sup> day of October 2007, sent by first class United States mail copies of the foregoing "Enforcement Bureau's Motion to Suspend Filing Deadlines" to:

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\* Hand-Delivered