

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Improving Public Safety Communications in the 800 MHz Band)	WT Docket No. 02-55
)	
Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels)	
)	
Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems)	ET Docket No. 00-258

OPPOSITION OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation ("Sprint Nextel") hereby responds to the "Motion to Strike" filed by the City of Boston in the above-captioned proceeding on October 30, 2007. On October 16, 2007, Sprint Nextel opposed two joint petitions for reconsideration of the Federal Communications Commission's ("Commission's") *Second Memorandum Opinion and Order*¹ in this proceeding, including one petition from a group led by the City of Boston.² In that opposition, Sprint Nextel demonstrated that the Commission's approach to 800 MHz post-mediation litigation costs is legally sound and constitutes

¹ *Improving Public Safety Communications in the 800 MHz Band; Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels*, Second Memorandum Opinion and Order, 22 FCC Rcd 10467 (2007) ("*Second MO&O*").

² Opposition of Sprint Nextel Corporation (Oct. 16, 2007); City of Boston, *et al.* Petition for Partial Reconsideration (June 14, 2007) ("Boston Group Petition"); Petition for Partial Reconsideration of Washoe County, Nevada, the City of Chesapeake, Virginia, and the City of Overland Park, Kansas (Aug. 20, 2007).

effective and equitable policy. Instead of filing a timely substantive reply, the City of Boston on October 30, 2007 responded with a “Motion to Strike.”

In its Motion, the City of Boston claims that Sprint Nextel’s filing deadline was June 25, 2007 and that its October opposition was “sorely out of time.”³ The City of Boston’s reference to Section 1.45(b) of the Commission’s rules, however, is misplaced. In fact, the applicable Commission rule for opposition deadlines in a rulemaking reconsideration proceeding is Section 1.429(e), which states “[w]hen a petition for reconsideration is timely filed in proper form, public notice of its filing is published in the Federal Register. The time for filing oppositions to the petition runs from the date of public notice.”⁴ Thus, contrary to the City of Boston’s claims, there was no deadline for filing oppositions to the Boston Group’s June 14, 2007 petition until the Commission sought comments on that filing through public notice and Federal Register publication. In accordance with Section 1.429(e), the Federal Register provided public notice of the two petitions for reconsideration of the *Second MO&O* on October 1, 2007, stating explicitly that “[o]ppositions to these petitions must be filed by October 16, 2007.”⁵ Sprint Nextel’s October 16, 2007 opposition was therefore timely, and the City of Boston’s Motion to Strike must be dismissed.

Furthermore, the City of Boston’s defective Motion reinforces the Commission’s decision to require 800 MHz incumbents to fund their own post-mediation litigation

³ Motion to Strike at 1.

⁴ 47 C.F.R. § 1.429(e).

⁵ Petitions for Partial Reconsideration of Action in Rulemaking Proceeding, 72 Fed. Reg. 55772 (Oct. 1, 2007) (attached at Appendix A). This Federal Register notice came seven days after the Commission itself provided notice that the petitions had been filed and notice would be published in the Federal Register. Public Notice, Report No. 2831 (Sep. 24, 2007).

activity. The Commission's approach discourages frivolous, unnecessary litigation, and a reversal of this policy would lead to more baseless filings like this Motion to Strike. The Motion to Strike also represents another unfortunate example of how individual incumbent licensees can delay rebanding in an entire market by engaging in unreasonable, pointless tactics. Despite a December 2006 Public Safety and Homeland Security Bureau order resolving disputed cost issues, the City of Boston has made no effort to retune its facilities out of the Channel 1-120 band segment, and has instead sought further review of this decision.⁶ The City of Boston's ongoing presence in this band delays 800 MHz reconfiguration by preventing other New England public safety agencies from undertaking Phase II retuning to the new NPSPAC spectrum.

⁶ *City of Boston, Massachusetts and Sprint Nextel*, Memorandum Opinion and Order, 21 FCC Rcd 14661 (PSSB 2006); Petition for *De Novo* Review, City of Boston, Mediation No. TAM-11155 (Dec. 28, 2006). The City of Boston is the *only* Phase I licensee in the New England NPSPAC region that has yet to complete retuning.

Accordingly, the Commission should expeditiously dismiss the City of Boston's Motion to Strike and affirm its policy on the non-recoverability of post-mediation litigation costs.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

/s/ Robert S. Foosaner

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Counsel for Sprint Nextel Corporation

November 9, 2007

APPENDIX A

20070907AEO, from Harrison, MI, to Houghton Lake, MI; Coltrac Communications, Inc., Station WUPS, Facility ID 49694, BPH-20070907AEP, from Houghton Lake, MI, to Harrison, MI; Csn International, Station WAJC, Facility ID 41094, BPED-20070821ABE, from Wilson, NC, to Zebulon, NC; CSN International, Station WTMK, Facility ID 90498, BPED-20070830AAU, from Lowell, IN, to Wanatah, IN; CSN International, Station KJCQ, Facility ID 124890, BPED-20070906ADK, from Quincy, CA, to WESTWOOD, CA; CSN International, Station KJCU, Facility ID 87930, BPED-20070906ADN, from Laytonville, CA, to Fort Bragg, CA; CSN international, Station KAJC, Facility ID 91565, BPED-20070906ADR, from Salem, OR, to Millersburg, OR; Cumulus Licensing, LLC., Station NEW, Facility ID 162261, BMPH-20070911ACM, from Chatfield, MN, to Eyota, MN; Cumulus Licensing, LLC., Station KFIL-FM, Facility ID 34428, BPH-20070911ACO, from Preston, MN, to Chatfield, MN; Educational Media Foundation, Station WKVF, Facility ID 859, BPH-20070830ADZ, from Byhalia, MS, to Germantown, TN; Educational Media Foundation, Station WKVZ, Facility ID 64493, BPH-20070830AEB, from Ripley, TN, to Hayti, MO; Educational Media Foundation, Station KAER, Facility ID 93355, BPED-20070907AFS, from St. George, UT, to Mesquite, NV; Four Rivers Community Broadcasting Corporation, Station 990901MA, Facility ID 94223, BMPED-20070906AFP, from Mcconnellsburg, PA, To Hustontown, PA; Gla-Mar Broadcasting, LLC., Station KBZB, Facility ID 78999, BPH-20070803ADL, from Pioche, NV, to SANTA CLARA, UT; Horizon Christian Fellowship, Station WVDL, Facility ID 91476, BMPED-20070907AGR, from Lebanon, IN, to Plainfield, IN; Indiana Community Radio Corp., Station WJCF, Facility ID 91193, BPED-20070827AEJ, from Morristown, IN, to Greenfield, IN; New Century Media Group, LLC., Station WKXU, Facility ID 22322, BPH-20060921ACX, from Louisburg, NC, to Hillsborough, NC; Northern Star Broadcasting, LLC., Station WMKC, Facility ID 42141, BPH-20070905AAN, from St. Ignace, MI, to Indian River, MI; Rural California Broadcasting Corp., Station KRCB-FM, Facility ID 57946, BPED-20070906AFL, from Santa Rosa, CA, to Windsor, CA; Sutton Radiocasting Corporation, Station WRBN, Facility ID 56201, BMPH-20070830AEJ, from Clayton, GA, to Dillsboro, NC; Tejas Broadcasting, LLP, Station NEW, Facility ID 162373, BMPH-20070829ADC, from Texico,

NM, to Bovina, TX; White Park Broadcasting, Inc., Station KANT, Facility ID 164287, BMPH-20070828AAX, from Guernsey, WY, to Glendo, WY.

DATES: Comments may be filed through November 30, 2007.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202-418-2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm. A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. E7-19341 Filed 9-28-07; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2831]

Petitions for Partial Reconsideration of Action in Rulemaking Proceeding

September 24, 2007.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents is available for viewing and copying in Room CY-B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1-800-378-3160). Oppositions to these petitions must be filed by October 16, 2007. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to oppositions must be filed within 10 days after the time for filing oppositions have expired.

Subject

In the Matter of Improving Public Safety Communications in the 800 MHz Band (WT Docket No. 02-55).

Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels.

Amendment of Part 2 of the Commission's Rules Allocate Spectrum below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems (ET Docket No. 00-258).

Petition for Rule Making of the Wireless Information Networks Forum Concerning the Unlicensed Personal Communications Service (RM-9498).

Petition for Rule Making of UT Starcom, Inc., Concerning the Unlicensed Personal Communications Service (RM-10024).

Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service (ET Docket No. 95-18).

Number of Petitions Filed: 2.

Marlene H. Dortch,
Secretary.

[FR Doc. E7-19338 Filed 9-28-07; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

[Notice 2007-17]

Filing Dates for the Ohio Special Election in the 5th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Ohio has scheduled elections on November 6, 2007, and December 11, 2007, to fill the U.S. House of Representatives seat in the Fifth Congressional District vacated by the late Congressman Paul E. Gillmor. Committees required to file reports in connection with the Special Primary Election on November 6, 2007, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on December 11, 2007, shall file a 12-day Pre-Primary Report, a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694-1100; Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Ohio

Certificate of Service

I, Claudia Del Casino, hereby certify that on this 9th day of November 2007, I caused a true and correct copy of the foregoing Opposition of Sprint Nextel Corporation to be mailed by first-class mail to:

Robert H. Schwaninger, Jr.
Marjorie K. Conner
Schwaninger & Associates, P.C.
1331 H Street, NW, Suite 500
Washington, DC 20005

/s/ Claudia Del Casino

Claudia Del Casino