

**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

New 800 MHz Band Plan for U.S.-)
Canada Border Region)

To Chief, Public Safety and Homeland Security Bureau

INITIAL COMMENTS OF THE BOEING COMPANY

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SUMMARY

The adoption of a reconfigured 800 MHz band plan in the U.S.-Canada border region, is, as the Further Notice of Proposed Rulemaking (“*FNPRM*”) recognizes, an essential component of accomplishing the Commission’s goals for band reconfiguration. Rebanding in the U.S.-Canada border region involves greater potential complexities since the spectrum needs and views of another country have been factored into the equation. However, the end result of the rebanding process in this region cannot depart from the overarching fundamental commitment that the Commission has made to affected U.S. licensees, like The Boeing Company (“Boeing” or “Company”), to provide comparable facilities with a minimum disruption of operations. Boeing operates an integrated, wide-area 800 MHz Business/Industrial Land Transportation (“B/ILT”) system that serves nine (9) major campuses principally in the Puget Sound area of the State of Washington (i.e., Region 5). The Boeing system is an essential component of the Company’s extensive business operations in the region.

Boeing’s interest in the U.S.-Canada rebanding plan is further heightened by the extensive special reciprocal agreements that the Company has with surrounding first responder organizations in, for example, King and Snohomish Counties and the Port of Seattle. Under these arrangements, Boeing’s system and those of its public safety partners are available to provide each other with mutual aid in the event of, for example, an emergency at a Boeing facility which exceeds the Company’s capabilities to address.

Since Boeing’s 800 MHz system is technically identical to those of its public safety mutual aid partners in this region, Boeing’s system is equally susceptible to interference caused by Sprint Nextel Corporation’s (“Sprint”) Enhanced Specialized

Mobile Radio (“ESMR”) and similar cellular architecture systems. Therefore, Boeing’s 800 MHz system requires the same interference protection and spectral separation within the band plan as do its public safety mutual aid partners in this region. Boeing would also oppose the use of interleaving to resolve any potential problem with combiner use or spectrum shortage issues that might arise as part of rebanding in the region.

Boeing does not object to Sprint’s continued operation on Canadian primary channels pursuant to Specialized Coordination Procedures (“SCP”), subject to whatever sharing agreement is required with Canada and the following conditions: (a) similar grandfathering treatment of B/ILT and public safety licenses operating on Canadian primary spectrum channels pursuant to waivers and (b) a shift to channel groupings that mitigate potential EMSR and similar cellular architecture system interference to Boeing and other non-ESMR systems.

Boeing is generally in favor of pressing forward to complete rebanding activity in the border region in a reasonably expedited manner pursuant to a prescribed timeline. However, in setting any timing scheme, the Commission must consider the special circumstances in the border regions that do not exist elsewhere.

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The Boeing Company (“Boeing” or “Company”), acting through counsel and pursuant to Section 1.415(b) of the Federal Communications Commission’s (“FCC” or “Commission”) Rules, 47 C.F.R. § 1.415(b), hereby respectfully comments on the Commission’s Further Notice of Proposed Rule Making (DA 07-4489), released in WT Docket No. 02-55 on November 1, 2007.¹ Boeing respectfully submits the following:

I. INTRODUCTION

The *FNPRM* recognizes that the adoption of a reconfigured 800 MHz band plan in the U.S.-Canada border region is an essential component of accomplishing the Commission’s goals for band reconfiguration. Boeing respectfully suggests that successful rebanding requires that the Commission recognize the admittedly greater potential complexities involved in this border region, where, among other things, the spectrum needs and views of another country have been

¹ *In re Improving Public Safety Communications in the 800 MHz Band and New 800 MHz Band Plan for U.S.–Canada Border Region, Further Notice of Proposed Rule Making*, 22 FCC Rcd 19266 (PS&HS Bur. 2007) (“*FNPRM*”). Boeing’s comments are timely filed in accordance with the schedule established in the *FNPRM*.

factored into the equation. Unique circumstances aside, the end result of the rebanding process in these regions cannot depart from the overarching fundamental commitment that the Commission has made to affected U.S. licensees, like Boeing, to provide comparable facilities with a minimum disruption of operations. Furthermore, this result is especially important for affected licensees (such as Boeing) which have a unique and special relationship with public safety in the areas in which they operate. Finally, the plan ultimately adopted for Region 5 must accomplish the foremost goal of the rebanding process, that of significantly reducing or eliminating harmful interference to traditional land mobile radio systems from Sprint Nextel Corporation's ("Sprint") Enhanced Specialized Mobile Radio ("ESMR") system and similar cellular architecture wireless systems.

II. BOEING'S DIRECT AND SIGNIFICANT INTERESTS IN THE OUTCOME OF THIS PROCEEDING

Boeing has participated in this proceeding, both directly and as a member of the Border Coalition and the NPSPAC Region 43 Regional Planning Committee ("Region 43 Committee"), from the docket's early stages.² The Company's involvement has been based on both its affected licensee status and mutually important first responder arrangements between Boeing and local public safety organizations.

a. Boeing's 800 MHz Business/Industrial Land Transportation System ("B/ILT"): Internal Industrial And Emergency Uses - Boeing is a major holder of trunked B/ILT licenses which support an integrated wide-area system, serving nine (9) major campuses. This system, which operates pursuant to these and other Boeing B/ILT licenses, is integral to the

² See, e.g., Letter from Sheldon R. Bentley, The Boeing Company to James L. Ball, Federal Communications Commission, dated November 21, 2003, WT Docket No. 02-55; Ex Parte Presentation of the Border Area Coalition, dated December 19, 2002, WT Docket No. 02-55; Letter from Steven Taylor, Chairman, Region 43 Committee, to Ambassador David A. Gross and Chairman Kevin J. Martin, WT-Docket No. 02-55, August 14, 2006.

Company's extensive business operations, principally in the Puget Sound region of the State of Washington.³ Boeing's 800 MHz system stretches from Everett on the North, approximately 75 miles south to Frederickson and west, across Puget Sound, to Gold Mountain. Operating in the 806 to 821 MHz and 851 to 866 MHz bands, the system is used for critical internal Company communications relating to, among other things, efficient manufacturing operations and the transportation of major items of equipment and aircraft components. The system is vital to the Company's business operations as it permits Boeing to safely and expeditiously coordinate the movement of such materials and relevant support personnel, and ensure the safety and security of employees, visitors, the general public, and its facilities. The system is also used to help protect Boeing products and technologies from industrial espionage and in support of Boeing's substantial government contract activities.

Furthermore, Boeing maintains its own industrial fire department that serves as the first response agency for fire, aid, and medical calls within the extensive Boeing operations distributed across plants occupying thousands of acres in three western Washington counties. Thus, the system also supports Boeing's ability to communicate to emergency responders time critical information for life safety responses during emergency and non-emergency incidents on a wide-area and plant-specific basis.

b. Boeing's Unique Relationships With Surrounding Public Safety Organizations – Boeing's interest in the U.S.-Canada border area rebanding plan is further magnified by the extensive special reciprocal agreements that the Company has with surrounding first responder organizations in, for example, King and Snohomish Counties and the Port of Seattle. Under these arrangements, Boeing and its partners are available to provide each other

³ Boeing also holds a number of conventional B/ILT licenses that will be subject to relocation.

with mutual aid in the event of, for example, an emergency at a Boeing facility which exceeds the Company's capabilities to address. More specifically, when major incidents at Boeing outstrip or require additional response capabilities beyond those of the Boeing Fire Department to respond, adjacent fire departments and fire districts provide mutual aid, switching onto the Boeing 800 MHz radio system and conducting joint operations for the duration of the incident.

Similarly, under these reciprocal arrangements Boeing Fire Department personnel and apparatus routinely respond to incidents outside of Boeing facilities. These incidents have included vehicle accidents, aircraft incidents, earthquakes, and structure fires where the Boeing Fire Department provides incident support requested by the local agency. Additionally, the Boeing Fire Department provides specialty support to local agencies by responding with personnel and apparatus to tanker fires for foam fire suppression and with hazardous material ("HAZ-MAT") technicians to incidents that require the unique qualifications that the Boeing Fire Department personnel possess.

As previously noted to the Commission by the Region 43 Committee in March of this year:

Boeing's 800 MHz systems provide communications internally for its own fire and security communications and externally to local government fire agencies responding to events within and adjacent to Boeing facilities. Local government public safety radios are cross-programmed for this purpose and regularly use the Boeing systems for critical operational communications. As such, Boeing systems are integrated within the public safety operational environment making it crucial that these systems are provided reasonable protections against harmful interference from cellular-architecture system operations.⁴

As a result, these partner public safety agencies expect that, when using Boeing's system in an emergency, they will have the same level of accessibility and reliability as they experience

⁴ Letter from Steven Taylor, Chairman, Region 43 Committee, to Ambassador David A. Gross and Chairman Kevin J. Martin, dated March 21, 2007, WT Docket No. 02-55, at p. 1 of Attachment ("Region 43 Proposal").

when accessing or using their own public safety radio systems. As the Region 43 Committee advocated: “in all cases, these [Boeing] systems should be provided with equivalent protection against harmful interference as those for dedicated public safety systems.”⁵ These mutual aid agreements make Boeing’s interest (and the interests of its partners) in, and concern about, the Commission’s U.S.-Canada border band plan even stronger and require special consideration by the Commission.

III. THE FNPRM: BOEING’S FOCUS

Boeing operates in what Arrangement F designates as Region 5 of the U.S.-Canada border area. So do the Company’s mutual aid partners. Boeing’s focus is therefore on the FCC’s general and specific proposals as they relate to that Region. Specifically, Boeing provides comments on the *FNPRM* proposals or inquiries concerning (a) receipt of comparable spectrum assignments, (b) interleaving of non-ESMR and ESMR (and similar cellular architecture) systems, (c) technical rules to mitigate potential interference between ESMR (and similar cellular architecture) systems and non-ESMR systems, (d) continued Sprint operations on Canadian primary channels pursuant to Specialized Coordination Procedures (“SCP”), (e) continued Boeing operation on Canadian primary channels pursuant to FCC waivers, (f) other comments on the specific Region 5 band plan proposal, and (g) the timing of planning and implementation of the plan that is ultimately adopted by the Commission.

⁵ *Id.*

IV. CRITICAL IMPORTANCE OF MAINTAINING THE COMPARABLE FACILITIES STANDARD

Under the Commission's rebanding rules, relocated licensees like Boeing and its partners are entitled to be relocated to "comparable facilities."⁶ The *FNPRM* provides that the proposed band plan will include the same entitlement for licensees in the U.S.-Canada border regions.⁷

The challenges of maintaining comparable co-channel environments become even more significant in the U.S.-Canada border region. Specifically, Boeing operations, and the operations of its governmental partners supporting mutual aid fire and EMS communications, may be relocated onto new channel assignments that place these systems on the same channels being used in Canada, on a primary basis by Canadian users. In this environment, careful channel selection will be required to preserve the present "comparable facilities" available to Boeing, while protecting against harmful interference to and from Canadian co-channel licensees. Boeing particularly stresses the importance of maintaining the comparable facilities standard when considering the spectrum reassignment complexities in the Puget Sound region. The topography in that region (including mountains and bodies of water) often produces much higher than anticipated signal propagation across the borders. As a result, the potential for cross-border interference is enhanced, as is the challenge of ensuring that "comparable facilities" be maintained after licensee relocation. This will require the Commission and the Transition

⁶ In its original order, the Commission committed that "[a]ll relocating licensees shall be relocated to comparable facilities." *Improving Public Safety Communications in the 800 MHz Band, Report and Order*, 19 FCC Rcd 14969, 15077 ¶201 (2004). The Commission defined "comparable facilities" as those that will "provide the same level of service as the incumbent's existing facilities, with transition to new facilities as transparent as possible to the end user." *Id.* More specifically "comparable facilities" includes "(1) equivalent channel capacity; (2) equivalent signaling capability, baud rate and access time; (3) coextensive geographic coverage and (4) operating costs." *Id.* (internal citations omitted). Channel capacity is defined as "the same number of channels with the same bandwidth that is currently available to the end user." *Id.*, at n.527.

⁷ Although the *FNPRM* uses the term "comparable spectrum assignments," it cites to the FCC rule provision, 47 C.F.R § 90.677(f), that defines "comparable facilities" and refers to the four factors cited above.

Administrator to engage in expanded thinking with regard to the co-channel environment, including the use of guard bands and special geographic considerations in this region. The threat of continued harmful interference resulting from the current interleaved channel configuration should be resolved prior to issuance of a final band plan for Region 5.

V. **BOEING OPPOSES INTERLEAVING AS A POTENTIAL SOLUTION TO REBANDING CHALLENGES IN U.S.-CANADA BORDER AREA**

The *FNPRM* seeks comment as to whether some interleaving of ESMR and non-ESMR systems, like Boeing's and its partners, would be acceptable and should be accommodated in the border area plan.⁸ Boeing would oppose the use of interleaving to resolve any potential problem with combiner use or spectrum shortage issues that might arise.

As the Commission knows only too well, it was the interleaving of these two types of systems that largely engendered this very proceeding in the first place. From Boeing's perspective, continuing such spectrum arrangements would only continue or worsen the existing situation and could not ensure the provision of "comparable facilities" to relocated licensees.

As noted above, in the context of its reciprocal mutual aid agreements, Boeing operations become functionally indistinguishable from those of other regional first responders when local fire agencies respond to incidents within Boeing facilities. These governmental agencies expect an identical degree of communications system integrity regardless of their using the Boeing B/ILT system. Boeing's 800 MHz B/ILT system is regularly utilized by local public safety entities in such first responder incidents and therefore serves to extend capacity, coverage, and availability of critical communication systems to public safety on an as needed basis.

⁸ *FNPRM*, ¶7.

Since Boeing's system is technically identical to those of its public safety mutual aid partners in this region, Boeing's system is equally susceptible to interference caused by cellular architecture ESMR systems, in exactly the same manner as its mutual aid public safety partners' systems. Boeing's 800 MHz system therefore requires the same interference protection and spectral separation within the band plan as do its public safety mutual aid partners in this region.

The requirement that the mutual aid partners be able to use the Boeing or public safety systems for critical responses makes it, in Boeing's view, even more imperative that the Commission avoid interleaving in the border region band plan. Interleaved channel architectures will undermine the *FNPRM's* goal of separating public safety and other non-cellular licensees from licensees that employ cellular technology (specifically ESMR architecture Sprint systems). Continued interleaving of ESMR or other cellular-like systems with Boeing's B/ILT system, or those of other public safety mutual aid partners, does not serve the public interest.

VI. THE COMMISSION MUST CONSIDER OTHER TECHNICAL SOLUTIONS TO MITIGATE POTENTIAL INTERFERENCE BETWEEN NON-ESMR AND ESMR SYSTEMS IN THE BORDER AREA

The mitigation of interference between non-ESMR (including regional public safety and its mutual aid partners (e.g., Boeing)) and ESMR and similar cellular architecture systems is of course a fundamental overall goal of 800 MHz rebanding. While interleaving cannot be the vehicle for such mitigation, Boeing maintains that the Commission should consider fixed, region-wide guard bands and, if necessary, special geographic considerations, in determining the appropriate solutions to mitigate 800 MHz band interference.⁹

Ultimately, if these technical solutions prove unfeasible or unworkable, the Commission must take whatever other steps are necessary to ensure that the rebanding plan meets its

⁹ See Region 43 Proposal, Attachment, at pp. 1-2.

fundamental goal of mitigation of interference – even if that means allocation of additional spectrum to non-ESMR systems in the region.¹⁰

VII. SPRINT OPERATION ON CANADIAN PRIMARY CHANNELS PURSUANT TO SCP SHOULD BE PERMITTED SUBJECT TO CHANNEL SEPARATION

The *FNPRM* seeks comment on whether Sprint should be required to vacate certain channels that Sprint is operating on, pursuant SCP, that are part of Canadian primary spectrum. If Sprint is permitted to continue to operate on them, the Commission asks whether there are conditions that should be placed on them to protect U.S. licensees operating on them in non-border areas.¹¹

Boeing does not object to Sprint's continued operation on Canadian primary channels pursuant to SCP, subject to whatever sharing agreement is required with Canada and the following conditions:¹²

a. Similar Grandfathering Treatment Of B/ILT And Public Safety Licenses

Operating On Canadian Primary Spectrum Channels Pursuant To Waivers - Some B/ILT and public safety licensees, including Boeing, have extensive operations on a secondary basis on Canadian primary channels in the 809.75-817.25/854.75-862.25 MHz bands. Operations on these channels are critical to Boeing and to the public safety agencies that use their respective systems.

These secondary (i.e., meeting proscribed maximum signal levels at or beyond the U.S.-Canada

¹⁰ Admittedly, the established rebanding method of creating significant spectrum isolation between the differing ESMR and non-ESMR technologies may prove particularly challenging in the Puget Sound region. There is considerable pressure on a very limited spectrum resource, and without Sprint vacating much of their current spectrum resources below 866 MHz, the spectrum needs to effect such isolation appear to be far greater than available channel slots.

¹¹ *FNPRM*, ¶17.

¹² The *FNPRM* indicates that one item for discussion with Canada would be the continued operation of Canadian licensees on U.S. primary channels pursuant to SCP. *FNPRM*, ¶5. However, the *FNPRM* does not indicate that any such discussion is required to take place with Canada with respect to U.S. licensees operating on Canadian primary channels pursuant to SCP or waivers. The Commission should confirm that is the case.

border) operations have been authorized for many years pursuant to carefully coordinated waivers granted under the terms of Agreement F, as distinguished from the SCP authorization granted to Sprint.¹³ The *FNPRM* does not seek comment on, or propose treatment for, these waiver authorizations going forward. The Commission must address this issue as part of the 800 MHz band plan for the U.S.-Canada border area.

From Boeing's perspective, just as Canadian facilities may benefit from an agreement which serves to grandfather authority to utilize U.S. primary spectrum under SCP, so too would the U.S. benefit from grandfathered authority to utilize Canadian spectrum under both SCP and these waivers. Boeing suggests a mutually grandfathered scheme for U.S. and Canadian primary spectrum which was authorized under SCP or waivers prior to the *FNPRM*. This is only fair and equitable if Sprint's use of Canadian primary spectrum is to be grandfathered. Indeed, application of such grandfathering is even more critical in light of the public safety use that Boeing, and its mutual aid partners, make of these channels. Boeing does not advocate any change in the terms of the waivers.

b. Shift To Channel Groupings That Mitigate Potential For Sprint Interference With Boeing And Other Non-ESMR Systems - It has been noted that Sprint's operations on these Canadian primary spectrum channels operate in exactly the same areas that Sprint currently uses U.S. primary spectrum assignments. From an interference generation standpoint, these channels are indistinguishable from any of Sprint's other facilities.

Boeing agrees that Sprint should be permitted to use Canadian primary spectrum in accordance with SCP. However, because these facilities are a current part of the interference sources affecting local public safety systems and the Boeing system, Sprint's operations must be

¹³ Boeing, for example, holds multiple licenses granted subject to such a waiver, which sites are operating as part of its B/ILT systems and in use under its mutual aid agreements.

shifted into channel groupings that provide non-ESMR systems the same degree of protection against harmful interference as that provided in other segments of the larger 800 MHz band. This will require that Sprint ESMR systems be separated by distinct guard bands within the band from non-ESMR systems to mitigate potential interference, using the same guard band methods as applied for U.S. primary channel assignments.

VIII. ADDITIONAL SPECIFIC COMMENTS ON REGION 5 PROPOSAL

Subject to the foregoing comments, the *FNPRM*'s specific proposal for Region 5 appears otherwise workable.¹⁴ Boeing does believe that there may be an inadequate number of channels available for the proposed relocation between 861.25 and 866 MHz, while still providing adequate interchannel separation for efficient combining and simultaneously allowing for the creation of effective guard bands. The same spectrum scarcity may be found to exist in the public safety allocation proposed between 851 and 854.75 MHz. The "packing" process must examine both the impact of existing non-border U.S. licensees, as well as the impact of incumbent Canadian co-channel licensees. Trial "channel packing" must be done by the Transition Administrator to determine the viability of such an approach. Additionally, the concept of guard bands combined with special geographic considerations may be required with respect to this spectrum segment.

IX. TIMING OF BAND PLAN IMPLEMENTATION MUST CONSIDER SPECIAL CIRCUMSTANCES IN U.S.-CANADA BORDER REGIONS

The *FNPRM* seeks comment on the sequence and timing of rebanding in the Canadian border region once a final band plan is adopted and the 800 MHz Transition Administrator issues

¹⁴ *FNPRM*, ¶9.

rebanding channel assignments to border area licensees.¹⁵ The Commission proposes the same two stage process that it has employed in non-border areas. Finally, the *FNPRM* proposes to establish expedited time lines for planning, negotiations, and mediation similar to those established in September for non-border licensees.

In general, Boeing is in favor of pressing forward to complete rebanding activity in the border region in a reasonably expedited manner pursuant to a prescribed timeline. The Company perceives this as a means of reducing unnecessary costs, impact to its organization, and impact to mutual aid capabilities with public safety agencies across the region.

However, in setting any timing scheme, the Commission must consider the special circumstances in the border regions that do not exist elsewhere. These include, by the Commission's own plan, the need for further modifications to Agreement F once the band plan is set.¹⁶ Moreover, in setting timelines for planning and implementation, the Commission must factor in the complexity of the frequency assignment process, analysis of the impact of the frequencies proposed on the design of the incumbent systems, and any system modifications that are required as a result. An overly ambitious timeline in these special circumstances could only serve to undermine the Commission's own goals of an efficient and smooth transition with minimum disruption to relocating licensees; it could add to costs as well, if any reversal of direction is necessary as a result of further discussions with Canada. Boeing suggests that simple application of the rebanding timing guidelines established in September for non-border areas as a "one size fits all" solution may not be appropriate. It may be that a schedule that allows 12 months for planning and then an additional 18-24 months for implementation, both after the

¹⁵ *FNPRM*, ¶17.

¹⁶ *Id.*, ¶5 ("minor revisions to Arrangement F").

Transition Administrator completes preliminary channel assignments under a final plan, is realistic and should be adopted.

In any case, Boeing will give close further consideration to this issue in assessing and replying to other comments that might be filed on the matter of the timing or planning and implementation.

X. LICENSEES TO BE RELOCATED SHOULD BE PERMITTED TO RECOVER FROM SPRINT THEIR COSTS OF ASSESSING BAND PLANS

The Commission should require Sprint to compensate relocated licensees for their costs of developing the outline for and ultimately assessing the frequency plan proposals as part of their rebanding planning costs. Without the necessity for new plan development, Boeing and licensees in Region 5 would not have incurred these considerable expenses. Establishing a workable band plan is an essential first step in the rebanding planning process. It is reasonable, particularly given the unique complexity associated with the border issues, that Sprint cover these costs. The FCC should explicitly recognize these costs as recoverable time as part of the adoption of a final plan.

XI. CONCLUSION

The Commission's band plan for the U.S.-Canada border area must adhere to the fundamental principles of rebanding, including access to comparable facilities and protection from interference. Interleaving should not be part of the solution to unique challenges presented in these regions. B/ILT and public safety waivers to use Canadian primary spectrum on a secondary basis should be grandfathered. The schedule established as part of the plan should not

be overly ambitious, but should recognize that there are unique complexities in the case of the border areas that are not present in non-border regions.

Respectfully submitted,

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