

DOCKET FILE COPY ORIGINAL 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. <u>02-55</u>
)	
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
)	
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
)	

JAN - 9 2008

ORDER

Adopted: January 4, 2008

Released: January 4, 2008

By the Commission:

1. In this Order, we extend for an additional 30 days (*i.e.*, to February 4, 2008), on our own motion, our waiver of the deadline by which Sprint Nextel Corporation (Sprint Nextel) is required to complete the transition of the broadcast auxiliary service (BAS) to frequencies above 2025 MHz. This will provide additional time for the Commission to consider a Joint Petition for Waiver (Joint Petition) of Sprint Nextel, the Association for Maximum Service Television, Inc. (MSTV), the National Association of Broadcasters (NAB), and the Society of Broadcast Engineers (SBE) that was filed on September 4, 2007 as well as a Consensus Plan filed by Sprint Nextel, MSTV, NAB, and SBE on December 6, 2007. We take this action without expressing any judgment on the merits of the Joint Petition.

2. In 2000, 35 megahertz of BAS spectrum was allocated to the 2 GHz Mobile-Satellite Service (MSS), which was made responsible for BAS relocation (47 C.F.R. §§ 74.690 and 78.40).¹ In 2004, a portion of this spectrum (5 megahertz) was assigned to Nextel Communications, Inc. (the predecessor in interest to Sprint Nextel) under the terms of the *800 MHz Order*.² Although both Sprint

¹ See Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile-Satellite Service, *Second Report and Order and Second Memorandum Opinion and Order*, ET Docket No. 95-18, 15 FCC Rcd 12315 (2000).

² See *Improving Public Safety Communications in the 800 MHz Band, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, ET Docket No. 00-258, 19 FCC Rcd 14969 (2004) (*800 MHz Order*).

Nextel and 2 GHz MSS licensees have equal obligations to relocate the 2 GHz BAS incumbents, Sprint Nextel's obligation is to complete relocation of all BAS facilities in the 1990-2110 MHz band by September 7, 2007.³

3. On September 4, 2007, Sprint Nextel, MSTV, NAB and SBE filed a Joint Petition requesting that the Commission waive the current BAS transition completion date for an additional twenty-nine months.⁴ On our own motion we waived the deadline by which Sprint Nextel must complete relocation of the broadcast auxiliary service to frequencies above 2025 MHz for a period of 60 days (*i.e.*, the new deadline became November 6, 2007) so as to provide the Commission with time to consider the issues raised by the Joint Petition.⁵

4. On November 6, 2007, we extended this waiver for an additional sixty days – until January 5, 2008.⁶ In the *Waiver Extension Order*, we recognized that the issues raised by the Joint Petition were especially complex, but noted that the record indicated that the filers of the Joint Petition and the MSS operators had initiated discussions in an effort to devise an approach to the BAS transition that will meet the needs of 2 GHz MSS operators, Sprint Nextel, and the 2 GHz BAS licensees. As such, we looked to the filers of the Joint Petition to continue consulting with other interested parties to develop a detailed plan for completing the transition of the 2 GHz BAS licensees, and required Sprint Nextel, MSTV, NAB, and SBE to report to the Commission the plans or proposals that are generated by such discussions within 30 days of the November 6, 2007 deadline. The filers of the Joint Petition submitted a Consensus Plan to us on December 6, 2007.⁷ Under the plan, BAS relocation would be completed in 24 months, *i.e.* by September, 7, 2009. The MSS operators subsequently filed comments on the Consensus Plan indicating, *inter alia*, their interest in holding further discussions with BAS licensees to find ways to share use of the spectrum before the transition would be completed under the plan.⁸

5. We extend the waiver of the deadline by which Sprint Nextel must complete relocation of the broadcast auxiliary service for an additional period of 30 days, on our own motion, pursuant to 47 C.F.R. § 1.3 (*i.e.*, the new deadline will become February 4, 2008). We encourage MSS operators and the BAS licensees to continue discussing ways for the parties to share use of the spectrum before the transition would be completed under the plan. We will also continue to review the Consensus Plan and the comments filed in response to it during this time.

³ The Commission had initially required that BAS relocation be completed within 30 months after the effective date of the *800 MHz Order*, *i.e.*, May 7, 2007. *Id.* The Commission subsequently extended this deadline to September 7, 2007. *See Commission Seeks Comment on Ex Parte Presentations and Extends Certain Deadlines Regarding the 800 MHz Public Safety Interference Proceeding, Public Notice*, WT Docket No. 02-55 (2004).

⁴ Joint Petition for Waiver of Sprint Nextel Corporation, the Association for Maximum Service Television, Inc. (MSTV), the National Association of Broadcasters (NAB), and the Society of Broadcast Engineers (SBE), WT Docket 02-55, filed Sept. 4, 2007 (Joint Petition).

⁵ Improving Public Safety Communications in the 800 MHz Band, *Order*, WT Docket No. 02-55, ET Docket No. 00-258, FCC 07-162, 22 FCC Rcd 17151 (2007) (*Waiver Order*).

⁶ Improving Public Safety Communications in the 800 MHz Band, *Order*, WT Docket 02-55, ET Docket 00-258, 22 FCC Rcd 19730 (2007) (*Waiver Extension Order*).

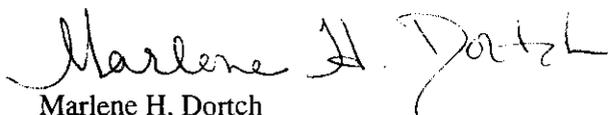
⁷ Consensus Plan of Sprint Nextel Corp., the Association for Maximum Service Television, Inc., the National Association of Broadcasters, and the Society of Broadcast Engineers, WT Docket 02-55, ET Docket 00-258, filed December 6, 2007 (Consensus Plan).

⁸ Comments of TerreStar Networks Inc., WT Docket No. 02-55, ET Docket No. 00-258, filed Dec. 18, 2007. Comments on Sprint/BAS Relocation Proposal, New ICO Satellite Services G.P., WT Docket No. 02-55, ET Docket No. 00-258, filed Dec. 19, 2007.

6. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), and Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, that the waiver of the deadline by which Sprint Nextel must complete relocation of the broadcast auxiliary service to frequencies above 2025 MHz adopted in FCC 07-162 and extended by FCC 07-193, IS EXTENDED for a period of 30 days to February 4, 2008.

7. IT IS FUTHER ORDERED that the effective date of this Order IS THE DATE upon which this Order is released by the Commission.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch
Secretary