Before the
Federal Communications Commission
Washington, D.C. 20554

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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
	)	
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

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ORDER

Adopted: November 6, 2007 **Released: November 6, 2007**

By the Commission:

1. In this Order, we extend for an additional 60 days, 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 (*i.e.* by January 5, 2008). We also require Sprint Nextel, the Association for Maximum Service Television, Inc. (MSTV), the National Association of Broadcasters (NAB), and the Society of Broadcast Engineers (SBE), to submit within 30 days a consensus plan or specific proposals for completing the transition of the BAS licensees (*i.e.* by December 6, 2007). We take this action in response to a joint Petition for Waiver (Joint Petition) of Sprint Nextel, MSTV, NAB, and SBE that was filed on September 4, 2007. This action is being taken without prejudice relative to 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, 78.40).[1] In 2004, a portion of this spectrum (5 megahertz) was reallocated to Nextel Communications, Inc. (the predecessor in interest to Sprint Nextel) under the terms of the *800 MHz Order*.[2] Although both Sprint Nextel and

[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,* ET Docket No. 95-18, Second Report and Order and Second Memorandum Opinion and Order, 15 FCC Rcd 12315 (2000).

2 GHz MSS licensees have equal obligations to relocate the 1.9 GHz BAS incumbents, Sprint Nextel's obligation is to complete relocation of all BAS facilities 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. 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.[4]

4. We continue to find that the issues raised by the Joint Petition are especially complex. Notably, the record reflects concerns by Terrestar Networks Inc. (Terrestar) and New ICO Satellite Services (ICO), 2 GHz Mobile-Satellite Service (MSS) licensees that have been assigned spectrum in the 2000-2020 MHz portion of the BAS band that Sprint Nextel is in the process of clearing of incumbent BAS operations, that grant of the Sprint Nextel petition would delay their initiation of service.[5] Under the terms of its license ICO is required to have its satellite system operational by December 31, 2007 and Terrestar is required to have its satellite system operational by November 2008.[6] We also note that the record indicates that the filers of the Joint Petition and the MSS licensees have initiated discussions in an effort to devise an approach to the BAS transition that will meet the needs of 2 GHz MSS licensees, Sprint Nextel, and the 2 GHz BAS licensees.[7]

5. Because any action we take with respect to the Joint Petition has the potential to affect the interests of multiple parties, we conclude that it serves the public interest to promote further discussions with the anticipation that doing so will result in a consensus plan or specific proposals that

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

[3] The Commission had initially required that BAS relocation be completed within thirty 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,* WT Docket No. 02-55, Public Notice (rel. Oct. 22, 2004).

[4] *Improving Public Safety Communications in the 800 MHz Band,* WT Docket No. 02-55, ET Docket No. 00-258, Order, FCC 07-162, 22 FCC Rcd 17151, (September 7, 2007).

[5] Terrestar Networks Inc., *ex parte* filing, E.T. Docket No. 02-55, October 15, 2007; ICO Global Communications, *ex parte* filing, E.T. Docket No. 02-55, October 17, 2007. Our rules also contain provisions by which MSS licensees may relocate incumbent BAS licensees, as well as provisions which permit cost sharing among new entrants in certain circumstances.

[6] Terrestar Networks, Inc., Request for Milestone Extension, *Memorandum Opinion and Order*, File No. SAT-MOD-20070608-00080, DA 07-4148, (October 3, 2007); New ICO Satellite Services G.P. Application to Extend Milestones, *Memorandum Opinion and Order,* File No. SAT-MOD-20061109-00137, DA 07-522, (February 2, 2007). ICO has filed a request to extend its operational milestone to February 15, 2008. *See* Modification Application to Extend Milestones August 2007, New ICO Satellite Services G.P., filed August 6, 2007. We note that these dates would occur prior to the completion of the BAS relocation by Sprint Nextel were we to grant the 29-month extension requested in its waiver.

[7] *See, e.g.,* Terrestar Networks Inc., *ex parte* filing, E.T. Docket No. 02-55, October 15, 2007. (stating that "TerreStar is in discussions with ICO ... and the filers of the Joint Petition in an effort to devise an approach that would accommodate the requirements of the 2 GHz MSS licensees, Sprint Nextel, and the licensees of 2 GHz broadcast auxiliary service stations.").

allow the MSS licensees to initiate service in the band while avoiding MSS-BAS interference and continuing the BAS transition. As such, we look 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 require 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 current deadline. Such plans or proposals shall take into account the operational milestones of the MSS licensees, which occur far in advance of the BAS transition completion date suggested by the filers of the Joint Petition, and suggest appropriate benchmarks to complete the BAS transition while allowing for the introduction of MSS in a timely manner. To allow the Commission the time to consider the record after the plans or proposals are submitted, we also extend the waiver of the deadline by which Sprint Nextel must complete relocation of the broadcast auxiliary service for an additional period of 60 days, on our own motion, pursuant to 47 C.F.R. § 1.3.

6. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 C.F.R. §§ 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, IS EXTENDED for a period of 60 days to January 5, 2008.

7. IT IS FURTHER ORDERED that Sprint Nextel, the Association for Maximum Service Television, Inc, the National Association of Broadcasters, and the Society of Broadcast Engineers SHALL FILE a report in this proceeding no later than December 6, 2007 that sets forth the joint or consensus proposals they have developed for completing the transition of the band consistent with the terms of this Order.

8. 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 Dortch
Secretary