

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

In the Matter of)	
)	
Improving Public Safety Communications in the)	WT Docket 02-55
800 MHz Band)	
)	
)	
New 800 MHz Band Plan for Puerto Rico)	

REPLY COMMENTS

INTRODUCTION

I am filing these reply comments in response to Sprint (i.e. Nextel) and North Sight who both claim that there is insufficient data from which to prepare a band plan.

The FCC's provided the following guidance in the SECOND FURTHER NOTICE OF PROPOSED RULE MAKING, Released: June 30, 2008.

In May 24, 2007, the Commission adopted a *Second Memorandum Opinion and Order* in this proceeding (800 MHz *Second MO&O*).¹ In the 800 MHz *Second MO&O*, the Commission determined that an alternative band plan was appropriate for Puerto Rico due to the unique nature of 800 MHz incumbency in the Puerto Rico market compared to other markets.²

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¹ Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Second Memorandum Opinion and Order*, 22 FCC Rcd 10467 (800 MHz *Second MO&O*).

² *Id.*, 22 FCC Rcd at 10479 ¶ 32.

Rather than specify a band plan for Puerto Rico, the Commission directed the 800 MHz Transition Administrator (TA) to propose an alternative band plan and negotiation timetable for Puerto Rico.³ The Commission stated that the TA's proposal should comply with the following criteria:

- Although the Commission did not specify the size of the non-ESMR band,⁴ the band plan must ensure that the non-ESMR band fully accommodates all non-ESMR licensees, including those that need to be relocated from the Upper 200 channels.
- The band plan must include a guard band between the ESMR and non-ESMR bands; however, if there is insufficient spectrum to accommodate a guard band, the Commission directed the TA to take such measures as are necessary to protect public safety systems from interference, e.g., by separating mission-critical public safety systems as far as feasible from the ESMR band.
- Replacement spectrum in the ESMR band is to be assigned to ESMR licensees and ESMR-eligibles in accordance with the Commission's rules governing Economic Area (EA) and site-based licensees. Because of the relatively small amount of spectrum that Sprint Nextel Corporation (Sprint) holds in Puerto Rico, Sprint is to be assigned replacement spectrum on the same basis as other ESMR licensees, i.e., Sprint will receive no more spectrum in the ESMR band than it holds currently.
- If there is insufficient spectrum in the ESMR band to accommodate all ESMRs and ESMR-eligibles, Sprint must surrender spectrum on a *pro rata* basis to the other licensees to meet the shortfall. If insufficient spectrum remains after Sprint has surrendered spectrum, *pro rata* apportionment may be used to determine each licensee's share of the ESMR band. All ESMR and ESMR-eligible licensees must participate in such apportionment.⁵

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The FCC has clearly concluded that their rebanding plan (hereinafter referred to as the "U.S. REBANDING PLAN") cannot be used as a cookie-cutter application for Puerto Rico. This conclusion is based primarily on the relative spectrum positions of Nextel in comparison to other licensees in Puerto Rico, which is in contrast to the averages in the U.S. markets as a whole.

³ *Id.* at 10479-10480 ¶ 33.

⁴ "ESMR" refers to "Enhanced Specialized Mobile Radio," a term that is used to designate 800 MHz systems that use cellular system architecture. See Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Report and Order*, 19 FCC Rcd 14969, 14972 ¶ 2 n.6 (2004).

⁵ 800 MHz Second MO&O, 22 FCC Rcd at 10479-10480 ¶ 33.

Consequently, in devising a rebanding plan for Puerto Rico, it is best to begin with a review these contrasting spectrum holdings.

OVERVIEW OF 800 MHZ SPECTRUM

Generally, wireless spectrum licensed by the FCC is described by type (e.g. Cellular, PCS, 700Mhz, etc.) and by assigned *Block* (e.g. A, B, C, etc.). However, as a result of its long evolutionary history, the 800 Mhz spectrum band has a further layer of description, which is the *Channel* (i.e. one set of assigned frequencies).

The 800 Mhz spectrum involved in rebanding includes a total of 36 Mhz of spectrum spanning from 806/851 Mhz to 824/869 Mhz, which falls within four primary descriptive segments. These segments are (1) General Category, (2) Interleaved, (3) Upper-200 and (4) NPSPAC.

The following summarizes the attributes of the four segments, along with a comparison of spectrum holdings of Nextel vs. others in the overall U.S. in contrast to the spectrum holdings in Puerto Rico. Further details are included in Attachments A, B and B-1, using data obtain from the record in this proceeding.

“GENERAL CATEGORY” – 150 Channels (1-150), 806/851.0125 Mhz to 809/854.7375 Mhz

Originally, these were assigned as individual channels (or in a 5 channel grouping) using an application process. In 2000, the FCC auctioned these 150 channels in six blocks (D,DD,E,EE,F and FF) of 25 channels each, using the EA (Economic Area) geographic configuration. The EA licensees

are authorized to use any frequency within their assigned block, subject to the operational rights of any site-specific license. These site-specific licensees (often referred to as incumbents) encumber General Category EA licenses to different degrees in different market, which on average is 40% of the channels.

In U.S. – Overall – Nextel holds virtually all of the EA Blocks, but they are encumbered by site-licenses such that they have use of approximately **4.51 Mhz** (of a total of 7.5Mhz), which translates to **90 channels** (of the total 150 channels).

In Puerto Rico – Nextel holds only one (1) of the EA Blocks, Preferred holds the other five (5). Nextel’s EA block is encumbered by site-licenses such that they have use of approximately **0.47 Mhz**, which translates to **9 channels**.

“INTELEAVED” - 250 Channels (151-400), 809/854.7625 Mhz to 815/860.9875 Mhz

The Interleaved Category, as the name implies, consists of a combination of business and industrial transportation (B/ILT), public safety and SMR assignments. Originally, these were assigned as individual channels (or in a 5 channel grouping) using an application process. Most remain as such except for SMR portion. In 2000, the FCC auctioned in sixteen (16) blocks (G to V) of 5 non-contiguous channels each, using the EA (Economic Area) geographic configuration. These 80 (16 x 5) channels are sometimes referred to as the “Lower-80” or “Mid-80”.

In U.S. – Overall – Re: *SMR Spectrum*–Nextel holds virtually all of the EA Blocks, but they are encumbered by site-licenses such that they have use of approximately **2.96 Mhz** (of a total of 4.0 Mhz), which translates to **59 channels**, of the 80 channels.

Re: *B/ILT Spectrum*–Nextel holds site-licenses such that they have use of approximately **1.04 Mhz**, which translates to **21 channels**.

In Puerto Rico – Re: *SMR Spectrum*–Nextel holds virtually all of the EA Blocks, but they are encumbered by site-licenses such that they have use of approximately **2.96 Mhz** (of a total of 4.0 Mhz), which translates to **59 channels**, of the 80 channels.

Re: *B/ILT Spectrum*–Nextel holds none of this spectrum.

“UPPER 200”– 200 Channels (401-600), 816/861.0125 Mhz to 820/865.9875 Mhz

Originally, these were assigned as individual channels (or in a 5 channel grouping) using an application process. In 1997, the FCC auctioned these 200 channels in three blocks (A, B, and C) with Block A = 20 channels, Block B = 60 channels and Block C = 120 channels, using the EA (Economic Area) geographic configuration. The EA licensees are authorized to use any frequency within their assigned block, subject to the operational rights of any site-specific license. Additionally, the EA licensees had the right to relocate the site-specific licensees (often referred to as incumbents). These incumbents were relocated to the General Category or Interleaved portion of the band.

In U.S. – Overall – Nextel holds virtually all of the EA Blocks, they have limited encumbrances since Nextel has previously relocated the incumbents so that it could have contiguous spectrum. They have use of approximately **9.73 Mhz** (of a total of 10.0Mhz), which translates to **195 channels** (of the total 200 channels).

In Puerto Rico – Nextel holds only one (1) of the EA Blocks, which is the “B” Block that spans a total of 60 channels, which is heavily encumbered by site-licenses. North Sight (Block C) and High Tech Co (Block A) hold the other two blocks. Nextel also holds a number of site-licenses in Blocks A and C. Nextel’s total usable spectrum is approximately **1.27 Mhz**, which translates to **25 channels**.

“NPSPAC”– 230 Channels (601-830), 821/866.0125 Mhz to 823/868.9875 Mhz

The NPSPAC channels are assigned to public safety. They are a combination of 12.5 Khz and 25 Khz channels which is equivalent to 120 channels if they were all 25 khz.

SUGGESTED REBANDING PLAN DETAILS

The band plan proposed by the TA, along with the guidance provided by the FCC provides the framework from which a detailed plan can be devised. I am providing sufficient detail in this filing such that all parties should be able to proceed expeditiously going forward through this process.

The suggested detailed rebanding plan I'm providing is based on the TA's band plan and the FCC's rules, regulations and orders/guidance in the matter.

I have provided a series of schedules (attachments) that are relatively self-explanatory in order to facilitate a review of my suggestions. My source data for the series "C" schedules was a recent download from the FCC database.

In this presentation I use the term "steps" (i.e. Step 1 to 3). These are not necessarily logistical steps in the physical rebanding process, but instead are steps necessary to arrive at the appropriate rebanding plan detail.

STEP 1- The obvious first step is to apply the FCC's order that Nextel relinquish all spectrum below 817/862 Mhz (i.e. below channel 441). The "C" series attachments reflect spectrum assignments after Step 1.

STEP 2- This step identifies (on a channel by channel basis) the movement of all licenses. Attachment series "C" provides this data and is color coded to facilitate review. Attachment D provides a summary of spectrum assignments after Step.

STEP 3- This step, as reflected on Attachment E, provides a summary of final spectrum assignments.

Respectfully Submitted,

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