Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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 Regions	)	
	)	

IMPLEMENTATION PLAN AND TIMETABLE FOR THE RECONFIGURATION OF THE 800 MHz BAND IN THE U.S.-CANADA BORDER REGIONS

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October 1, 2008

SUMMARY

As directed by the Federal Communications Commission ("FCC" or "Commission"), the 800 MHz Transition Administrator, LLC ("TA") submits its proposal for an implementation plan and timetable for the reconfiguration of the 800 MHz frequency band in the Canadian border regions ("Implementation Plan").

In developing the Implementation Plan, the TA considered many factors and many different approaches. The TA set as its primary goal the completion of reconfiguration in the 30-month transition period established by the Commission in the *Second Report and Order*. The Implementation Plan incorporates the guidance, band plans, and reconfiguration sequencing the Commission set forth in the *Second Report and Order*. The TA has been mindful of the schedule and duration of negotiations and planning established by the Commission and the licensees' need to start the necessary planning as soon as possible. The TA has also considered the number of licensees and the resources that all stakeholders will devote to the reconfiguration process. In addition, the TA took into consideration its experience with the reconfiguration of the 800 MHz band in prior waves and factored in the empirical information it had obtained, including information regarding the interdependencies of public safety licensees and the interoperability of their systems. In developing the Implementation Plan, the TA analyzed available information obtained from FCC licensing data. The TA also met and discussed with licensees and the stakeholder community the reconfiguration in the Canada border regions.

The Implementation Plan also takes into account the variations in the border region band plans as it seeks to maximize efficiency, cost effectiveness and speed of the reconfiguration of the U.S.-Canada border regions. The TA anticipates that certain regions will complete reconfiguration of their systems earlier than more complex regions that will require more

sophisticated frequency planning and reconfiguration sequencing. As required by the FCC, the Implementation Plan describes sequential milestones for completion of each stage of the implementation process. In developing the Implementation Plan, the TA took into account the specific steps required in each border region to implement both the relocation of lower-band licensees and the relocation of National Public Safety Planning Advisory Committee ("NPSPAC") licensees. Furthermore, the plan incorporates lessons learned from the prior waves and stages relating to the scheduling and sequencing of planning, negotiations, and reconfiguration implementation.

The TA recommends that the reconfiguration of Canadian border licensees proceed in two stages. From the experience of prior waves and stages, it has become apparent that public safety and non-public safety licensees move through the reconfiguration process in different ways and on different timelines. Each has unique characteristics during the negotiation and implementation phases of the reconfiguration of their systems. The stages will be based upon the type of licensee, rather than the frequencies a licensee will be reconfiguring. Stage 1 will include non-public safety licensees, such as Business Industrial Land Transportation ("B/ILT") and Specialized Mobile Radio ("SMR") licensees. Because of the common characteristics of public safety licensees, Stage 2 will be comprised of both NPSPAC and non-NPSPAC public safety licensees. Public safety licensees tend to require longer periods of time to implement their reconfiguration than B/ILT and SMR licensees, due primarily to network complexity and interdependencies with other public safety licensees. The TA believes that both NPSPAC and non-NPSPAC public safety licenses will benefit from conducting their planning and eventually the reconfiguration of their NPSPAC and non-NPSPAC frequencies as a single coordinated project.

The TA has attempted to ensure that all stakeholders will be accommodated as quickly and efficiently as possible under this Implementation Plan. The TA believes the Implementation Plan is achievable within the timeframe set forth by the Commission.

TABLE OF CONTENTS

Page

I. INTRODUCTION 1

II. BACKGROUND 2

A. Agreement with Canada 2

B. Border Regions 3

C. Elements of the Reconfiguration for the Canadian Border Area 5

1. Overview 5

2. Regions 7A, 7B, and 8 6

III. OVERVIEW OF THE IMPLEMENTATION PLAN 7

A. Considerations in Developing the Implementation Plan 7

B. Stakeholder Outreach Efforts 8

IV. STEPS IN IMPLEMENTATION OF NEW BAND PLAN AND TIMETABLE 9

A. TA's Proposed Stages of the Reconfiguration of the U.S. - Canada Border Regions 9

1. Stages of Reconfiguration 10

a. Stage 1 11

b. Stage 2 12

2. Underlying Assumptions Supporting TA's Implementation Plan for the Reconfiguration of the U.S.-Canada Border Regions 14

B. Planning, Negotiation and Mediation Phase 15

1. Submitting RFPFs and Negotiating PFAs 16

2. Negotiating an FRA 18

a. Where the Parties Have a PFA 18

b. Where No PFA Was Negotiated 19

(i) Deadlines from Submission of Cost Estimate for FRAs for Stage 1 Licensees 20

(ii) Deadlines for Submission of Cost Estimate for FRAs for Stage 2 Licensees 20

C. The Implementation Sequence and Schedule 21

D. Elections 22

1. Expansion Band 22

2. Guard Band 23

3. B/ILT and SMR Licensee Elections to Remain in ESMR Band 24

TABLE OF CONTENTS
(continued)

Page

V. CONCLUSION 25

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To: The Commission

IMPLEMENTATION PLAN AND TIMETABLE FOR THE RECONFIGURATION OF THE 800 MHZ BAND IN THE CANADIAN BORDER REGIONS

Pursuant to the direction of the Federal Communications Commission's ("FCC" or "Commission") Public Safety and Homeland Security Bureau ("PSHSB") in the *Second Report and Order* in the above-captioned proceeding,[1] the 800 MHz Transition Administrator, LLC ("TA") hereby submits its proposal for an implementation plan and timetable for the reconfiguration of the 800 MHz frequency band in the Canadian Border regions ("Implementation Plan").

I. INTRODUCTION

In the *Second Report and Order*, the Commission set forth a 30-month transition period for reconfiguration of the Canadian border regions to begin 60 days after the effective date of the order.[2] Specifically, the Commission directed the TA, "within 60 days of the effective date of

[1] Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Second Report and Order*, 23 FCC Rcd 7605, at ¶ 38 (2008) ("*Second Report and Order*"); *Erratum*, WT Docket No. 02-55 (rel. May 28, 2008). The effective date of the *Second Report and Order* was August 12, 2008 and the 30-month transition period will begin on October 11, 2008.

[2] *Second Report and Order*, at ¶ 33.

this order, to develop a more detailed region-by-region timetable with sequential milestones for completion of each stage of the implementation process."[3] The Commission further directed, "This timetable should take into account both variations in border region band plans and the specific steps required in each border region to implement both Stage 1 relocation of lower-band licenses and Stage 2 relocation of NPSPAC licensees."[4]

The TA has developed an implementation plan and timetable that incorporates the guidance, band plans and reconfiguration sequencing the Commission set forth in the *Second Report and Order*, as that may be amended, supplemented or clarified.

II. BACKGROUND

A. Agreement with Canada

In the *Second Report and Order*, the Commission set forth its border area band plan based on an agreement reached with Canada in July, 2007, which enabled the U.S. to proceed with reconfiguration in the border regions prior to formal revision of the bilateral agreement that distributes primary spectrum in the border region between the two countries, (Arrangement F).[5] Under this agreement:

- The countries will maintain the current allocation of 800 MHz primary spectrum between the U.S. and Canada set forth in Arrangement F, but recognize the necessity of making minor revisions to Arrangement F.
- The U.S. will proceed with developing an 800 MHz rebanding band plan for U.S. border area licensees based on the current allocation of primary spectrum.

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[3] *Id.* at ¶ 42.

[4] *Id.*

[5] *Id.* at ¶ 4.

- Upon finalization of the U.S. band plan and after the TA issues frequency assignments to border area licenses, the U.S. and Canada will discuss minor revisions to Arrangement F. The revisions will address (1) whether to grandfather certain Canadian facilities authorized on U.S. primary spectrum under the Specialized Coordination Procedures ("SCP"), and (2) how to avoid any adverse impact on Canadian radio operations that will support the 2010 Winter Olympics in Vancouver, British Columbia.[6]

B. Border Regions

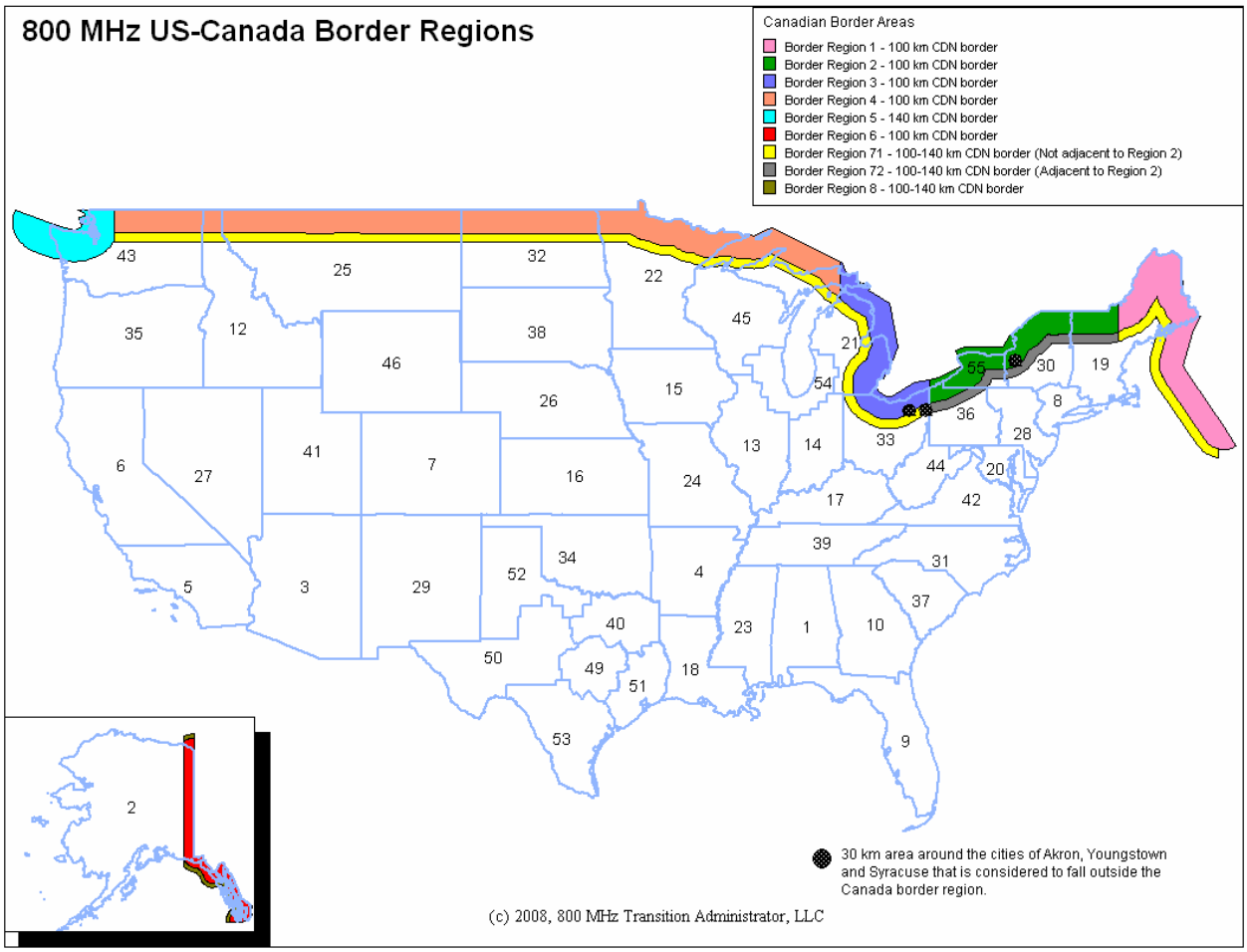
For purposes of spectrum allocation, the Canadian border area has been divided into eight numbered border regions shown in Figure 1 below. Regions 1 through 6 are situated directly along the border and Regions 7A, 7B, and 8 are transitional zones between the area close to the border and the non-border area. In western Washington State, Region 5 extends from the Canadian border to the non-border area with no transitional zone. Certain licensees immediately adjacent to this region who were affected by the border area and could not be issued frequency proposals until the band plan for the border area was adopted will also reconfigure during the 30-month Canadian border area transition period.

In Regions 1, 4, 5, and 6, the U.S. and Canada divide the spectrum evenly. In Region 2 (Buffalo/Toronto), the U.S. is primary on 30 percent of the channels with Canada primary on the other 70 percent. In Region 3 (Detroit/Windsor), depending on band segment, the U.S. is primary on 70 to 85 percent of the channels and Canada is primary on 15 to 30 percent of the channels. Licensees in Regions 7A, 7B and 8 have access to 100 percent of the channels on a primary basis, subject to power and antenna heights designed to limit signal strength at the

[6] *Id.*

border.[7] Three thirty-kilometer circles surrounding the cities of Syracuse, NY, Akron, OH and Youngstown, OH also have 100 percent of the channels allocated on a primary basis, subject to power and antenna height restrictions.

FIGURE 1: Map of Canadian Border Regions[8]



[7] *Id.* at ¶ 2.

[8] The *Second Report and Order* refers to these regions as 7A and 7B. The TA uses the numbers 71 and 72 to refer to these regions in the map in Figure 1 because its spectrum and process management databases were designed for numeric border region designations.

C. Elements of the Reconfiguration for the Canadian Border Area

1. Overview

The Canadian border band plan is comprised of a series of regional band plans that account for differences in allocation of spectrum in the different regions. As established by the Commission in the *Second Report and Order*, the basic elements of 800 MHz reconfiguration are similar in each region:

- Non-NPSPAC public safety systems in the 806-809/851-854 MHz portion of the band will relocate, to the extent feasible, to immediately adjacent spectrum above 809/854 MHz.[9]
- Non-NPSPAC public safety systems that cannot be relocated above the 806-809/851-854 MHz band will remain in 806-809/851-854 MHz but will convert their systems to operate with 12.5 kHz spacing.[10]
- NPSPAC systems currently on U.S. primary spectrum will move to the 806-809/851-854 MHz band.[11]
- NPSPAC systems that currently operate on Canadian spectrum will relocate to the 806-809/851-854 MHz band to the extent feasible after all public safety licensees on U.S. Primary spectrum have been accommodated. NPSPAC systems that cannot be relocated from Canada primary spectrum will relocate to the lowest available Canadian primary spectrum and continue to operate on a secondary basis to Canadian licensees.[12]

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[9] *Id.* at ¶ 7.

[10] *Id.*

[11] *Id.*

[12] *Id.*

- Non-public safety licensees (Business/Industrial Land Transportation ("B/ILT") and Specialized Mobile Radio ("SMR") in the lowest block of U.S. primary spectrum will relocate to the U.S. primary spectrum above the lowest block of Canadian primary spectrum. In the upper portion of the band, Enhanced SMR ("ESMR") and non-ESMR non-public safety systems will be separated rather than interleaved, but non-ESMR systems will have the option of remaining interleaved with ESMR if Sprint Nextel consents. The dividing line between ESMR and non-ESMR will vary by region and depend on the number on non-ESMR systems that need to be accommodated.[13]
- Sprint Nextel's licenses will be amended to include the former NPSPAC band at 821-824/866-869 MHz band, which will be designated for ESMR operation.[14]

2. Regions 7A, 7B, and 8

Regions 7A, 7B, and 8 will have a band plan identical to the band plan in the non-border area, except Region 7B will not have an Expansion Band.[15] Licensees adjacent to the border area, which will be reconfiguring as part of the Canadian border area, will also be assigned frequencies under the standard non-border band plan. Areas adjacent to the Canadian border regions will have the same reconfiguration sequencing as that adopted for the non-border areas.[16]

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[13] *Id.* at ¶ 7. This block, also known as the "C" block, is allocated as a General Category pool.

[14] *Id.* at ¶ 7.

[15] *Id.* at ¶ 36.

[16] *Id.* at ¶47. The licensees in areas that were affected by the Canadian border plan and were deferred from reconfiguring during the prior waves will be subject to the Implementation Plan and will negotiate their PFAs (if requested) and FRAs in line with the procedures and timelines outlined herein.

III. OVERVIEW OF THE IMPLEMENTATION PLAN

A. Considerations in Developing the Implementation Plan

In developing the Implementation Plan, the TA set as its primary goal the completion of reconfiguration in the 30-month transition period established by the Commission in the *Second Report and Order*. The 30-month transition period begins on October 11, 2008, which is sixty days after the August 12, 2008 effective date of the *Second Report and Order*, and ends on April 10, 2011.[17] The Commission estimated that the planning and negotiation process would take approximately seven to eight months, with the implementation of reconfiguration taking approximately 22 to 23 months.[18]

The TA has been mindful of the schedule and duration of negotiations and planning established by the Commission and the licensees' need to start the necessary planning as soon as possible. The TA has also considered the number of licensees and the resources that the TA and Sprint Nextel will devote to the negotiations and to any necessary mediation of Planning Funding Agreements ("PFA") and Frequency Reconfiguration Agreements ("FRA"). There are approximately 330 licensees in the U.S. - Canada border area that are subject to reconfiguration, almost evenly split between public safety and non-public safety licensees. The TA also considered the availability of resources from equipment vendors to conduct planning and reconfiguration implementation activities for licensees. In addition, the TA took into consideration its experience with the reconfiguration of the 800 MHz band in prior waves, factoring in the empirical information it had obtained, including the information regarding interdependencies of public safety licensees and the interoperability of their systems.

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[17] *See supra* n.1.

[18] *Id.* at ¶ 42.

The Implementation Plan also takes into account the variations in the border region band plans as it seeks to maximize efficiency, cost effectiveness and speed of the reconfiguration of the U.S.-Canada border regions. Furthermore, the Implementation Plan incorporates lessons learned from the prior waves and stages relating to the scheduling and sequencing of PFA and FRA negotiations and reconfiguration implementation.

The TA notes that the Implementation Plan may be subject to change throughout the reconfiguration process as circumstances require. The TA analyzed available information obtained from FCC licensing data and from discussions with the stakeholder community regarding the reconfiguration of 800 MHz systems in the Canadian border regions. The TA further notes that as licensees commence planning activities, the TA may receive input and feedback from stakeholders that might require changes to the Implementation Plan.

Moreover, the TA is aware that unforeseen events, such as weather or natural disasters, may impact the Implementation Plan. In addition, the 2010 Winter Olympic Games in Vancouver will most likely impact the timing of Region 5's reconfiguration because of enhanced public safety operations that are likely to be implemented in the border area. This may affect the ability of Region 5 public safety licensees to devote significant resources to 800 MHz reconfiguration during that time. The TA is committed to an ongoing and regular reassessment of the Implementation Plan throughout the reconfiguration of the U.S.-Canada border region to account for such developments.

B. Stakeholder Outreach Efforts

The TA has held, and will continue to hold meetings with 800 MHz stakeholders to collect information that will assist in developing frequency plans and refining the timetable for the U.S.-Canada border area.

The TA has engaged in outreach activities with Canadian border area licensees. The TA developed and circulated a questionnaire for public safety licensees to complete, requesting information about licensees' systems, including licensees' use and technical considerations, for the purpose of assisting the TA in the development of draft frequency plans for each region. The TA will seek input, as appropriate, on the NPSPAC portions of the draft frequency plans from the Regional Planning Committees ("RPC") in affected regions to address any region-specific frequency allocation issues.

The TA conducted a mailing campaign to inform the licensees of the start date of the Canadian border area reconfiguration and of the first steps necessary for reconfiguration. The TA held or attended licensee meetings in Region 43 (Washington), Region 33 (Ohio), and Region 21 (Michigan), Region 30 (Eastern New York), and Region 55 (Western New York) with public safety licensees to explain the band plan details and sequence of reconfiguring different licensee groups. The TA has also engaged in an educational effort to assist public safety licensees in the Canadian border area in preparing a Request for Planning Funding ("RFPF") through a calling campaign and webinars, and has ensured that there is ample information available on the TA's website regarding reconfiguration in the U.S.-Canada border areas.

IV. STEPS IN IMPLEMENTATION OF NEW BAND PLAN AND TIMETABLE

A. TA's Proposed Stages of the Reconfiguration of the U.S. - Canada Border Regions

With hundreds of 800 MHz licensees from prior waves having concluded PFA and FRA negotiations, and are proceeding with reconfiguration implementation or have concluded the process, it has become apparent that public safety and non-public safety licensees move through the reconfiguration process in different ways. The TA's proposed stages and sequence described below reflect this experience.

1. Stages of Reconfiguration

The TA recommends that the reconfiguration of all licensees in the U.S.-Canada border regions proceed in two stages. The stages will be based on the type of licensee, rather than the frequencies a licensee will be reconfiguring. The TA proposes that, due to their unique characteristics, B/ILT and SMR licensees be placed on a track separate from public safety licensees.

The TA also proposes that the negotiations, planning and implementation for the reconfiguration of NPSPAC and non-NPSPAC public safety licensees be performed at the same time as a whole rather than as two separate stages.[19] Having all Canadian border area public safety licensees proceeding on a parallel path, rather than negotiating separate agreements for NPSPAC and non-NPSPAC frequencies, will reduce the number of required agreements, facilitate synchronized planning and reduce the total amount of time required for negotiation and mediation.

The TA recognizes that combining non-NPSPAC and NPSPAC planning will increase the need for precise schedule management during implementation to ensure that frequencies in the new NPSPAC band are cleared in a timely fashion. With the exception of those public safety licensees with little or no interoperability requirements, all other public safety licensees will be assisted through the TA's Implementation Planning Session ("IPS") program to ensure timely clearing of the NPSPAC frequencies and subsequent relocation of incumbents and new NPSPAC licenses onto their final replacement frequencies.

[19] The TA used applicant type and service code in the licenses to determine whether a licensee is classified as NPSPAC or non-NPSPAC.

a. Stage 1

Stage 1 will include the reconfiguration of B/ILT and SMR licensees, as well as a number of ESMR Band SMR licensees that were never cleared following the Upper 200 auctions.[20] B/ILT and SMR systems are generally less complicated systems than public safety systems. In most cases, Stage 1 licensees, will not use the RFPF process, and can conduct planning and negotiate an FRA in a consolidated and expedited manner. This is due to a number of factors including less network complexity, limited or no interoperability with other licensees and a more streamlined process for review and execution of the FRA, as the agreements do not require the approval of a governmental body. As a result, Stage 1 licensees can generally commence implementation soon after they enter into their individual FRAs. These programmatically favorable characteristics of B/ILT and SMR licensees are significant because, as with prior waves, Stage 1 licensees are among the licensees that must be cleared from their current frequencies before public safety licensees can move to a significant number of their replacement frequencies. The TA expects to issue frequency assignments for Stage 1 licensees prior to the commencement of the 30-month transition period for the Canada border reconfiguration.

Even though the TA's frequency planning will seek to avoid the following scenario, in certain regions, Stage 1 licensees may have to move onto channels in the U.S. primary block that must be first cleared of other Stage 1 incumbent licensees. The TA will ensure that the sequencing of Stage 1 licensees is coordinated. In those circumstances, licensees will be made aware of the need for prior clearing of their replacement frequencies.

[20] These licensees are primarily located in North Dakota and Alaska.

b. Stage 2

Stage 2 includes the reconfiguration of NPSPAC and non-NPSPAC public safety licensees. Based on past experience and given the characteristics of the Canadian border band plan, the TA believes that licensees that hold both NPSPAC and non-NPSPAC licenses would benefit from conducting their planning and eventually the reconfiguration of those frequencies as a single coordinated project. Public safety licensees tend to require longer periods of time for planning, negotiation of an FRA, and implementation, due primarily to network complexity and interdependencies with other public safety licensees. Historically, the majority of RFPFs submitted in prior waves were for public safety licensees, primarily those with medium to large size systems. The TA expects that a large number of public safety licensees in the Canada border regions will be submitting RFPFs.

Frequency planning for public safety licensees in the Canada border area is more complex than in non-border areas because of the limited amount of spectrum on which licensees must be accommodated and the potential reconfiguration of non-NPSPAC licensees onto NPSPAC frequencies. Certain NPSPAC regions in the Canadian border area will require a "repacking" of the NPSPAC band as some licensees will be unable to move their frequencies down 15 MHz. Additional frequency planning coordination will be required to account for the special treatment of Akron, Ohio, Syracuse, New York and Youngstown, Ohio. Pursuant to the agreement with Canada, these cities will be reconfigured using the standard U.S. 800 MHz band plan despite being within border regions.[21]

[21] *See* 47 C.F.R. § 90.619(c)(5) (noting that stations authorized to operate within 30 kilometers of the center city coordinates for these cities are considered to fall outside of the U.S.-Canada border area and may operate according to the non-border band plan).

The TA anticipates that Stage 2 licensees will negotiate one FRA to cover both NPSPAC and non-NPSPAC frequencies. However, the TA notes that Stage 2 licensees with both NPSPAC and non-NPSPAC frequencies may not need to wait for an Implementation Planning Session to reconfigure their non-NPSPAC frequencies if there are no interoperability concerns and their replacement frequencies are available. This is especially true for licensees subject to the standard U.S. band plan that have channels in the Channels 1-120 band (806 - 809/851 - 854 MHz) or the Expansion Band (815 - 816/860 - 861).[22] To the extent public safety licensees can reconfigure their channels independently from other public safety licensees, they should negotiate their implementation schedule with Sprint Nextel and include it in the FRA.

The TA expects to provide Stage 2 licensees with their proposed replacement frequencies by mid-January 2009. Stage 2 licensees that are subject to the standard U.S. band plan may receive their Frequency Proposal Reports ("FPRs") before the rest of the Stage 2 licensees. The TA notes that its Stage 1 and Stage 2 frequency planning for Canadian Border Region 3, and potentially Region 2, may be affected by the Commission's disposition of Sprint Nextel's Petition for Clarification.[23] In July 2008, Sprint Nextel requested clarification regarding the allocation of eight public safety channels above 860.75 MHz. Sprint Nextel argued that the band plan in the *Second Report and Order* created enough channels to accommodate all existing public safety entities in the 800 MHz band without having to resort to using eight 25 MHz channels at 860.75 MHz. At this time, the TA is conducting its frequency planning for Region 3 based on the *Second Report and Order*.

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[22] Such licensees include those in Regions 7A and 7B, as well as those in areas outside of the border regions that were close enough to be affected and were deferred, and licensees in the areas around Akron, Youngstown and Syracuse. Similar to the Expansion Band licensees in the rest of the United States, reconfiguring Expansion Band licensees in these areas may also be able to move forward on an independent basis without an IPS.

[23] Sprint Nextel Corporation, Petition for Clarification, WT Docket No. 02-55 (filed July 14, 2008).

Completion of the reconfiguration of Stage 1 licensees is generally necessary in order for Stage 2 reconfiguration to proceed. The TA has structured the scheduling of the two stages to ensure that the reconfiguration is completed by the end of the 30-month period. Under the projected schedule, Stage 1 systems will commence reconfiguration implementation in the first half of 2009 and the reconfiguration of the entire 800 MHz band in the Canadian border area – to the extent possible – will be completed by April 10, 2011 – 30 months after reconfiguration starts.

2. Underlying Assumptions Supporting TA's Implementation Plan for the Reconfiguration of the U.S.-Canada Border Regions.

The TA's proposal to separate the reconfiguration of the U.S.-Canada border regions in two Stages, B/ILT and SMR as Stage 1 and public safety licensees as Stage 2 is based on the following assumptions:

1. The TA anticipates that the majority of Stage 1 licensees will not be filing RFPFs necessitating the negotiation of a PFA prior to the negotiation of an FRA. Any funds necessary for their planning activities most likely will be included in their cost estimate for an FRA.
2. Because frequency planning for Stage 1 licensees is less complex, Stage 1 licensees will be provided with their frequencies earlier, allowing them to enter into FRAs more quickly.
3. The TA anticipates that Stage 1 licensees that enter into FRAs early in the 30-month transition period will reconfigure promptly after they enter into FRAs, thereby clearing frequencies for the Stage 2 licensees.[24]

[24] As noted, some Stage 1 licensees in the more complex regions will be moving onto channels in the US Primary block that may need to be cleared of other Stage 1 incumbents that are reconfiguring systems to below the

4. The TA anticipates that the majority of public safety licensees, regardless of whether they are NPSPAC or non-NPSPAC, will be submitting RFPFs seeking funding for their planning activities and entering into PFAs.
5. The TA assumes that Stage 1 and Stage 2 licensees will be able to complete their planning activities within the timeframe set in the Commission's *Second Report and Order*.[25]

In addition, the TA generally has assumed that stakeholders will have labor and material resources available in sufficient quantities when needed for planning, negotiation and implementation of the reconfiguration. Further, it was assumed that equipment manufacturers will have and will be able to deliver necessary resources, including software, firmware, equipment and technical support/service, to conduct the reconfiguration as scheduled.

Finally, the TA will make use of the experience and tools developed in prior waves to coordinate and schedule implementation for licensees to ensure frequencies are cleared in a timely fashion and in the proper sequence.

B. Planning, Negotiation and Mediation Phase

In accordance with the Commission's *Second Report and Order* and the TA's Alternative Dispute Resolution ("ADR") Plan, the TA proposes the following timelines for the planning, negotiation and mediation phase for the Canadian border area licensees.[26] The timelines vary for those licensees that submit RFPFs and negotiate PFAs and those that do not. Furthermore, for

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ESMR/non-ESMR system dividing line. The TA's frequency plans will seek to minimize the necessity for this scenario. Where such scenario may be unavoidable, the sequencing of moves for Stage 1 licensees will be planned precisely. Licensees will be aware of the need for prior clearing, and the TA will work with all parties on scheduling and coordination for implementation in these cases.

[25] *Second Report and Order*, at ¶ 33.

[26] *See generally, Second Report and Order*, ¶¶ 40-41; 800 MHz Transition Administrator, LLC, Alternative Dispute Resolution Plan (version 1.6), WT Docket No. 02-55, at Section 8.F (filed June 23, 2008) ("*ADR Plan*").

those licensees that do not negotiate PFAs, there are separate timelines for Stage 1 and Stage 2 licensees.

1. Submitting RFPFs and Negotiating PFAs

In the *Second Report and Order*, the Commission indicated that licensees that intend to negotiate a PFA should submit their RFPFs by 60 days from the effective date of this order, which is October 14, 2008. An RFPF describes the tasks that a licensee expects to undertake to plan for the reconfiguration of its 800 MHz radio system and serves as the basis for requesting funding from Sprint Nextel for those planning activities. Licensees that intend to negotiate a PFA should prepare and submit RFPFs, regardless of whether they have received their proposed replacement frequencies. Preparing and submitting an RFPF is not a frequency dependent task, and licensees should not wait to receive their replacement frequencies before they submit RFPFs.

Licensees in both Stages 1 and 2 seeking funding for planning should submit an RFPF to the TA by October 14, 2008 and negotiate a PFA with Sprint Nextel. If a licensee and Sprint Nextel have not reached agreement on a PFA by October 14, 2008, they will have an additional thirty days to continue PFA negotiations under the monitoring of a TA mediator.[27] If the parties do not reach agreement on a PFA by the end of the thirty day period, they will participate in active mediation for a period of twenty days. The TA Mediator may instruct the parties to file Proposed Resolution Memoranda setting out the disputed issues and the support for their

[27] The TA will assign a TA Mediator to RFPFs filed after October 3, 2008, and to those that have not resulted in a PFA by October 14, 2008. If a Licensee submits an RFPF after October 3, 2008, Sprint Nextel will evaluate the RFPF to determine whether it is sufficiently complete to commence good faith negotiations for a PFA and will notify the TA Mediator within four working days. If Sprint Nextel finds the RFPF to be sufficiently complete, or if Sprint Nextel fails to make a determination by the fourth day, the TA Mediator will issue a Notice of Commencement of Negotiations marking the initiation of the time periods established by the FCC for the negotiation and, if necessary, mediation of a PFA. If, on the other hand, Sprint Nextel determines that the RFPF is incomplete, the TA Mediator, in consultation with the Chief Mediator, will evaluate whether Sprint Nextel's determination is reasonable. If the TA Mediator concurs with Sprint Nextel's determination, the TA Mediator will issue an Order for a Revised RFPF informing the parties of the TA Mediator's determination, the reasons for the determination and the necessary information that the Licensee must submit.

positions. If the parties do not reach agreement by the end of the mediation period, the TA Mediator will draft a Recommended Resolution, which will be forwarded to the Public Safety and Homeland Security Bureau along with the record of the mediation.

Because Stage 1 licensees, as private entities, tend to approve and execute contracts more expeditiously than public safety licensees, and because they will have their frequency allocations prior to October 14, 2008, Stage 1 licensees will be able to commence their planning activities soon after they execute a PFA.

The TA will be sending FPRs to Stage 2 licensees as soon as frequency planning is completed. If a licensee has not received its proposed replacement frequencies by the time the TA approves its PFA, the planning period will commence upon receipt of the FPR. The TA will make every effort to provide licensees with proposed replacement frequencies prior to the commencement of planning activities; however, this may not be possible for all public safety licensees. The TA encourages public safety licensees that have not received an FPR to proceed with planning activities to the extent that they are not frequency-dependent and would not result in unnecessary duplication of costs.[28]

The length of the licensee's planning period following the TA's approval of a PFA and receipt of proposed replacement frequencies is prescribed by the Commission.[29] If the licensee has less than 5,000 units, it must complete planning and submit a cost estimate for the negotiation of an FRA within 90 days from the TA's approval of the PFA.[30] If the licensee has

[28] Non-frequency-dependent planning activities licensees may engage in prior to obtaining their FPRs include conducting subscriber equipment inventory, infrastructure inventory, non-frequency-specific engineering and implementation planning, and defining their interoperability environment.

[29] *Second Report and Order*, at ¶ 40.

[30] *Id.*

between 5,001 units and 10,000 units, the planning period is 100 days, and if the licensee has more than 10,000 units, the period is 110 days from the TA's approval of the PFA.[31]

Based on the assumptions made above, Stage 1 licensees with PFAs should be able to complete planning and submit their cost estimates prior to public safety licensees.

2. Negotiating an FRA

a. Where the Parties Have a PFA

Upon completion of the planning activities and of the development of the cost estimate, the licensee should submit the cost estimate to Sprint Nextel, with a copy to the designated TA Mediator. Sprint Nextel will evaluate the cost estimate to determine whether it is sufficiently complete to enable the parties to engage in good faith negotiations for an FRA and notify the TA Mediator within four working days. If Sprint Nextel fails to meet the deadline or if Sprint Nextel determines that the cost estimate is sufficiently complete to commence good faith negotiations, the TA Mediator will issue a "Notice of Commencement of Negotiations" marking the initiation of the time periods established by the FCC for the negotiation and mediation of an FRA.[32] If Sprint Nextel determines that the cost estimate is incomplete, the TA Mediator, in consultation with the Chief Mediator, will determine whether Sprint Nextel's evaluation is reasonable. If the TA Mediator is in agreement with Sprint Nextel's determination, the TA Mediator will issue an "Order to Submit a Revised Cost Estimate" informing the parties of the TA Mediator's determination, the reasons for the determination and the need for the licensee to resubmit the cost estimate with the necessary information.

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[31] *Id.*

[32] *See id.* at ¶ 41.

As set forth in the *Second Report and Order*, the licensee and Sprint Nextel will have thirty days to negotiate an FRA, during which time a TA Mediator will monitor the negotiations. If the parties do not reach agreement within thirty days, the parties will participate in mediation for twenty days. If the parties do not reach agreement, the TA Mediator will draft a Recommended Resolution, which it will forward to the PSHSB along with the record of the mediation.

b. Where No PFA Was Negotiated

For licensees without a PFA, the *Second Report and Order* provides that the TA will designate an "equivalent starting date" to calculate the planning period and the deadline for the submittal of a cost estimate for an FRA to Sprint Nextel.[33] The TA proposes to establish two dates upon which to base the calculation of the planning period and the deadline for submittal of a cost estimate for the licensees. These dates will be different depending whether the licensee is in Stage 1 or Stage 2. Specifically, the TA proposes to set October 14, 2008 as the TA-designated date for Stage 1 licensees (B/ILT and SMR licensees) and January 15, 2009 for Stage 2 licensees (public safety licensees).

The length of the period of time between the TA-designated start date and the date for submitting a cost estimate to Sprint Nextel will depend on the size of the licensee's system.[34] Consistent with the requirements placed on non-border area licensees by the FCC, Canadian border area licensees with less than 5,000 units should submit a cost estimate to Sprint Nextel within 90 days of the TA-designated date.[35] Similarly, licensees that have between 5,001 units and 10,000 units have 100 days from the TA designated date to submit their cost estimate, while

[33] *Second Report and Order*, ¶ 40.

[34] *Id.*

[35] *Id.*

licensees with more than 10,000 units have 110 days from the TA-designated date.[36] As a result, each stage's submittal of cost estimates will be staggered within a period of approximately one month, depending on the Stage. Licensees that have prepared their cost estimates ahead of schedule should submit them to Sprint Nextel and proceed to negotiate an FRA.

(i) Deadlines from Submission of Cost Estimate for FRAs for Stage 1 Licensees.

Based on the foregoing, Stage 1 licensees with 5,000 units or less should submit a cost estimate to Sprint Nextel by January 12, 2009. Stage 1 licensees with between 5,001 and 10,000 units should submit their cost estimate by January 22, 2009 and licensees with more than 10,000 units should submit their cost estimate by February 1, 2009.

(ii) Deadlines for Submission of Cost Estimate for FRAs for Stage 2 Licensees.

Also based on the foregoing, Stage 2 licensees with 5,000 units or less should submit a cost estimate to Sprint Nextel by April 15, 2009. Stage 2 licensees with between 5,001 and 10,000 units should submit their cost estimate by April 27, 2009 and licensees with more than 10,000 units should submit their cost estimate by May 5, 2009.

The various dates noted above are summarized in the following table.

[36] *Id.*

Table 1: RFPF Submission, PFA Planning Start Date/TA-Designated Date and Cost Estimate Due Dates

Licensee Stage / Planning Funding Requested	**RFPF Latest Submission Date**	**PFA Planning Start Date/ TA-Designated Date**	**Cost Estimate Due Date – Licensees with ≤5,000 Units**	**Cost Estimate Due Date – Licensees with 5,001 to 10,000 Units**	**Cost Estimate Due Date – Licensees with > 10,000 Units**
Stage 1 or Stage 2 – Licensees Requesting Planning Funding	10/14/2008	The later of TA approval of the PFA, or receipt of FPR(s)	90 days from the planning start date	100 days from the planning start date	110 days from the planning start date
Stage 1 – Licensees without PFAs	N/A	10/14/2008	1/12/2009	1/22/2009	2/1/2009
Stage 2 – Licensees without PFAs	N/A	1/15/2009	4/15/2009	4/27/2009	5/5/2009

C. The Implementation Sequence and Schedule

There are nine Canadian Border regions extending across multiple NPSPAC Regions that will be reconfigured under the Implementation Plan. There are also affected licensees in areas adjacent to the nine regions that will be reconfigured concurrently. While the TA's frequency and implementation planning for the Canada border regions is not sequenced based on NPSPAC regions, the TA anticipates that certain regions will complete reconfiguration of their 800 MHz systems earlier than other more complex regions that will require more sophisticated frequency planning and reconfiguration sequencing.

The TA does not anticipate that public safety licensees affected by the *Second Report and Order* who are reconfiguring within the lower U.S. primary spectrum bands will have to change frequencies more than once. The TA's frequency and implementation planning will strive to ensure that licensees move in the correct sequence to clear channels timely and maintain

interoperability. Further, even though the circular areas surrounding the cities of Akron, Syracuse and Youngstown will be reconfigured under the non-border band plan, the timing for the completion of reconfiguration in these areas will correspond with that of the Stages in which the licensees within these areas are associated.

The TA anticipates that Stage 1 licensees will commence implementing their reconfigurations in 2009. Many of those systems will be completed by the end of 2009. Certain Stage 2 licensees will most likely commence implementation in 2009, but given the complexity of some of the regions, and of some of the systems within those regions, implementation will most likely be completed in 2010 for a significant number of the systems. The TA is expecting that the implementation of the reconfiguration of all the licensees affected by the Canada – US border will be completed within the 30-month timeframe set by the Commission.

D. Elections

1. Expansion Band

Public safety licensees that are located on Expansion Band frequencies at 815-816/860-861 MHz in Regions 7A and 8 or that are adjacent to the border area, but are undergoing reconfiguration as part of the Canadian border reconfiguration, may elect to remain on their Expansion Band frequencies.[37] Public safety licensees eligible to make Expansion Band elections will do so under the same procedures developed for public safety licensees in the non-

[37] Public safety licensees may also elect to relocate to the Expansion Band. Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 (2004)("*Report and Order*"), at ¶¶ 151 and 154. There is no Expansion Band in Region 7B.

border areas.[38] Licensees will be encouraged to file an Expansion Band election as soon as they make a determination, but no later than January 15, 2009.

2. Guard Band

In the *800 MHz Report and Order,* the Commission provided that certain licensees may relocate to the Guard Band. Licensees subject to mandatory reconfiguration may elect to relocate to Guard Band channels. Licensees not subject to mandatory reconfiguration may choose to relocate voluntarily to the Guard Band after Sprint Nextel has vacated these frequencies.[39]

In the reconfiguration of the U.S.-Canada border regions, Stage 1 licensees may elect to relocate to the Guard Band in Regions 7A, 7B and 8. Licensees will follow the procedures for submission of mandatory and voluntary Guard Band elections that were established by the TA during the non-border area reconfiguration.[40] Licensees should submit mandatory or voluntary Guard Band elections by November 3, 2008. Because licensee requests for Guard Band spectrum may exceed the available capacity, the TA will not review or grant any voluntary Guard Band elections until all mandatory Guard Band elections have been addressed.

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[38] *See* 800 MHz Transition Administrator, LLC's *Ex Parte* Notification, WT Docket No. 02-55 (filed June 30, 2005) (attaching Press Release announcing Expansion Band election procedures); *see also* http://www.800TA.org/content/news/2005/06_28_05.asp. Expansion Band Election Forms are available on the TA's website at http://www.800TA.org/content/800mhz/forms.asp.

[39] Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Supplemental Order and Order on Reconsideration*, 19 FCC Rcd 25120 (2004) ("*Supplemental Order*"), at ¶¶ 85-86; *Report and Order* at ¶¶ 151 and 157-158.

[40] *See* 800 MHz Transition Administrator, LLC's *Ex Part*e Notification, WT Docket No. 02-55 (filed June 30, 2005) (attaching Press Release announcing Guard Band election procedures); *see also* http://www.800TA.org/content/news/2005/06_29_05.asp; *see* 800 MHz Transition Administrator, LLC's *Ex Part*e Notification, WT Docket No. 02-55 (filed Feb. 9, 2006) (attaching Press Release announcing Voluntary Guard Band election procedures); *see also* http://www.800TA.org/content/news/2006/02_08_06.asp. Guard Band Election and Voluntary Guard Band Election Forms are available on the TA's website at http://www.800TA.org/content/800mhz/forms.asp.

3. B/ILT and SMR Licensee Elections to Remain in ESMR Band

B/ILT and SMR licensees within Border Regions 1-6 that are not ESMRs may elect to remain in the ESMR portion of the U.S. Primary General Category band, to avoid reduced channel separation. The *Second Report and Order* provides that Sprint Nextel has to consent to these elections.[41] The Commission further conditioned these elections on the licensees accepting a lesser degree of interference protection for their facilities operating in the ESMR Band.[42] The TA notes that, in certain circumstances, licensees with frequencies below the ESMR portion of the band will have to be reconfigured to accommodate other B/ILT or SMR licensees that will have to relocate from the lowest U.S. primary portion of the band.

The TA will inform Stage 1 licensees of their option to elect to remain in the ESMR Band when it provides the FPRs. The TA establishes November 3, 2008 as the due date for Stage 1 licensees to submit their elections. Licensees are strongly encouraged to file elections prior to this deadline if they are seeking to remain in the ESMR portion of the band. Licensees are directed to file the elections in the docket of this proceeding, with a copy to the TA.

Although Stage 1 licensees currently in the ESMR Band will not be blocking Stage 2 licensees from reconfiguring, the TA's timetable provides the necessary program milestones to keep negotiations of Stage 1 licensees for whom Sprint Nextel did not consent to stay in the ESMR Band on a schedule to meet program goals. Sprint Nextel should provide its written consent within 10 business days from the TA's notification of a licensee's election, otherwise it will be deemed consented. The TA will also review the election at the same time as Sprint Nextel. If Sprint Nextel does not consent, the licensee will have the later of 90 days or the

[41] *Second Report and Order*, at ¶ 19.

[42] *Id.* at ¶ 19.

relevant date noted in Table 1 above to prepare a cost estimate for the negotiation of an FRA for the relocation of its system out of the ESMR Band.

V. CONCLUSION

Pursuant to the Commission's *Second Report and Order*, the TA submits its Implementation Plan and Timetable for the Reconfiguration of the 800 MHz Band in the U.S.-Canada Border Regions. The TA looks forward to working with the Commission, the 800 MHz incumbent licensees in the U.S.-Canada border regions, and affected stakeholders to expeditiously eliminate harmful interference and help ensure a timely, efficient and fair reconfiguration process.

Respectfully submitted,

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