

clearw^ore

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October 29, 2008

Via Electronic Filing

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Notice of Oral *Ex Parte* Communication

RE: Sprint Nextel Corporation and Clearwire Corporation Seek FCC Consent to Transfer Control of Licenses and Authorizations, **WT Docket No. 08-94**

Dear Ms. Dortch:

On October 28, 2008, Craig O. McCaw, Chairman; Ben Wolff, CEO; Gerry Salemme, Executive Vice President, Strategy Policy and External Affairs; and the undersigned, of Clearwire Corporation ("Clearwire"), a licensee, lessee, and operator of 2.5 GHz spectrum in the Broadband Radio Service (BRS) and Educational Broadband Service (EBS), met with Chairman Kevin Martin, Chief of Staff Dan Gonzalez, and Erika Olsen, Legal Advisor to Chairman Martin. The purpose of the meeting was to discuss the above-referenced applications filed by Clearwire and Sprint Nextel for the approval of the transfer of control of the 2.5 GHz licenses, authorizations, and *de facto* transfer spectrum leases held by Clearwire and Sprint Nextel to a new wireless broadband company to be called Clearwire ("New Clearwire"). Clearwire reiterated the points made in its Public Interest Statement accompanying its application filed on June 6, 2008.¹

Specifically, Clearwire described the substantial benefits of the proposed transaction, including the potential of New Clearwire's alternative broadband platform to increase competition, offer consumers more choices, stimulate innovation, and enhance U.S. leadership in wireless broadband technology and deployment. Clearwire urged the Commission to expeditiously grant approval of the transaction, explaining that because the current status of the financial markets is dramatically different from the time the transaction agreement was entered into in May of 2008, that further delay of the approval of the transaction could impact the parties' abilities to close.

Clearwire reiterated the position stated in its filings in this proceeding regarding including 2.5 GHz spectrum, both BRS and EBS, in the spectrum input market.² Clearwire also restated that New Clearwire is an independent company, not controlled by any of its investors, and that any attribution of a non-controlling investor's wireless spectrum to New Clearwire or New Clearwire's spectrum to such investor, would have a perverse and pernicious affect on New Clearwire's ability as a new entrant with no

¹ See Description of the Transaction and Public Interest Statement, File No. 0003368272 (Lead Call Sign B085 amended June 24, 2008) ("Public Interest Statement").

² See e.g., Public Interest Statement at 40-52; see also Joint Opposition to Petitions to Deny and Reply to Comments of Sprint Nextel Corporation and Clearwire Corporation, WT Docket No. 08-99, at 21-36 (filed Aug. 4, 2008).

market share or market power to operate its technologically distinct advanced mobile wireless broadband network.³

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, notice of this *ex parte* communication is being filed electronically. If you have any questions regarding this matter, please do not hesitate to contact the undersigned at 202-429-0107.

Sincerely,



Terri B. Natoli

cc: Chairman Kevin Martin
Dan Gonzalez
Erika Olsen

³ In this regard, the Commission previously declined to attribute the spectrum of a wholly-owned subsidiary of a CMRS provider to that CMRS provider because the spectrum was dedicated to the operation of a stand-alone nationwide mobile data system technically distinct from the infrastructure that Cingular used to provide mobile voice services *and the spectrum used for the separate mobile data network was in a different band from Cingular's cellular and PCS spectrum. See Cingular Wireless LLC; Request for Waiver of the CMRS Spectrum Aggregation Limits in Section 20.6(a) of the Commission's Rules*, 16 FCC Rcd 17564 (2001).