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May 6, 2009

FILED/ACCEPTED

MAY - 6 2009

Federal Communications Commission
Office of the Secretary

BY HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

ORIGINAL

Notice of Ex Parte Communication – Addendum

Re: *Improving Public Safety Communications in the 800 MHz Band; 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; Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile Satellite Service, WT Docket No. 02-55, ET Docket No. 00-258, ET Docket No. 95-18*

Dear Ms. Dortch:

The purpose of this letter is to forward an attachment which through inadvertence was not included in an original ex parte filing submitted by undersigned counsel and Sprint Nextel Corporation on April 29, 2009 in the above referenced matter. We apologize for any inconvenience that this may have caused.

If any questions arise concerning this addendum, please contact me directly.

Sincerely,



Al Mottur, Esq.
Counsel for Sprint Nextel Corporation

CC: Acting Chairman Michael Copps with attachment
Paul Murray with attachment
Michael Degitz with attachment
Richard Engelman with attachment
Trey Hanbury with attachment
Lawrence Krevor with attachment

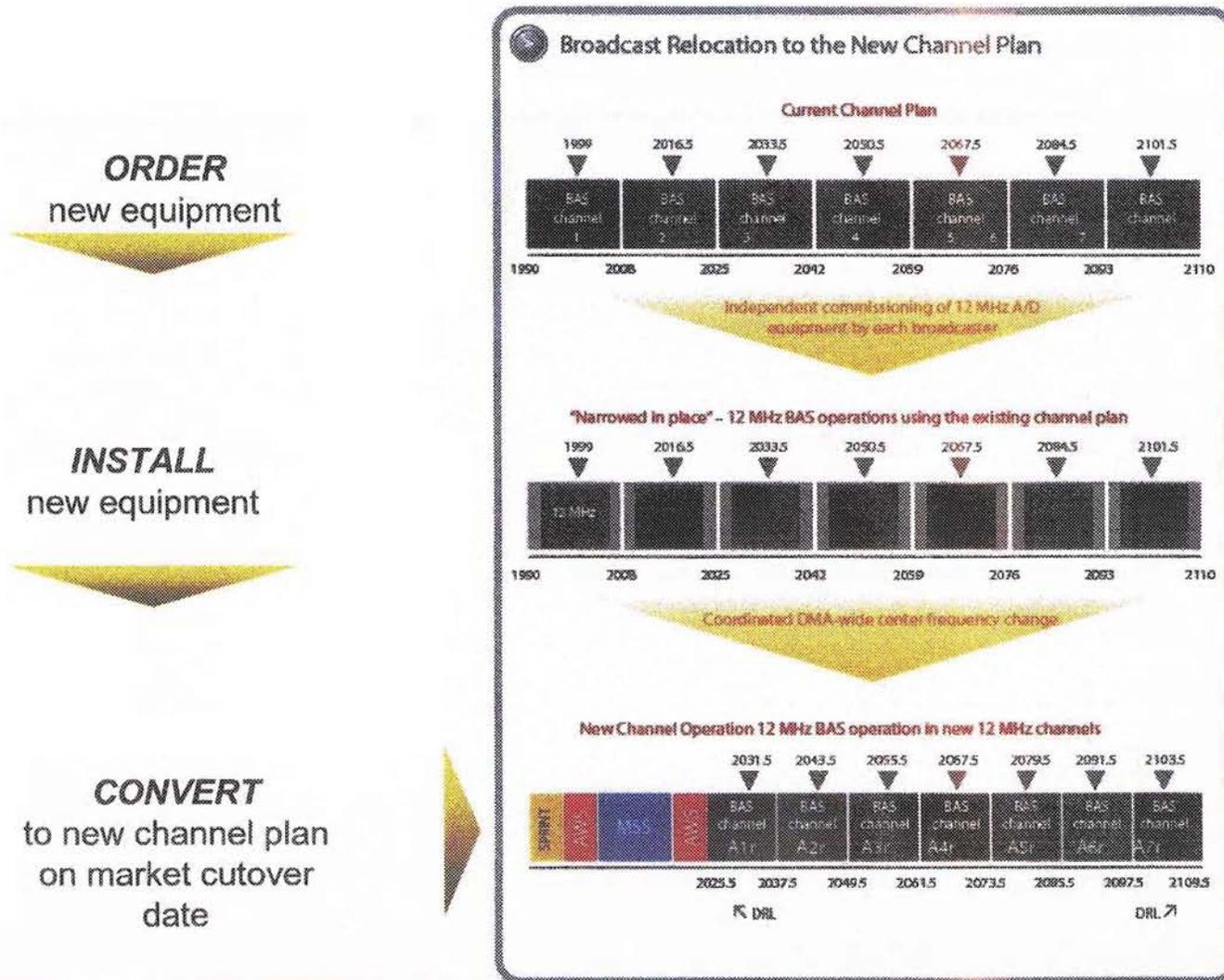
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2 GHz BAS Transition

April 2009

2 GHz BAS Transition Process

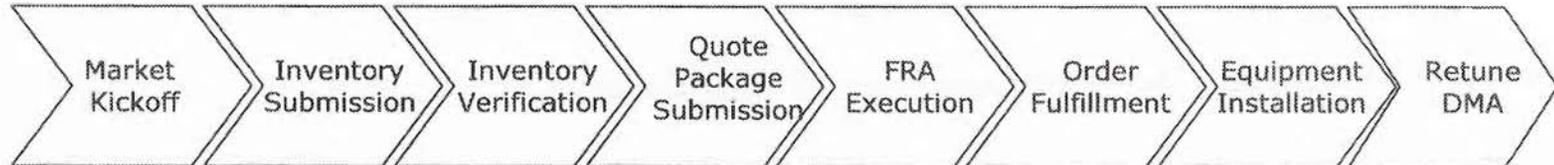


ORDER
new equipment

INSTALL
new equipment

CONVERT
to new channel plan
on market cutover
date

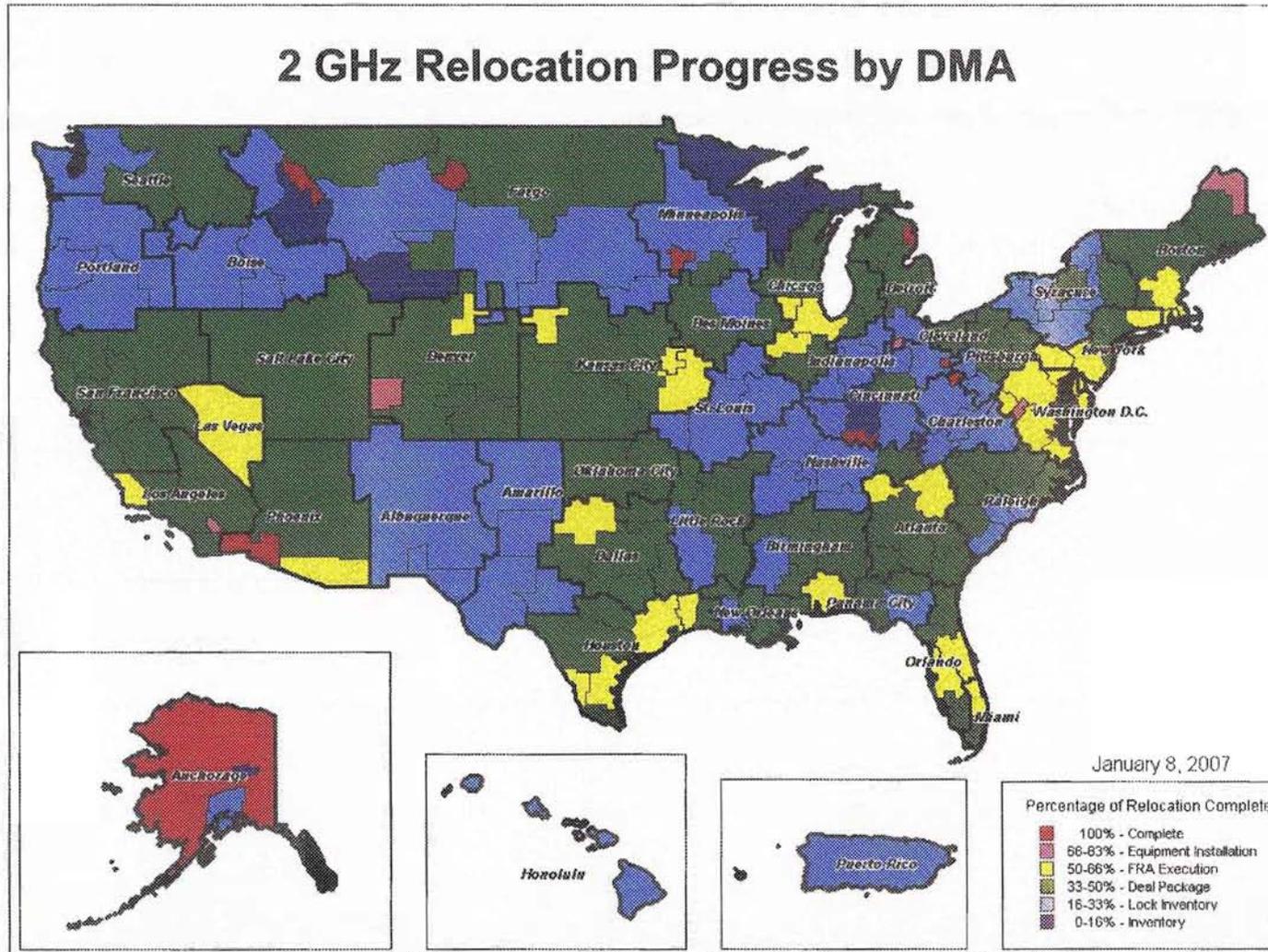
2 GHz BAS Transition Process



Phases	Jan 2007	Apr 2009	Percentage Increase
<i>Phase 1: Market Kickoff</i>	100%	100%	Complete
<i>Phase 2: Inventory Submission</i>	97%	100%	Complete
<i>Phase 3: Inventory Verification</i>	71%	100%	Complete
<i>Phase 4: Quote Packages Submitted to Sprint Nextel</i>	29%	100%	Complete
<i>Phase 5: Frequency Relocation Agreement Execution</i>	14%	99%	707%
<i>Phase 6: Order Fulfillment</i>	3%	66%	2100%
<i>Phase 7: Equipment Installation</i>	1%	55%	5400%
<i>Phase 8: Retune DMA</i>	1%	42%	4100%

BAS Relocation Status January 2007

2 GHz Relocation Progress by DMA

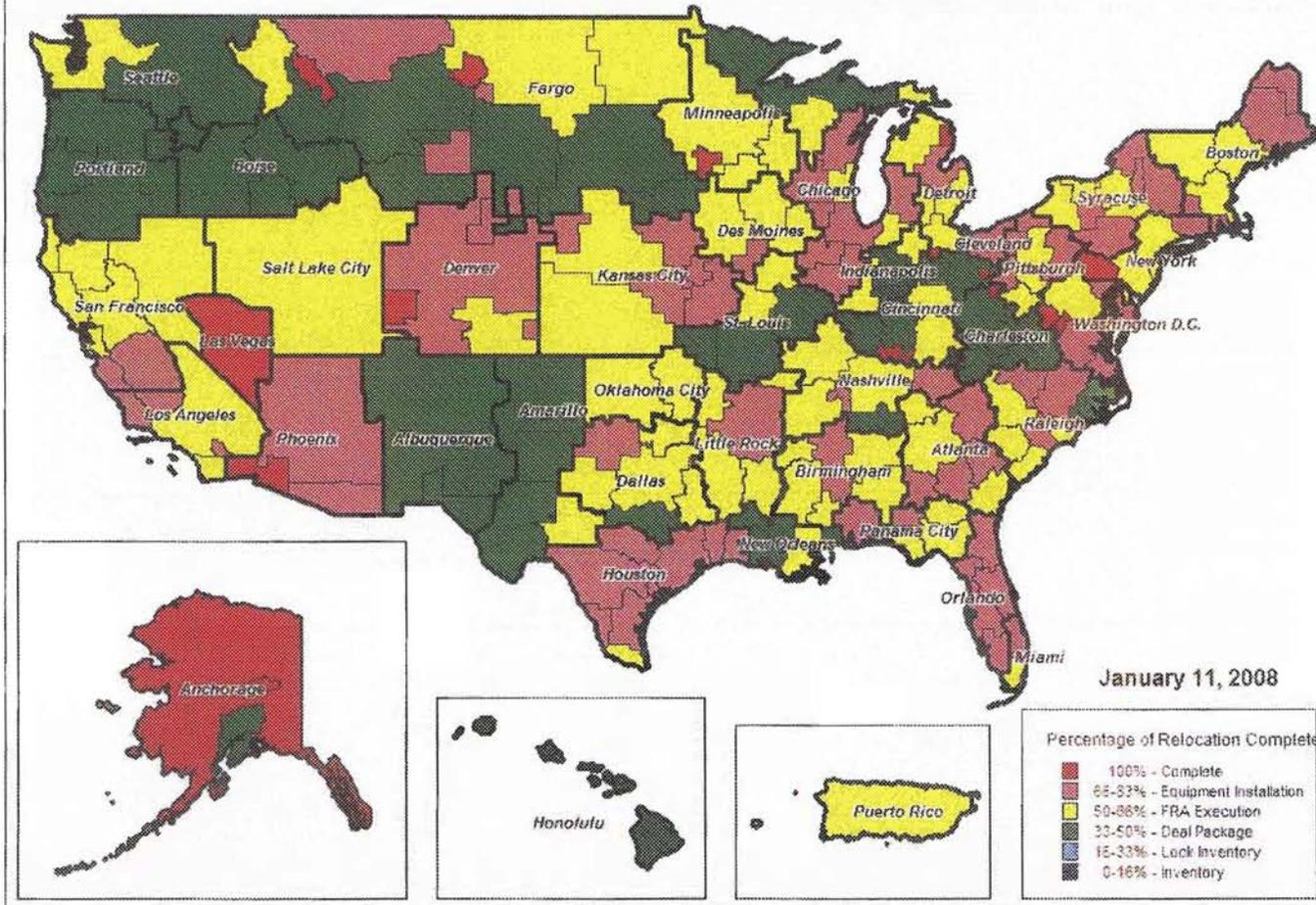


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BAS Relocation Status January 2008

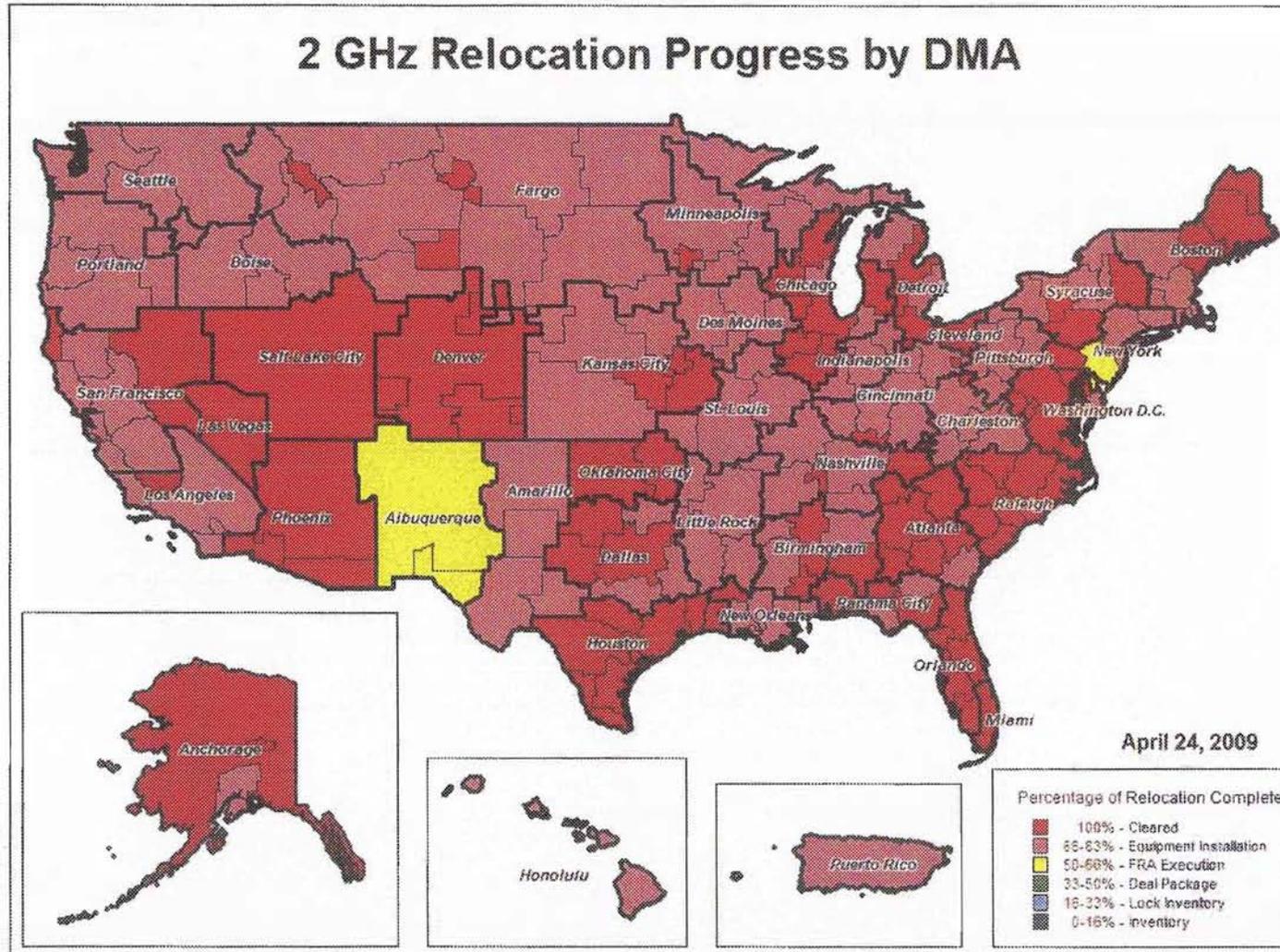
2 GHz Relocation Progress by DMA



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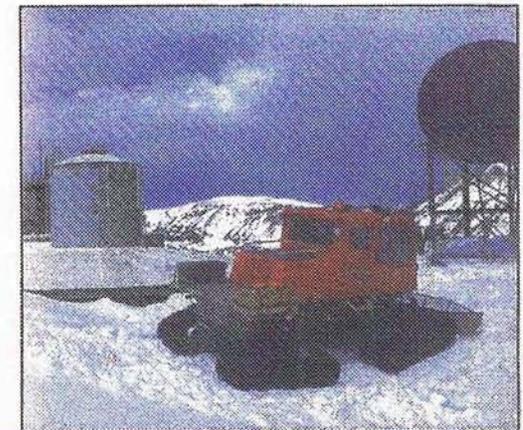
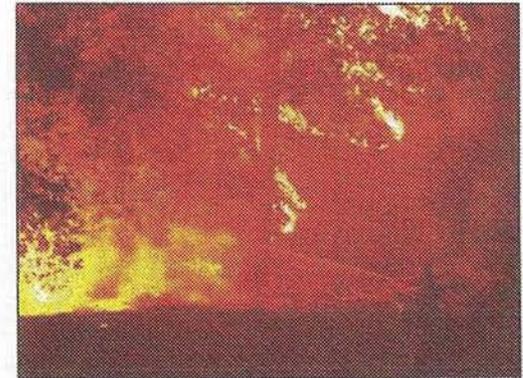


BAS Relocation Status April 2009



BAS Relocation Challenges

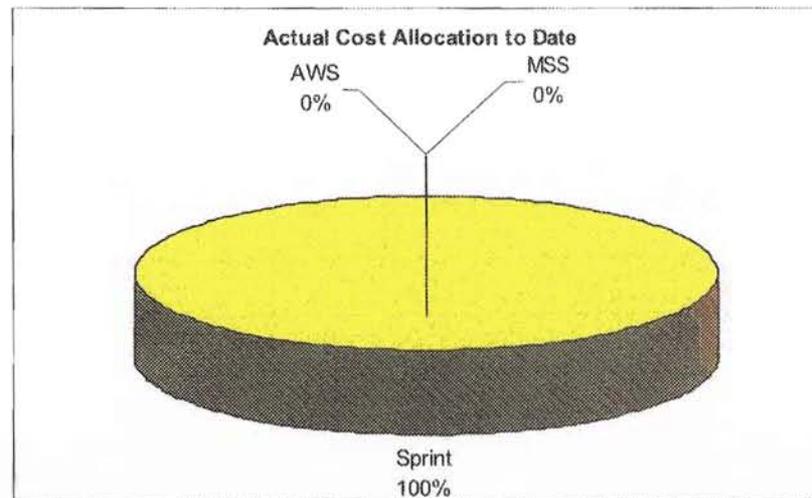
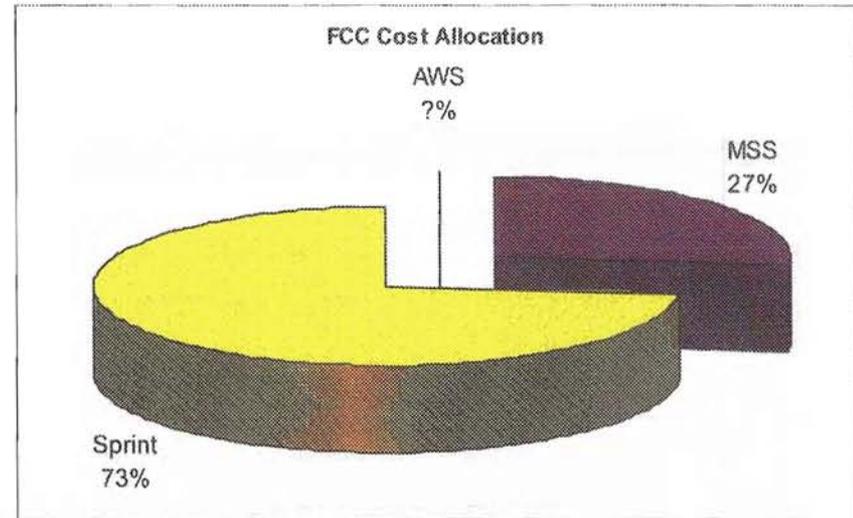
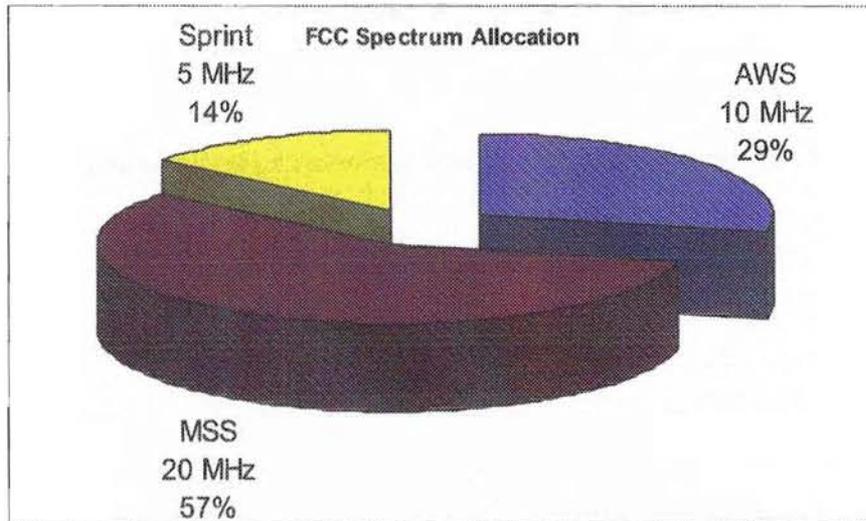
- *Complexity of BAS Transition*
- *Market-Prioritization Demands of MSS Licensees*
- *Digital TV Delay*
- *Broadcaster Bankruptcies*
 - *Pappas Telecasting – thirteen BAS systems*
 - *Tribune Company – nineteen BAS systems*
 - *Young Broadcasting – thirteen BAS systems*
- *Avoiding Material Disruptions to Broadcasters*
- *Aviation Disasters*
- *Weather and Natural Disasters*
- *Tower Climbing Hazards*
- *Competing Priorities for Vendors*
- *Capacity Limitations*
- *Helicopter Constraints*
- *State Contracting Requirements*



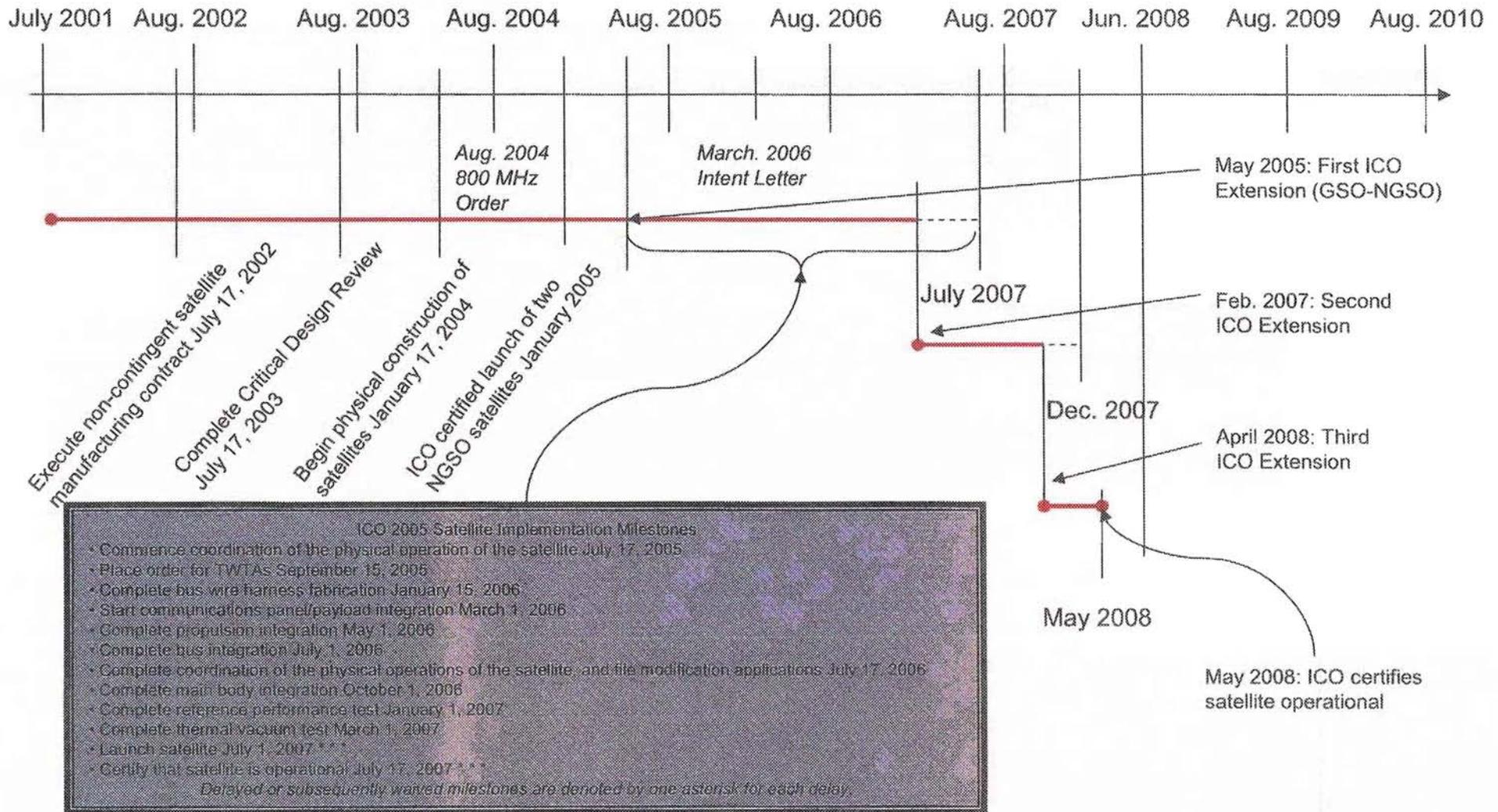
MSS BAS Relocation Obligations

- *The 2 GHz MSS licensees – ICO Communications and Terrestar Networks – have an equal, independent and so-far unmet obligation to relocate the 1.9 GHz BAS incumbents.*
 - *In 2000, the FCC ordered MSS licensees to relocate BAS and pay a proportional share of the BAS clearing costs.*
 - *The FCC held that “[a]ll MSS licensees who benefit from relocation of BAS are responsible for contributing, as a condition of their licenses.”*
- *In 2004 and again in 2008, the Commission reaffirmed MSS licensees’ BAS relocation obligations and required MSS licensees to reimburse Sprint to prevent the MSS licensees from receiving a windfall at the expense of American taxpayers, Sprint, or both.*
 - *FCC 2004: “the first entrant may seek reimbursement from subsequently entering licensees for a proportional share of the first entrant’s costs in clearing BAS spectrum, on a pro rata basis according to the amount of spectrum each licensee is assigned.”*
 - *FCC 2004: “licensees that ultimately benefit from the spectrum cleared by the first entrant shall bear the cost of reimbursing the first entrant for the accrual of that benefit.”*
 - *FCC 2008: “[b]ecause there are two authorized MSS systems in the 2000-2020 MHz MSS band, each MSS operator is assigned 10 MHz of spectrum. ... The pro rata share of each MSS operator will be 2/7 of the total 35 megahertz of spectrum.”*
- *More than eight years after the FCC adopted the MSS-BAS relocation rules, ICO and Terrestar have never relocated a single BAS licensee and now refuse to reimburse Sprint Nextel for any portion of the hundreds of millions of dollars it has incurred clearing spectrum that the MSS licensees occupy.*

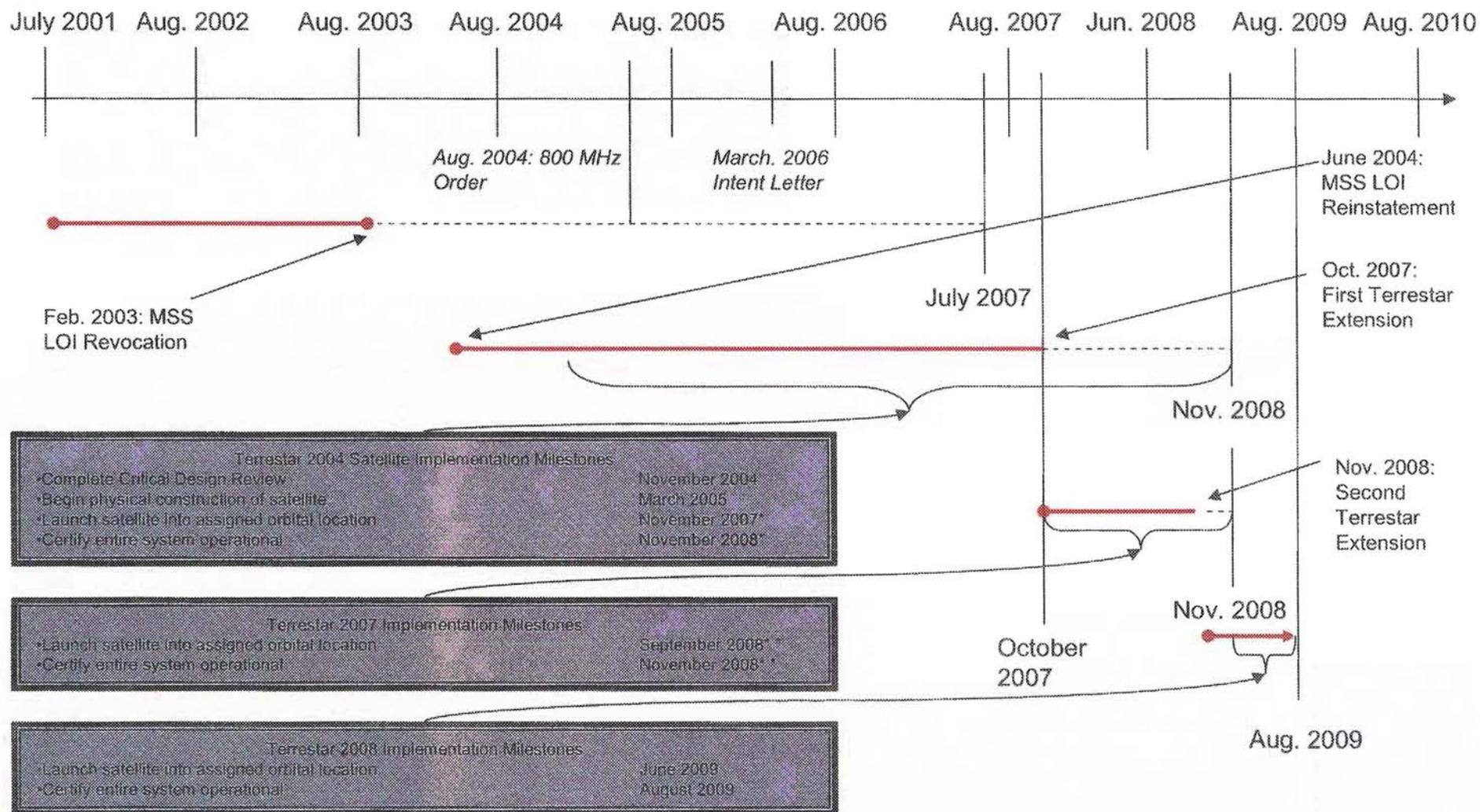
MSS Spectrum and Cost Share



ICO Satellite Milestone Extensions



Terrestar Satellite Milestone Extensions



Simple Premise

- *In declining to dismiss and then staying Sprint's civil suit against ICO and Terrestar pending FCC action, United States District Judge Leonie M. Brinkema stated:*
 - *"From a non-legal, just a very simple, old-fashioned approach, putting aside all the requirements and technicalities of the law, if Sprint has paid out hundreds of millions of dollars to clear this bandwidth from which the two defendants will ultimately . . . benefit and if the basic principle within the FCC is that there is a concept of fair reimbursement when subsequent licensees first enter into bandwidth that somebody else has cleared for them, then just from a basic what's fair and what's right standpoint, there ought to be some way of coming to some practical resolution."*