

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	

COMMENTS OF SPRINT NEXTEL CORPORATION

I. Introduction

Sprint Nextel Corporation (“Sprint Nextel”) hereby respectfully files its comments in this proceeding concerning the thirteen petitions filed by various entities (“Petitioners”) seeking waiver of the Commission’s national public safety spectrum rules. Sprint Nextel recommends that the Commission hold in abeyance any decisions on these petitions pending completing its comprehensive notice and comment rulemaking in WT Docket 06-150 concerning creating a nationwide public safety broadband network using the 700 MHz D Block spectrum.¹

¹ Public Safety and Homeland Security Bureau Seeks Comment on Petitions for Waiver to Deploy 700 MHz Public Safety Broadband Networks, *Public Notice*, PS Docket No. 06-229, DA 09-1819 (August 14, 2009) (“*Petitions Public Notice*”). Sprint Nextel’s comments are applicable to all of the petitions for waiver submitted in this matter, including the following: State of New Jersey Petition, PS Docket No. 06-229 (filed Apr. 3, 2009) (New Jersey Petition); City of Boston Amended Request for Waiver, PS Docket No. 06-229 (filed May 28, 2009) (Boston Amended Petition); City and County of San Francisco, City of Oakland, City of San Jose Request for Waiver, PS Docket No. 06-229 (filed May 28, 2009) (Bay Area Amended Petition); City of New York Petition for Waiver, PS Docket No. 06-229 (filed June 8, 2009) (New York City Petition); District of Columbia Request for Waiver, PS Docket No. 06-229 (filed June 26, 2009) (DC Petition); New York State Request for Waiver, PS Docket No. 06-229 (filed June 30, 2009)

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Sprint Nextel has a long and successful history of supporting the public safety community and providing wired and wireless communications services, applications and devices that help public safety first responders and supporting personnel carry out their missions. Today, Sprint Nextel offers 4G broadband services to more than ten million Americans in fourteen markets, including Baltimore, Atlanta, Las Vegas, and Portland, and plans to bring 4G services to 110 million additional Americans by the end of 2010. Using its 4G deployments, Sprint Nextel already supports cutting-edge public safety applications that leverage the increased speed of new wireless broadband networks to support undercover surveillance and monitor criminal activities. Sprint Nextel's Emergency Response Team (ERT) is the industry leader in supplementing, temporarily replacing and/or creating interoperable public safety communications systems in emergencies, disasters and national security events, including off-network "talk around" capabilities and satellite backhaul- supported mobile infrastructure. Sprint Nextel also provides industry-leading push-to-talk (PTT) "one-to-one" and "one-to-many" communications for numerous public safety agencies at the local, regional, state and federal levels.

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(NYS Petition); New EA, Inc. dba Flow Mobile Request for Waiver, PS Docket No. 06-229 (filed July 7, 2009) (Flow Mobile Petition); City of Chesapeake, Virginia, Request for Waiver, PS Docket No. 06-229 (filed July 8, 2009) (Chesapeake Petition); City of San Antonio, Texas, Petition for Expedited Waiver, PS Docket No. 06-229 (filed July 10, 2009) (San Antonio Petition); State of New Mexico, Petition for Expedited Waiver, PS Docket No. 06-229 (filed July 10, 2009) (New Mexico Petition); Petition for Waiver of the City of Charlotte, North Carolina, PS Docket No. 06-229 (filed Aug 4, 2009) (Charlotte Petition); Petition for Expedited Waiver of the Iowa Public Safety Broadband Coalition, PS Docket No. 06-229 (filed Aug. 7, 2009) (Iowa Petition) (including the Counties of Blackhawk, Buchanan, Dubuque, Grundy, Johnson, Marshall, and Scott and the City of Cedar Rapids); State of North Dakota, Petition for Expedited Waiver, PS Docket No. 06-229 (filed August 18, 2009) (North Dakota Petition); (collectively, the "Petitioners").

Moreover, Sprint Nextel worked in concert with the leading national public safety organizations over a nearly four year period to develop, refine and achieve unanimous Commission adoption of a comprehensive reorganization of the 800 MHz band to eliminate unforeseen and unforeseeable interference between commercial cellular providers and 800 MHz public safety communications systems.² Simply put, Sprint Nextel's commitment to providing public safety entities with robust, reliable and innovative communications is and remains unwavering.

It is in this spirit that Sprint Nextel provides comments on the instant waiver requests. Sprint Nextel's comments are intended to be constructive and to promote the interests of the public safety community, the Commission and all Americans in assuring that public safety agencies have access to the nationwide, interoperable broadband networks that will bring new communications capabilities, applications and efficiencies to law enforcement, firefighting, medical rescue and emergency and disaster response personnel.

Sprint Nextel recognizes the frustration public safety agencies are experiencing given the difficulties the Commission has encountered in attempting to create a public/private partnership leveraging the 700 MHz D Block and the Public Safety Spectrum Trust ("PSST") spectrum to generate financial backing for a public safety nationwide broadband network. Sprint Nextel acknowledges the Petitioners' desires to commence this effort in their immediate jurisdictions

² See *Improving Public Safety Communications in the 800 MHz Band, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969, ¶ 4 (2004) as amended by *Erratum*, 19 FCC Rcd 19651 (2004) and *Erratum*, 19 FCC Rcd 21818 (2004) ("*800 MHz Report and Order*"). As of this writing, Sprint Nextel has funded and supported the successful 800 MHz band retuning of more than 1600 licensees across the nation, including approximately 500 public safety systems, and has executed Frequency Reconfiguration Agreements (FRAs) with approximately 800 of the more than 900 non-border region public safety licensees that must be retuned.

and their assertion that doing so will not undercut nationwide interoperability. Granting the waivers sought in this proceeding at this time, however, is more likely to perpetuate the balkanized state of public safety communications and increase disparities among jurisdictions, than it is to advance the salutary goals of nationwide interoperability and availability of new broadband-based data applications.

Accordingly, the Commission should hold the thirteen petitions in abeyance to avoid prejudice or prejudgment of the outcome of the 700 MHz D Block rulemaking.³ The Commission should complete the pending 700 MHz rulemaking in a timely manner based on the record in that proceeding. Establishing comprehensive rules for an interoperable nationwide public safety broadband deployment based on a full consideration of the comprehensive record developed in that proceeding will create regulatory certainty and eliminate many of the risks posed by granting premature waiver relief.⁴

II. Acting on the Petitions at this Time Would Violate the Public Interest in Full, Fair and Fact-Based Decision-Making.

The Commission has repeatedly sought comment on how best to structure the Upper 700 MHz band to ensure reliable, interoperable broadband data communications for public safety. The hallmark of this process is to establish a comprehensive, *national* plan for public safety

³ See *Petitions Public Notice* at 1 (“In seeking comment, we seek to develop a record that will enable the Commission to explore the full range of alternatives for addressing the waiver requests, while also avoiding prejudgment of pending issues in the Commission’s rulemaking proceeding addressing the 700 MHz D Block and public safety broadband allocations.”)

⁴ Sprint Nextel notes that eleven of the thirteen Petitioners have not completed reconfiguring their mission-critical land mobile voice communications systems in the 800 MHz band, as contemplated by the Commission’s *800 MHz Order*. The Commission should encourage these parties to expeditiously complete the retuning of their 800 MHz systems – thereby eliminating the threat of unforeseen and unforeseeable interference to their existing voice communications – before turning their attention to deploying next-generation services.

broadband data communications. The need for a national plan has grown out of the Commission's longstanding desire to leverage the inherent value of 700 MHz spectrum resources in exchange for broadband data services that benefit public safety operators throughout the country, especially those public safety operators that may lack the financial resources to build their own public safety communications infrastructure.

Responding to the Commission's repeated calls for comment on the national public safety plan for 700 MHz, more than 10,000 commenters have submitted their opinions on various proposals to develop a plan for public safety broadband operations. Dozens of proposals have been submitted in the ongoing proceeding, including proposals to: (1) re-auction the 700 MHz D Block under a public-private partnership framework with the PSST; (2) divest the PSST of the public safety spectrum license and develop local or regional 700 MHz licenses instead; and (3) auction both the 700 MHz D Block and the public-safety broadband spectrum with the proceeds going to support the construction or procurement of public safety broadband services. While very different in their particulars, animating each of the many 700 MHz public safety spectrum proposals is the desire for a cost-effective, interoperable broadband data communications system that provides the vast majority of public safety responders across the United States with a common, fail-safe data network in times of emergency or distress.

Despite the Petitioners' constructive desire to serve their individual local or regional constituencies, granting the waivers sought by the Petitioners here could effectively divorce portions of the United States from the comprehensive national broadband plan for public safety. Taken together, the geographic area covered by the petitions includes approximately 40 million people, or more than 14% of the entire United States population, and extends to far more than 14% of the nation's total economic and industrial output. By separating the areas that are likely

to be the most easily and cost-effectively deployed with new broadband infrastructure, such as New York City and San Francisco, from those areas that are much more costly and time consuming to serve with broadband, immediate grant of these petitions could rob the public-private partnership models under consideration in the 700 MHz rulemaking proceeding of much of their financial value. The public-private partnerships under consideration are premised on the simple concept that the commercial provider would win the right to access valuable spectrum resources in New York, San Francisco and other economic centers in exchange for the obligation to provide the same level of broadband service to areas of the country with fewer potential commercial customers and economic resources. Few, if any, operators will prove financially able to deploy broadband data services in Boston, Virginia, for example, if they cannot also provide services to Boston, Massachusetts. Grant of the instant waivers now could effectively eliminate most of the economic benefit from this arrangement and thereby decide the outcome of the 700 MHz public safety rulemaking proceeding.

While the Commission may ultimately decide against the public-private partnership model, it should do so based on the well-developed record before it. Rather than short-circuiting the deliberative rulemaking process, the Commission can and should hold these waiver petitions in abeyance while it expeditiously resolves the ongoing D Block proceeding.

III. Conclusion

Granting the requested waivers at this time threatens to undercut the D Block's potential value as a catalyst for establishing public safety broadband access. Grant at this time would also enhance the risk that early deploying public safety entities will commit significant resources to a technology platform that ends up not being selected for subsequent deployments. Premature grant could not only compromise the Commission's vision of an interoperable nationwide network, but also foreclose consideration of alternative technologies for the sake of undue haste.

Accordingly, the Commission should hold the petitions in abeyance pending resolution of the 700 MHz proceeding.

Respectfully submitted,

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