

**ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS-
INTERNATIONAL, INC.
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE
INTERNATIONAL ASSOCIATION OF FIRE CHIEFS**

February 3, 2010

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

RE: WT Docket 02-55

Dear Ms. Dortch:

On January 27, 2010, Sprint Nextel filed a petition for waiver of the Commission's current requirement that Sprint Nextel make all remaining, non-border, 800 MHz interleaved channels available for new public safety applications as of March 30, 2010. The Association of Public-Safety Communications Officials (APCO), the International Association of Chiefs of Police (IACP), and the International Association of Fire Chiefs (IAFC) oppose the waiver request for the reasons discussed below.

The 800 MHz rebanding rules, as affirmed by the U.S. Court of Appeals, required Sprint Nextel to vacate the interleaved channels by June 26, 2008, to accomplish "important public interest objectives by reducing the potential for interference and increasing the amount of 800 MHz spectrum available for public safety use."¹ Sprint Nextel sought a waiver of the June 26, 2008, deadline, and proposed instead a phased release of channels linked to rebanding progress in each region.² APCO, IACP and IAFC then informed the Commission that they did not object to the phased approach, but urged that there be a firm date of no later than July 1, 2009, by which time Sprint must make all non-border interleaved channels available upon 60-day notice that the channels are needed for public safety operations.³ On October 29, 2008, the Commission granted Sprint's waiver request, but adopted a firm deadline of March 30, 2010, to release channels, which the Commission said "will provide public safety with certainty regarding when such spectrum will become available to meet public safety demand, and will increase the spectral separation between Sprint and public safety."⁴

¹ Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Third Memorandum Opinion and Order*, 22 FCC Rcd 17209, 17217 (2007); *Sprint Nextel Corp. v. FCC*, 524 F.3d 253 (D.C. Cir. 2008).

² Petition for Relief – Expedited Action Requested, filed by Sprint Nextel Corporation, June 17, 2008.

³ Letter from APCO, IACP, and IAFC (June 24, 2008).

⁴ Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Order*, 23 FCC Rcd 15966, FCC 08-253, released October 30, 2008.

There continues to be ever increasing, pent-up demand for 800 MHz band public safety channels, especially in and near metropolitan areas. Few if any interleaved channels have been released so far in those areas, and nearly all of the channels released across the nation have been quickly assigned to applicants. Most of the public safety agencies waiting for new interleaved channels have no viable alternatives. While 700 MHz narrowband channels are an option for some, most currently deployed 800 MHz radios will not operate in 700 MHz channels. There are also an insufficient number of 700 MHz narrowband channels available to meet public safety demand in most densely populated areas of the nation.

Fifteen months ago, the Commission provided “public safety with certainty” as to when the interleaved channels will become available. Now, Sprint Nextel would have the Commission eliminate any date certain for releasing channels, dashing the plans of police, fire and other public safety users. APCO, IACP, and IAFC understand the difficulties that Sprint Nextel will face if forced to release interleaved channels before rebanding is closer to completion. We also recognize that rebanding has taken longer than most had anticipated. However, the Commission must also consider the public harm that will occur if public safety agencies are unable to acquire the additional spectrum they need to provide the communications capability necessary to support our nation’s first responders. Sprint Nextel’s petition for waiver completely ignores this fundamental goal of 800 MHz rebanding. In addition, as the Commission noted in October 2008, postponing Sprint’s move out of the interleaved channels also extends the period during which public safety licensees are susceptible to the underlying source of the radio interference that rebanding is intended to prevent.

Therefore, APCO, IACP, and IAFC oppose the requested waiver.

Respectfully submitted,

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