

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

In the Matter of)
)
Improving Public Safety Communications in) WT Docket No. 02-55
the 800 MHz Band)
)
New 800 MHz Band Plan for U.S. – Canada)
Border Region)

State of Michigan Request for Waiver for
Authority to Continue Using U.S. Primary
“Old NPSPAC” Mutual Aid Channels on the
U.S. Side of the U.S./Canadian Border

OPPOSITION TO REQUEST FOR WAIVER

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SUMMARY

A comprehensive record was developed prior to adoption of 800 MHz band reconfiguration conclusively demonstrating that resolving CMRS-public safety interference required the de-interleaving of public safety operations from Sprint Nextel and other cellular operations. The Commission unanimously adopted this approach, and that effort is more than halfway complete across the country. The Bureau comprehensively addressed public safety's needs for interoperability in its adoption of the 2008 800 MHz *Second R&O*; Michigan did not timely appeal that decision. The public interest would not benefit from permitting Michigan continued access to the "old" NPSPAC band, which is interleaved with Sprint Nextel's cellular operations; on the contrary, granting Michigan's proposed waiver would likely create the conditions that produce the type of unpredictable intermittent interference that 800 MHz reconfiguration will effectively eliminate. Moreover, Michigan's Waiver fails to consider any alternatives to the extraordinary relief it requests and fails to understand the harm the relief would cause Sprint Nextel and its customers. For all of these reasons, Michigan's Waiver should be denied.

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OPPOSITION TO REQUEST FOR WAIVER

Pursuant to Section 1.45(b) of the Rules of Federal Communications Commission (“Commission”), Sprint Nextel Corporation (“Sprint Nextel”) hereby files this Opposition to a January 28, 2010 Request for Waiver filed by the State of Michigan (“Michigan”) (the “Michigan Waiver”).¹ The Michigan Waiver is a late-filed petition for reconsideration of the Public Safety and Homeland Security Bureau’s (“Bureau”) May 2008 *Second Report and Order* in this proceeding, in which the Bureau, on delegated authority, adopted band plans and comprehensive final rules governing 800 MHz spectrum use in the U.S.-Canadian Border Area, including specifically addressing

¹ Sprint Nextel’s opposition was originally due on Monday February 8, 2010. The federal government, however, was closed in the D.C. metropolitan area February 8th through February 11, 2010 due to significant snowfall. Accordingly, this opposition is timely filed.

Michigan's issue.² Michigan's Waiver should also be denied because it has not considered reasonable alternatives to the requested relief, which, while beneficial to the State of Michigan, will be harmful to Sprint Nextel and its customers. For each of these reasons, the Michigan Waiver should be denied.

I. BACKGROUND

The U.S. and Canada authorize 800 MHz wireless communications systems along their common border pursuant to a bilateral agreement (Arrangement F) that distributes primary spectrum in the U.S. - Canada border region between the two countries.³ This agreement creates a border area extending 140 kilometers from the border on either side, which is divided into eight geographic regions.⁴

In July 2004, the Commission reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in

² Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Second Report and Order*, 23 FCC Rcd 7605 (2008) (*800 MHz Second R&O*). See also *Fourth Memorandum Opinion and Order*, 24 FCC Rcd 2413 (2009) ("*Fourth MO&O*").

³ See Arrangement Between the Dept. of Communications of Canada and the FCC of the United States Concerning the Use Along the US-Canada Border of the Band 806-890 MHz (Jan. 1994, addendum, Dec. 1994) (Arrangement F). See also Arrangement Between the Dept. of Communications of Canada and the FCC of the United States Concerning the Use Along the US-Canada Border of the Bands 821-824 MHz and 866-869 MHz (Sep. 1990, addendum, Dec. 1994).

⁴ In Regions 1, 4, 5, 6, the U.S. and Canada divide primary spectrum in the 800 MHz band evenly. In Region 2 (Buffalo/Toronto), the U.S. is primary on 30 percent of the channels and Canada is primary on 70 percent, while in Region 3 (Detroit/Windsor) the U.S. is primary on 70 to 85 percent of the channels and Canada is primary on 15 to 30 percent, depending on the band segment. Regions 7 and 8 do not abut the Canada border, but are "buffer zones" starting at 100 kilometers from the border and extending to 140 kilometers from the border. In these two regions, U.S. licensees have access to 100 percent of the channels on a primary basis, subject to power and antenna height limits designed to limit signal strength at the border.

the band by separating public safety operations from Sprint Nextel and other cellularized operators. The Commission ordered the retuning of public safety operations from the uppermost portion of the 800 MHz band at 821-824 MHz/866-869 MHz (the “old NPSPAC band”) to the lowermost portion of the 800 MHz band 806-809 MHz/851-854 MHz (the “new NPSPAC band”) and the consolidation of Sprint Nextel’s 800 MHz operations to a new “ESMR block” at 817-824 MHz/862-869 MHz.⁵ The Commission deferred band reconfiguration for the border areas noting that “implementing the band plan in areas of the United States bordering Mexico and Canada will require modifications to international agreements for use of the 800 MHz band in the border areas.”⁶ The Commission stated that “the details of the border plans will be determined in our ongoing discussions with the Mexican and Canadian governments.”⁷ In May 2007, the Commission delegated authority to the Bureau to propose and adopt border area band plans once agreements were reached with Canada and Mexico.⁸

In July 2007, the U.S. and Canada reached agreement on a process that enabled the U.S. to proceed with band reconfiguration in the border region prior to formal

⁵ Improving Communications in the 800 MHz Band, *Report and Order*, WT Docket 02-55, 19 FCC Rcd 14969 (2004).

⁶ *Id.* at paragraph 25.

⁷ *Id.* at paragraph 176.

⁸ Improving Public Safety Communications in the 800 MHz Band, *Second Memorandum Opinion and Order*, WT Docket 02-55, 22 FCC Rcd 10467, at paragraphs 67-68 (2007).

revision of Arrangement F.⁹ On November 1, 2007, the Bureau released a *Further Notice of Proposed Rulemaking* seeking comments on a new band plan proposal for the 800 MHz band along the U.S. - Canada border.¹⁰ Both Michigan and Sprint Nextel filed comments and replies to the *FNPRM*. On May 9, 2008, the Bureau, on delegated authority, adopted the *800 MHz Second R&O*, which established a reconfigured band plan, including new NPSPAC mutual aid channels and new ESMR block, as well as interference rules, a band reconfiguration implementation process and a reconfiguration timeline for the U.S. - Canada border.¹¹

⁹ See Letter from Michael Binder, Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications, Industry Canada to Kevin J. Martin, Chairman, Federal Communications Commission (September 7, 2007); See Letter from Kevin J. Martin, Chairman, Federal Communications Commission Letter to Michael Binder, Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications, Industry Canada (October 31, 2007). Under this agreement, the countries would maintain the current allocation of 800 MHz primary spectrum between the U.S. and Canada set forth in Arrangement F, but recognized the necessity of making minor revisions to Arrangement F. The U.S. would proceed with developing an 800 MHz rebanding band plan for U.S. border area licensees based on the current allocation of primary spectrum. Upon finalization of the U.S. band plan and after the 800 MHz Transition Administrator issued frequency assignments to border area licensees, the U.S. and Canada would discuss minor revisions to Arrangement F. These revisions would address: (1) whether to grandfather certain Canadian facilities authorized on U.S. primary spectrum under Specialized Coordination Procedures (SCP), and (2) actions necessary to avoid any adverse impact on Canadian radio operations that will support the 2010 Winter Olympics in Vancouver, British Columbia. See *Fourth MO&O* at paragraph 4.

¹⁰ Improving Public Safety Communications in the 800 MHz Band, *Further Notice of Proposed Rulemaking*, WT Docket 02-55, 22 FCC Rcd 19266 (2007) (“*FNPRM*”).

¹¹ Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Second Report and Order*, 23 FCC Rcd 7605 (2008) (“*800 MHz Second R&O*”). On July 14, 2008, Sprint Nextel filed a Petition for Clarification seeking reconsideration of certain portions of the *800 MHz Second R&O*. The State of Michigan opposed Sprint Nextel’s Petition. On February 25, 2009, the Bureau denied Sprint Nextel’s Petition, and made other technical revisions to its rules. See *Fourth Memorandum Opinion and Order*, 24 FCC Rcd 2413 (2009) (“*Fourth MO&O*”).

The Commission's rules became effective in August 2008, and 800 MHz band reconfiguration began immediately in the U.S.-Canada border areas. Starting in late 2008, the 800 MHz Transition Administrator ("TA") began issuing proposed replacement channel assignments to 800 MHz incumbent licensees. Many incumbent licensees moved right to negotiation of Frequency Reconfiguration Agreements ("FRAs"), while other licensees chose to take a two-step approach by first negotiating Planning Funding Agreements ("PFAs") to conduct more extensive planning work prior to negotiating their FRAs.¹² All U.S.-Canada border area licensees are now engaged in planning pursuant to their PFAs, negotiating FRAs or implementing their FRAs by retuning their systems to their new frequency assignments.¹³ Pursuant to the Bureau's *Second MO&O*, 800 MHz band reconfiguration in the U.S. – Canada Border Areas is required to be completed by April 2011.

II. MICHIGAN'S WAIVER IS A LATE-FILED PETITION FOR RECONSIDERATION OF THE BUREAU'S MAY 2008 ORDER

On January 28, 2010, almost two years after the Bureau adopted a comprehensive band plan for the Border Areas and more than five years after the Commission mandated

¹² Michigan chose to first enter into a PFA prior to negotiating its FRA, which it did through the "Fast Track" PFA process in 2007, which obviated the need for extensive negotiations and allowed Michigan to get its planning work started faster. Since May 2007, Michigan has received extensive funding from Sprint Nextel to conduct its planning efforts, including at least four PFA amendments, yet Michigan has not completed its planning work nor provided Sprint Nextel with a cost estimate from which to negotiate an FRA. In addition, Michigan has recently requested additional funding via a change order to continue its planning efforts.

¹³ Across the entire U.S.-Canada border area, 49 percent of the U.S. border licensees are in the planning stage or are negotiating their FRAs, while 51 percent of the U.S. border licensees have completed their retunes or are in the implementation stage of band reconfiguration.

800 MHz band reconfiguration across the U.S., Michigan filed the instant waiver request. The Michigan Waiver requests authority to use the five “old NPSPAC” mutual aid channels on the U.S. side of the U.S.-Canada border for cross-border communications with Canadian public safety entities after 800 MHz band reconfiguration is completed in the U.S.¹⁴

The Bureau directly considered and resolved this issue in its *FNPRM* and May 2008 *800 MHz Second R&O*, and Michigan should be barred from raising it now via a waiver request. First, in the *FNPRM* the Bureau proposed to separate public safety operations from cellularized operations by relocating public safety to the bottom of the 800 MHz band, just as it had done in the non-border U.S. to eliminate interference to public safety communications systems.¹⁵ Second, the Bureau proposed to establish new mutual aid channels in the new border area NPSPAC band to match the mutual aid channels in the new non-border NPSPAC band.¹⁶ Third, the Bureau proposed to maintain the existing cross-border mutual aid channels in the old NPSPAC band so that they could continue to be used for mutual aid on the Canadian side of the border.¹⁷ Fourth, the Bureau also proposed that the new ESMR block would be on a contiguous block of spectrum in the upper-portion of the 800 MHz band.¹⁸ Because the old NPSPAC mutual aid channels would fall in the proposed new ESMR block, the Bureau

¹⁴ Michigan Waiver at page 1.

¹⁵ *FNPRM* at paragraph 7.

¹⁶ *FNPRM* at paragraph 7.

¹⁷ *FNPRM* at paragraph 7.

¹⁸ *FNPRM* at paragraph 7.

also proposed that the old mutual aid channels be protected from U.S. ESMR operations into Canada so that Canadian public safety could operate them without interference.¹⁹ Commenting parties, including the State of Michigan, supported the relocation of public safety to the new NPSPAC band, the establishment of new mutual aid channels in the new NPSPAC band and maintaining the existing mutual aid channels *as proposed*.²⁰

In its May 2008 *800 MHz Second R&O* the Bureau comprehensively addressed these issues. First, the Bureau realigned the 800 MHz band to retune public safety to the bottom of the 800 MHz band and ESMR operations exclusively to the top of the 800 MHz band.²¹ The Bureau noted “as in the 800 MHz rebanding plan previously adopted for non-border areas, the band plans the Bureau adopted for the U.S. – Canada border regions are designed to separate—to the greatest extent possible—public safety and other non-cellular licensees from licensees that employ cellular technology in the band.”²² Second, as proposed in the *FNPRM*, the Bureau established new mutual aid channels with 25 kHz spacing in the new border area NPSPAC band plan to match the mutual aid channels in the non-border NPSPAC band plan in the U.S.²³ Third, the Bureau designated for Canadian primary use the five old NPSPAC mutual aid channels – thereby

¹⁹ *FNPRM* at paragraph 7.

²⁰ *800 MHz Second R&O* at paragraph 26 and footnote 81 (emphasis added). Sprint Nextel supported the band reconfiguration plan but did request clarification on the level of protection it was required to provide to the old NPSPAC mutual aid channels for Canadian operations.

²¹ *800 MHz Second R&O* at paragraph 7.

²² *800 MHz Second R&O* at paragraph 7

²³ *800 MHz Second R&O* at paragraph 27.

permitting Canadian public safety operators to retain access to the mutual aid channels and not undertake any rebanding obligations on their side of the border.²⁴

The Bureau ordered that Sprint's Nextel's operations would include the former NPSPAC band (821-824/866-869 MHz), which would be designated for ESMR operation.²⁵ The Bureau authorized Sprint Nextel to operate throughout the border regions on U.S. primary channels in the old NPSPAC band, and on Canadian primary channels in the U.S. subject to the Arrangement F limitations on signal strength at the border.²⁶ Sprint Nextel was ordered to provide full interference protection under the post-rebanding interference standard to all public safety and other non-ESMR systems operating on both U.S. primary and Canada primary spectrum.²⁷

The Bureau addressed U.S. public safety's access to the "old" NPSPAC mutual aid channels by prohibiting public safety use of the "old" mutual aid channels from both base station operation and mobile/portable purposes on U.S. soil, but permitting U.S. public safety users to continue coming to the aid of Canadian public safety operators on

²⁴ *800 MHz Second R&O* at paragraph 27. ("These channels will be designated as Canadian primary channels, so that Canadian public safety systems can continue using them on the Canadian side of the border for interoperability.")

²⁵ *800 MHz Second R&O* at paragraph 7. Sprint Nextel has since sought and the Commission has granted modifications to its 800 MHz licenses to include the 821-824 MHz/866-869 MHz portion of the 800 MHz band, and Sprint Nextel has initiated operations on the old NPSPAC band where it has become available.

²⁶ *800 MHz Second R&O* at paragraph 7. ("We clarify, however, that Sprint may use these channels for ESMR operations in the U.S., so long as it protects Canadian primary use by not exceeding the applicable PFD limit (-107 dB(W/m²) per 25 kHz) at or beyond the border.") .

²⁷ *800 MHz Second R&O* at paragraph 25.

the Canadian side of the border, while utilizing Canadian mutual aid transmission facilities.²⁸

The Michigan Waiver erroneously states that the Bureau's Order "does not address" cross-border mutual aid.²⁹ The Bureau's Order specifically denies U.S. licensees access to the "old" NPSPAC channels on U.S. soil; however, public safety agencies remain permitted to communicate with their Canadian counterparts using the "old" NPSPAC mutual aid channels if they are in Canadian territory. Moreover, the Bureau expressly addressed and rejected Michigan's now two-year late request for a "bridge" for continued cross-border mutual aid; *i.e.*, continuing to use the "old" channels in the U.S. in order to prevent interference to public safety operations and to prevent interference to Sprint Nextel's operations in the same part of the 800 MHz band.

To the extent that Michigan disagreed with the Bureau's decision, which was fully raised and vetted in the *FNPRM* and the *Second Report and Order*, its proper avenue for relief was in July 2008 when it could have filed a petition for reconsideration of the Bureau's decision. Given that over two years have passed and that 800 MHz band reconfiguration is well underway elsewhere, particularly in the Canadian border area, Michigan's waiver request is untimely; nor has Michigan provided any new facts or legal arguments that warrant a different result.

²⁸ 800 MHz *Second R&O* at paragraph 27. In regions 1, 4, 5 and 6, the existing cross-border mutual aid channels that will be maintained in Canada are 822.5125/867.5125 MHz and 823.0125/868.0125 MHz. In Region 3, the existing mutual aid channels that will be maintained in Canada are 821.5125/866.5125 MHz, 822.0125/867.0125 MHz, 822.5125/867.5125 MHz, and 823.0125/868.0125 MHz. There are no cross-border mutual aid channels on the U.S primary spectrum in Regions 2, 7, or 8.

²⁹ Michigan Waiver at page 4.

III. MICHIGAN’S WAIVER DOES NOT CONSIDER REASONABLY AVAILABLE ALTERNATIVES

The Michigan Waiver states that allowing U.S. public safety communicators access to the “old” NPSPAC channels on the U.S. side of the border will produce cross-border benefits.³⁰ Michigan ignores the fact that the “old” NPSPAC band, including the former “old” mutual aid channels, are now (or soon will be) assigned to Sprint Nextel for its cellular-type operations serving customers in the border region.³¹ This channel exchange is at the heart of the Commission’s 800 MHz reconfiguration plan. Michigan’s Waiver request fails to consider the likelihood of interference to both Sprint’s and public safety’s operations that its waiver would likely produce. Moreover, Michigan does not even address the fact that there are potential alternatives to granting its waiver request that can achieve the communications Michigan desires without harming Sprint Nextel’s service to its customers. The Commission’s waiver standard requires that there be no reasonable alternatives for a waiver to be granted.³² Michigan’s request fails that test, as discussed below.

The Michigan Waiver notes that under the Commission’s current rules, U.S. and Canadian users will no longer be able to access common 800 MHz channels on the U.S.

³⁰ Michigan Waiver at pages 4-6.

³¹ As discussed further below, Sprint Nextel can and will operate within the Commission’s power flux density (“pfd”) requirements to completely protect Canadian operations on the Canadian side the border on both its new primary 800 MHz channels and its 800 MHz “secondary use” channels, including the old NPSPAC channels.

³² 47 C.F.R. § 1.925(b)(3). (“The Commission may grant a request for waiver if it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.”)

side of the border. According to Michigan “public safety users on both sides of the border will have to seek other means of transmitting the kind of information that had been communicated on the 800 MHz mutual aid channels.”³³ Michigan states “it will be doubtful that an alternative will be easily identified or as effective as the cross-border interoperability tool they have today.”³⁴ The problem with the Michigan Waiver is that it does not even try to suggest available alternatives and has thus failed its burden of proof. Michigan is all too willing to adversely impact Sprint Nextel’s operations because it is the easiest means for Michigan to achieve its goals; that, however, is insufficient to warrant waiver relief.

A number of reasonable and practicable alternatives exist to facilitate cross-border communications for public safety agencies without undercutting the foundation of the Commission’s carefully conceived 800 MHz spectrum reconfiguration plan. For example, Michigan complains that without grant of the Waiver there are “no 800 MHz channels on which cross-border mutual aid communications could be conducted.”³⁵ That is simply not the case. Michigan could provide Canadian operators access to the new NPSPAC mutual aid channels or even selected non-mutual aid channels on a shared basis. Cross-border sharing of this nature is undertaken today by public safety through the old NPSPAC channels as well as by commercial operators, such as Sprint Nextel and Telus, who have used a Special Coordination procedure (“SCP”) to share 800 MHz spectrum for over a decade to promote cross-border communications. Each party

³³ Michigan Waiver at page 6.

³⁴ Michigan Waiver at page 6.

³⁵ Michigan Waiver at page 7.

provides spectrum to a common pool and each can coordinate its usage along the border. Michigan could do the same here – make its new mutual aid channels available to Canadian operators to use on a secondary basis so that as Canadian operators needed to interoperate with U.S. public safety in the U.S., they would have common channels to do so.

Similarly, another alternative is for Michigan to lend its Canadian counterparts a small number of U.S. re-programmed radios that would operate on the new U.S. band plan and new NPSPAC channels.³⁶ If an interoperability incident arose, those Canadian users would already have Michigan radios to talk on and communicate with Michigan personnel.

Another possibility might be to establish a console patch between the State of Michigan and certain Canadian jurisdictions with a landline connection.³⁷ Each public safety entity would use its own spectrum on its assigned channels but both could interoperate with the other by having communications groups linked via each first responders' dispatch console.³⁸

³⁶ Presumably these would need to be radios that could be programmed for both old and new NPSPAC channels so that the Canadian operators could continue to use their own Canadian primary NPSPAC spectrum.

³⁷ These patches are used often in the public safety community to connect public safety agencies using different channels or even different channel bands.

³⁸ These are just a few of the possible alternatives to address Michigan's concerns.

IV. MICHIGAN’S WAIVER DOES NOT ADEQUATELY ADDRESS THE HARM TO SPRINT NEXTEL

The Michigan Waiver also fails to adequately address the harm that grant of the Waiver would cause to Sprint Nextel’s operations in the Michigan border area. Michigan states without any technical showing or analysis whatsoever that its request is “limited,”³⁹ and that it “will not adversely affect Sprint Nextel’s” operations.⁴⁰ The Michigan Waiver apparently mistakenly assumes that Sprint Nextel is required to limit its operations in such a way as to limit its spectrum usage on the “old” NPSPAC band channels near the border. In fact, under the Commission’s existing Rules, Sprint Nextel will be entitled to use the five “old” NPSPAC channels as long as it meets the prescribed pfd limitation at the U.S. – Canada border to protect Canadian operations on the Canadian side of the border.

Contrary to Michigan’s claims, this does not mean that there would be an automatic “buffer” between the U.S. and Canada. Sprint Nextel will be permitted and fully intends to use the five old NPSPAC channels (once it has access to them) as close to the border as possible while taking care not to cause interference to Canada. There won’t be a “buffer” area, and the Michigan Waiver would require Sprint Nextel to attempt to artificially create one, thereby adversely impacting Sprint Nextel’s ability to serve its customers throughout the Detroit Metropolitan area. At the same time, because of Michigan’s undefined and random usage within five miles of the border area, Sprint Nextel will be unable to guarantee protection from its operations to the mobiles and

³⁹ Michigan Waiver at page 7.

⁴⁰ Michigan Waiver at page 8.

portables that Michigan seeks to use. The reality is that the Michigan Waiver is far broader than it appears,⁴¹ would be harmful to Sprint Nextel's network, and would likely produce the very interference to the State of Michigan's critical communications that 800 MHz band reconfiguration is designed to eliminate. In addition to the procedural and substantive deficiencies of the Michigan Waiver request described above, the waiver request is unreasonably broad and lacks sufficient detail to support a finding of it being in the public interest.

V. CONCLUSION

A comprehensive record was developed prior to adoption of 800 MHz band reconfiguration conclusively demonstrating that resolving CMRS-public safety interference required the de-interleaving of public safety operations from Sprint Nextel and other cellular operations. The Commission unanimously adopted this approach and that effort is more than halfway complete across the country. The Bureau comprehensively addressed public safety's needs for interoperability in its adoption of the 2008 800 MHz *Second R&O*; Michigan did not timely appeal that decision. The public interest would not benefit from permitting Michigan continued access to the "old" NPSPAC band, which is interleaved with Sprint Nextel's cellular operations; on the contrary, granting Michigan's proposed waiver would likely create the conditions that produce the type of unpredictable intermittent interference that 800 MHz reconfiguration

⁴¹ For example, Michigan's proposed use of a 35 watt mobile at the far reaches of its proposed five-mile usability area would impact Sprint Nextel's co-channel operations well outside this "buffer" area, rendering these same channel unusable for Sprint Nextel throughout the metro and suburban areas of Detroit. Sprint Nextel estimates that it currently has over 1,300 sites within 25 miles of the U.S.-Canada border in Michigan and over 1,800 sites within 40 miles of the U.S. – Canada border, all of which could be impacted negatively under Michigan's approach.

will effectively eliminate. Moreover, the Michigan Waiver fails to consider any alternatives to the extraordinary relief it requests and fails to understand the harm the relief would cause Sprint Nextel and its customers. For all of these reasons, the Michigan Waiver should be denied.

Respectfully submitted,

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February 12, 2010

CERTIFICATE OF SERVICE

I, James B. Goldstein, hereby certify that I have, on this 12th day of February 2010, caused to be delivered by electronic mail, a copy of the foregoing Opposition to Request for Waiver to the following:

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