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

In the Matter of	)	
	)	
Implementing a Nationwide, Broadband,	)	
Interoperable Public Safety Network in the	)	PS Docket No. 06-229
700 MHz Band	)	
	)	

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation ("Sprint Nextel") submits these Comments in response to the September 28, 2010 Public Notice ("*Notice*") released in the above-captioned proceeding.[1] In the *Notice*, the Commission's Public Safety and Homeland Security Bureau ("Bureau") seeks comment on whether allowing public safety the option of flexible use of the 700 MHz narrowband spectrum for broadband services would be operationally feasible and technically compatible with existing and future public safety narrowband operations.[2] It also seeks comment on whether the flexibility to offer broadband services in all or a portion of the 700 MHz narrowband spectrum (and/or the guard band) would promote more efficient use of 700 MHz public safety spectrum.[3]

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[1] *Public Safety and Homeland Security Bureau Seeks Comment on the Technical and Operational Feasibility of Enabling Flexible Use of the 700 MHz Public Safety Narrowband Allocation and Guard Band for Broadband Services*, PS Docket No. 06-229, Public Notice, DA 10-1877 (rel. Sept. 28, 2010) ("*Notice*").

[2] *Id.* at 1.

[3] *Id.* at 3.

Providing public safety with flexibility to use the 700 MHz narrowband spectrum for broadband services offers many potential advantages over the current command-and-control regulatory approach. The Commission has long held that "the public interest benefits of flexibility are manifold" for commercial spectrum and that maximizing flexibility is critical to ensuring that such spectrum is put to its highest and best use.[4] Among other benefits, increased flexibility promotes technological development, innovation, investment, economic growth, and competition – all without consuming additional spectrum resources.[5] The Commission has also found that allowing flexibility in channelization promotes efficient spectrum use.[6]

The same substantial benefits would also accrue to public safety spectrum users in the 700 MHz band. Offering greater flexibility in the 700 MHz band could provide additional capacity for either broadband or narrowband services (*e.g.*, use of the narrowband spectrum could help satisfy a need for additional broadband capacity, and vice versa).

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[4] *See, e.g.*, *Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band*, Notice of Proposed Rulemaking, 22 FCC Rcd 17035, 17072 ¶ 84 (2007); *see also Principles for Reallocation of Spectrum to Encourage the Development of Telecommunications Technologies for the New Millennium*, Spectrum Policy Statement, 14 FCC Rcd 19868, 19870 ¶ 9 (1999) (stating that "[i]n the majority of cases, efficient spectrum markets will lead to use of spectrum for the highest value end use," and that "[f]lexible allocations may result in more efficient spectrum markets").

[5] *See, e.g.*, *id.*; *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 1962 ¶¶ 30, 211 (2003) (noting that "[t]he Commission has granted regulatory flexibility to terrestrial and space-station spectrum licensees after finding that flexibility can promote competition and innovation without consuming additional spectrum resources"); *Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services*, First Report and Order and Further Notice of Proposed Rule Making, 11 FCC Rcd 8965 (1996); *Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions*, Report and Order, 13 FCC Rcd 19112 (1998), *recon.*, 14 FCC Rcd 12764 (1999), *further recon.*, 15 FCC Rcd 14566 (2000).

[6] *See Rechannelization of the 17.7-19.7 GHz Frequency Band for Fixed Microwave Services Under Part 101 of the Commission's Rules*, Report and Order, 21 FCC Rcd 10900, 10912-13, ¶ 28 (2006). Moreover, public safety has benefitted from additional flexibility granted to commercial spectrum. *Reallocation and Service Rules for the 698-746 MHz Spectrum Band*, Memorandum Opinion and Order, 17 FCC Rcd 11613, 11631 ¶ 41 (2002) (noting that extending flexibility to Channel 59-69 broadcasters to enter into voluntary arrangements for the early clearing of the Upper 700 MHz bands could make the spectrum available more quickly for new public safety and other services) (internal citations omitted).

In addition, allowing flexible use of the public safety 700 MHz narrowband spectrum would be consistent with the spectrum and public safety goals of the National Broadband Plan ("NBP"). The NBP states that U.S. spectrum policy should be reformed to "mak[e] more spectrum available on a flexible basis."[7] It also affirms that such flexibility can promote innovation and more productive use of the spectrum in the commercial context.[8] With respect to public safety, the NBP highlights the potential benefits of network solutions that provide multiple options for the public safety community to leverage existing public safety (and commercial) systems and a variety of spectrum bands.[9]

The Commission's existing approach for the 700 MHz public safety spectrum, on the other hand, mandates yesterday's technology for tomorrow. In the *Notice*, the Bureau seeks comment on the current and anticipated use of 700 MHz narrowband networks, including how the 700 MHz public safety narrowband channels are currently utilized.[10] Based on a review of ULS licensing data across the entire U.S., only about 300 individual sites have been reported as constructed by public safety licensees in the public safety narrowband spectrum, with only another 300 sites licensed and awaiting construction. According to this data, and as illustrated in the attached Exhibit, the public safety narrowband spectrum remains largely unused throughout vast areas of the country. Requiring the use of narrowband technology, therefore, is an inefficient use of spectrum, especially for public safety entities that are ready to migrate more of

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[7] *See, e.g.*, Federal Communications Commission, *Connecting America: The National Broadband Plan* at 75 (rel. Mar. 16, 2010) ("*NBP*"), *available at* www.broadband.gov; *see also Innovation in the Broadcast Television Band: Allocations, Channel Sharing and Improvements to VHF*, Notice of Proposed Rulemaking, ET Docket No. 10-235, FCC 10-196 ¶ 16 (rel. Nov. 30, 2010) (proposing "to make a significant portion of the spectrum currently used for broadcast television available for flexible use").

[8] *See NBP* at 79.

[9] *See, e.g.*, *id.* at 315 (noting potential economies of scale, reduced costs, and competitive choices for public safety users).

[10] *Notice* at 2-3.

their communications to a broadband platform. Instead, the Commission should ensure that the 700 MHz public safety band plan remains "flexible enough to allow deployment of the technologies of tomorrow" and promotes efficient spectrum usage, consistent with its earlier determinations for the band.[11] As recognized in the NBP, "the failure to revisit historical allocations can leave spectrum handcuffed to particular use cases and outmoded services."[12]

Flexible use could also be implemented quickly in the 700 MHz public safety band. For instance, the benefits discussed above could be achieved immediately after an appropriate notice and comment period, without waiting for the ultimate disposition of the D Block (which will either require a successful auction or an act of Congress). Therefore, for the reasons discussed above, the Commission should grant public safety flexible use of the 700 MHz public safety narrowband spectrum.

Respectfully submitted,

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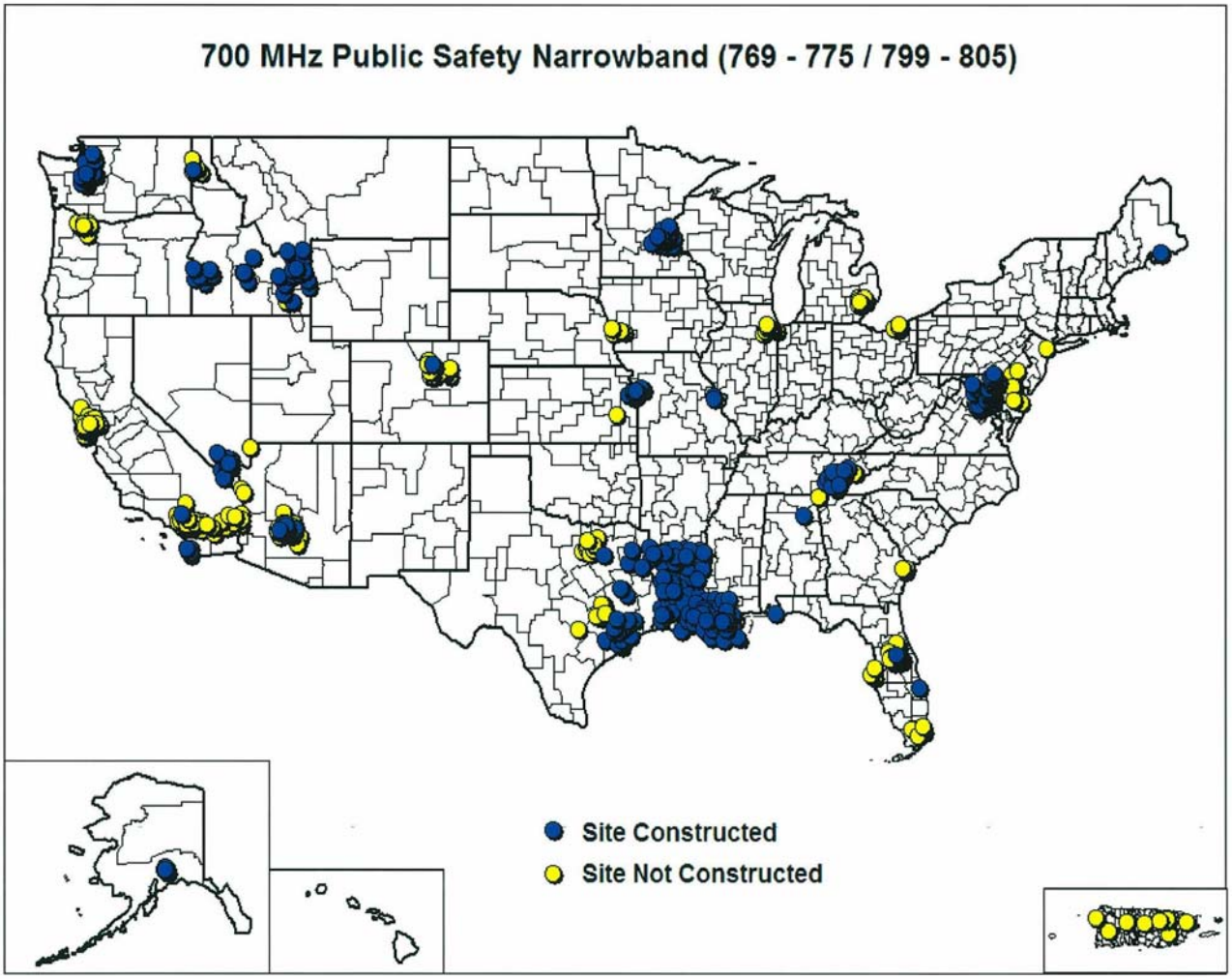
[11] *Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements through the Year 2010*, First Report and Order and Third Notice of Proposed Rulemaking, 14 FCC Rcd 152, 157 ¶ 9 (1998).

[12] *NBP* at 78-79.

EXHIBIT

700 MHz Public Safety Narrowband Licensing and Deployment
As of December 1, 2010



Source: FCC Universal Licensing System data