

January 4, 2011

VIA ELECTRONIC DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room TWA325
Washington, DC 20554

**Re: Notice of *Ex Parte* Presentation
ET Docket Nos. 04-186, 02-380**

Dear Ms. Dortch:

Yesterday, Richard Engelman, Director, Spectrum Resources for Sprint Nextel Corporation (“Sprint Nextel”); Joseph M. Sandri, Jr., Senior Vice President of Government and Regulatory Affairs for FiberTower Corporation (“FiberTower”); Caressa D. Bennet of Bennet & Bennet, PLLC, General Counsel for the Rural Telecommunications Group (“RTG”); and the undersigned of Hogan Lovells US LLP, Counsel to Sprint Nextel and Special Counsel to FiberTower and RTG, met with Rick Kaplan, Chief Counsel and Senior Legal Advisor to Chairman Genachowski, and John Leibovitz, Deputy Chief of the Wireless Telecommunications Bureau. Fred B. Campbell, Jr., President & CEO of the Wireless Communications Association International, also joined the meeting by telephone.

The parties discussed the previously filed results of Sprint Nextel’s study of the level of incumbency in the TV Bands spectrum and highlighted the benefits of using a more granular contour-based analysis rather than a county-by-county analysis to determine available vacant TV Bands channels in rural and tribal areas. The representatives also discussed their proposal to permit limited fixed licensed use of the vacant TV Bands White Spaces in UHF Channels in rural and tribal areas to provide more cost-effective backhaul options, as detailed in their prior filings in this proceeding. In particular, the parties noted that Broadcast Auxiliary Service antennas and transmitters are commercially available for UHF TV channels and can be easily retuned (or the relevant components can be replaced easily in the field) on a cost-effective basis to other UHF channels if necessary. For example, the directional Kathrein Scala PR-TV Paraflector® antenna, while tuned to a particular UHF channel, can be used for some nearby UHF channels or readily retuned to other UHF Bands by installing a new feed assembly unit (for less than \$300). Similarly, the Axcera Innovator CX transmitter is tunable throughout the UHF band, and any needed filters are either field retunable or easily replaceable for under \$2,000.

Finally, the parties discussed the process by which the Commission could license limited fixed use of the vacant TV Bands White Spaces. As noted in previous filings, the Commission can use its well-established Part 101 site-by-site licensing process for licensing point-to-point links in UHF TV Channels 14-30, which could include conditions related to any future repacking of the TV Bands. Specifically, the Commission could require applicants to:

- Provide a statement of need for wireless backhaul services in the proposed service area;
- Certify that the license will be used solely to provide wireless backhaul services;
- Include a contour analysis demonstrating vacant TV channels;
- Demonstrate that the fixed point-to-point link endpoints will be in a rural county¹ or tribal area;
- Review the Commission's licensing databases and recent filings;
- Confirm that the proposed wireless backhaul use would not interfere with existing TV services;
- Verify that there are five or fewer TV services in the proposed service area (e.g., full power or Class A TV stations, LPTV stations/translators, and LPTV/translator applications and construction permits);
- Accept a condition to relocate or retune as needed to accommodate any future repacking of the TV bands.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, I am filing this notice electronically in the above-referenced dockets. Please contact me directly with any questions.

Respectfully submitted,

/s/ Michele C. Farquhar

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cc: Rick Kaplan
John Leibovitz

¹ The Commission could, for example, use the definition of rural counties contained in the PCS rules (*i.e.*, counties that have population densities of 100 persons or fewer per square mile, based upon the most recently available population statistics from the Bureau of the Census). See, e.g., Section 24.232(b).