



Sprint Nextel
12502 Sunrise Valley Drive
Reston, VA 20196
Office: (703) 433-4212

March 10, 2011

VIA ELECTRONIC FILING

Michael Wilhelm, Deputy Chief
Public Safety and Homeland Security Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Ex Parte Submission
WT Docket 02-55, Sprint Nextel Request for Waiver

Dear Mr. Wilhelm:

Sprint Nextel Corporation (“Sprint Nextel”) wishes to clarify the record in this proceeding. On February 11, 2011, Sprint Nextel filed a request for waiver regarding the 800 MHz Interleaved Band spectrum in WT Docket 02-55. On February 22, 2011, two parties filed Oppositions to Sprint Nextel’s Waiver request, Smartcomm, LLC (“Smartcomm”) and Preferred Spectrum Investments, LLC. (“PSI”). On March 1, 2011, Sprint Nextel filed a Reply to these Oppositions. This should have closed the applicable pleading cycle in response to Sprint Nextel’s Waiver. Instead on March 8, 2011, both Smartcomm and PSI filed additional Replies to Sprint Nextel’s Reply to Oppositions. No Motions seeking leave to file additional submissions were submitted by either Smartcomm or PSI, and therefore, these further Replies should not be considered.

Sprint Nextel wishes to take this opportunity, however, to correct the record. In Sprint Nextel’s March 1, 2011 Reply it first argued that PSI’s Reply be procedurally barred due to its apparent failure to serve its Opposition on Sprint Nextel.¹ In its March 8, 2011 further Reply, PSI provided a Certificate of Service dated February 23, 2011 which indicated that the Opposition had been served by mail to undersigned counsel’s address in Reston, Virginia. As of March 1, 2011, the undersigned had received no copy via mail of the Opposition filing from PSI. Based on the lack of a Certificate of Service as well as the lack of receipt of the Opposition, Sprint Nextel concluded that PSI had failed to serve Sprint Nextel and made its procedural argument in its March 1, 2011 Reply.

In light of PSI’s March 8, 2011 submission, however, Sprint Nextel has subsequently discovered that the February 22, 2011, PSI Opposition was apparently received by Sprint Nextel’s mailroom some time between February 24, 2011 and March 4, 2011, but was not

¹ No Certificate of Service was attached to the PSI Reply indicating that it was served. Pursuant to the Commission’s Rules failure to provide a Certificate of Service is not fatal if service was, in fact, performed.

delivered to a colleague of the undersigned until March 8, 2011.² In light of this discovery and PSI's subsequent Certificate of Service, Sprint Nextel wishes to correct the record and withdraws its contention that the PSI Opposition was not served by mail.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

James B. Goldstein, Esq.
Director, Spectrum Reconfiguration

Cc: Lee G. Petro, Counsel for PSI
Pantelis Michalopoulos, Counsel for Smartcomm

² The Sprint Nextel mailroom did not retain the envelope which would have provided the applicable postmark to demonstrate when the Opposition was in fact served.