

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

In the Matter of)	
)	
Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees)	WT Docket No. 12-64
)	
Request for Declaratory Ruling that the Commission’s Rules Authorize Greater than 25 kHz Bandwidth Operations in the 817- 824/862-869 MHz Band)	WT Docket No. 11-110
)	

COMMENTS OF SPRINT NEXTEL CORPORATION

Lawrence R. Krevor
Vice President – Spectrum

James B. Goldstein
Director, Spectrum Reconfiguration

SPRINT NEXTEL CORPORATION
12502 Sunrise Valley Drive
Reston, VA 20196
703-433-4212

Regina M. Keeney
Charles W. Logan
Stephen J. Berman
LAWLER, METZGER, KEENEY & LOGAN, LLC
2001 K Street NW, Suite 802
Washington, DC 20006
202-777-7700
blogan@lawlermetzger.com

Counsel to Sprint Nextel Corporation

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Summary

The Commission's proposal to eliminate outdated legacy channel spacing and bandwidth limitations for Enhanced Specialized Mobile Radio (ESMR) licensees in the 800 MHz band represents a simple, straightforward rule change that will produce substantial public interest benefits. It will permit Sprint Nextel Corporation (Sprint) and other ESMR licensees to deploy wideband and broadband technologies in the 800 MHz band. Investment in these technologies will increase the efficiency, capacity, and data speed of ESMR networks, all to the benefit of consumers. Moreover, the proposed rule revisions will not increase the risk of commercial carrier interference with 800 MHz public safety communications systems (typically referred to as Commercial Mobile Radio Service (CMRS) – public safety interference) and are fully consistent with the goals and objectives of the Commission's 800 MHz reconfiguration program.

The flexibility proposed by the Commission in this proceeding is the same flexibility that commercial licensees operating in other bands have enjoyed for many years. The Commission, in fact, recognized the need to provide this flexibility to ESMR licensees more than fifteen years ago. In a 1995 rulemaking order, the Commission established geographic-area licensing and a contiguous spectrum block for ESMR licensees with the clear intent of providing ESMR licensees the ability to deploy wideband and broadband systems using CDMA and other technologies. Despite this clear intent, the outdated legacy channel spacing and bandwidth limitations remained a part of the Commission's rules. This proceeding rectifies that oversight and thereby will increase wireless competition and better enable ESMR licensees to make more efficient use of the 800 MHz ESMR spectrum to serve wireless consumers.

The rule revisions proposed in this *Notice* are precisely the sort of pro-competition, pro-innovation initiative the Commission has embraced as a priority in recent years. As Chairman

Genachowski stated recently, the Commission is focused on “strengthening incentives for investment in mobile infrastructure” and “removing barriers to private sector mobile buildout” because “[w]ireless infrastructure doesn’t build itself” – “[i]t requires many billions of dollars in investment.”¹ The proposal to eliminate the regulatory barrier at issue in this proceeding will clear the way for Sprint to complete a pro-consumer, multi-billion dollar investment in its network and further the Commission’s “mission ... to unleash the potential of communications technology – including mobile broadband – to benefit our economy and our society.”²

¹ FCC Chairman Julius Genachowski, Remarks as Prepared for Delivery, GSMA Mobile World Congress, Barcelona, at 3 (Feb. 27, 2012), *available at*: <http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0227/DOC-312667A1.pdf>.

² *Id.*

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COMMENTS OF SPRINT NEXTEL CORPORATION

The Notice of Proposed Rulemaking (*Notice*) in this proceeding proposes to modernize the rules governing the 800 MHz Enhanced Specialized Mobile Radio (ESMR) service by eliminating outdated legacy channel spacing and bandwidth limitations for ESMR licensees.³ Sprint Nextel Corporation (Sprint) strongly supports this proposal, as these antiquated technical limits are not consistent with the state-of-the-art technologies in use today to increase spectral efficiency and provide consumers with the high-speed, reliable, data-driven services they desire. Modernizing the Commission’s rules in this fashion will promote innovation, investment, and the Commission’s broadband goals. Moreover, eliminating ESMR band channel spacing and bandwidth limits will not create any additional interference risk for public safety systems in the

³ *Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees*, WT Docket No. 12-64 Notice of Proposed Rulemaking, FCC 12-25 (rel. March 9, 2012) (*Notice*).

800 MHz band. The Commission should expeditiously issue an order adopting the *Notice*'s proposal to assure ESMR band licensees the flexibility to meet consumer broadband needs.

I. BACKGROUND

As described in the *Notice*, section 90.209(b)(5) of the Commission's rules limits systems operating in the 809-824/854-869 MHz band (which includes the ESMR band) to 25 kHz channels with an authorized bandwidth of 20 kHz.⁴ As the *Notice* explains, these channelization and bandwidth limitations date back to a 1978 FCC decision when the band was primarily used for private land mobile radio systems.⁵ That 1978 decision reflected existing technology at the time, which sought to create more efficient channelization by reducing channel bandwidths from, for example, 50 and even 100 kHz to typically 25 kHz.

Since that time, however, commercial wireless systems have evolved toward broadband technologies that provide consumers with mobile access to the Internet and fast data transfer speeds. For example, Sprint and its competitors have deployed 3G technologies (such as CDMA) that use 1.25 MHz channels in the Personal Communications Service (PCS) band, and wireless carriers are now deploying 4G (*e.g.*, LTE) broadband technologies using 10 MHz (5 MHz x 5 MHz) and even 20 MHz (10 MHz x 10 MHz) channel pairs in the 700 MHz and Advanced Wireless Services (AWS) bands. The limitations currently set forth in section 90.209(b)(5) predate by many years these technological developments as well as the deployment of 800 MHz ESMR systems using cellular architecture.

In a 1995 rulemaking order, the Commission anticipated future developments in wireless technology and sought to provide ESMR licensees greater operational flexibility to compete with

⁴ *Notice* ¶ 11; 47 C.F.R. § 90.209(b)(5).

⁵ *Notice* ¶ 4 n.12.

commercial wireless carriers operating in other bands.⁶ Among other things, the Commission designated a contiguous block of spectrum for ESMR systems to be licensed on a geographic-area basis rather than a site-by-site basis (using Economic Areas (EAs)) and adopted new technical rules governing 800 MHz ESMR systems. The Commission stated that this new regulatory framework would give ESMR licensees “the opportunity to deploy a multiplicity of technologies,” including CDMA and other broadband technologies which use bandwidths larger than those permitted under section 90.209(b)(5).⁷ **According to the 1995 Order, the new regulatory framework was intended to give ESMR licensees “full discretion over channelization of available spectrum within” their EA licensed spectrum blocks.**⁸

Notwithstanding this clear statement in the *1995 Order*, the appendix attached to that order did not update the Commission’s rules to reflect the Commission’s intent, thus leaving “unchanged [the] existing channelization scheme and bandwidth limitation” in section 90.209(b)(5) of the Commission’s rules.⁹ This apparent oversight had no practical impact while Sprint and other ESMR licensees continued to deploy iDEN® or other technologies that employed narrow channel bandwidths. In December 2010, however, Sprint announced its Network Vision initiative to deploy next-generation base station technology that will operate across all of Sprint’s licensed spectrum, thereby making more efficient use of network infrastructure and reducing costs.¹⁰ Network Vision includes phasing out Sprint’s 800 MHz

⁶ *Amendment of Part 90 of the Commission’s Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band*, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995) (*1995 Order*).

⁷ *Id.* ¶¶ 2, 9, 37.

⁸ *Id.* ¶ 3.

⁹ *Notice* ¶ 4.

¹⁰ The total estimated incremental cost of the Network Vision program over the deployment period is between \$4 billion and \$5 billion.

iDEN® technology and repurposing its 800 MHz channels into its CDMA and forthcoming LTE deployment.¹¹

CDMA technology requires contiguous spectrum and occupies a 1.25 MHz bandwidth, which exceeds the limitations currently set forth in section 90.209(b)(5). On June 3, 2011, Sprint filed the petition that initiated this proceeding, seeking either a declaratory ruling or a rulemaking to authorize EA licensees to deploy CDMA or other wideband and broadband technologies such as LTE in the 800 MHz ESMR band.¹² Sprint's petition explained the strong public interest benefits that would result from providing ESMR licensees this flexibility, and also submitted technical papers demonstrating that this flexibility would not result in any increased interference risk for public safety systems or other non-cellular systems operating in the 800 MHz band.

II. ELIMINATING OUTDATED LEGACY CHANNEL SPACING AND BANDWIDTH LIMITS WILL ALLOW SPRINT AND OTHER ESMR LICENSEES TO IMPROVE THE EFFICIENCY, CAPACITY, AND DATA SPEED OF THEIR NETWORKS

A. The Technical Flexibility Proposed in the *Notice* Will Promote Innovation, Investment and Spectrum Efficiency

The Commission's proposal to eliminate channel spacing and bandwidth limits will allow ESMR licensees to deploy CDMA and other broadband technologies and thereby respond to consumer demand for innovative wireless services. The proposal will thus promote the strong Congressional and FCC policies in favor of reducing barriers to innovation and investment.¹³

¹¹ As 800 MHz band reconfiguration progresses, Sprint has or will soon have access to 14 MHz of spectrum in the ESMR band (817-824/862-869 MHz) across much of the nation.

¹² Sprint Nextel Corp., Petition for Declaratory Ruling, WT Docket No. 11-110 (June 3, 2011, filed June 30, 2011) (*Sprint Petition*).

¹³ See, e.g., FCC, *Connecting America: The National Broadband Plan*, at 79 (rel. March 16, 2010), available at: <<http://download.broadband.gov/plan/national-broadband-plan.pdf>> (Flexible spectrum use "enables markets in spectrum, allowing innovation and capital

Consistent with its statutory mandate,¹⁴ the Commission has for more than twenty years worked toward providing commercial licensees with greater technical and regulatory flexibility in order to promote the growth of innovative services and technologies. The Commission established flexible service rules for PCS in the early 1990s,¹⁵ and has consistently embraced a flexible spectrum use policy in allocating spectrum for other mobile wireless services.¹⁶ The Commission's commitment to greater flexibility continues today, with numerous recent

formation to occur with greater efficiency. More flexible spectrum rights will help ensure that spectrum moves to more productive uses, including mobile broadband, through voluntary market mechanisms.”) (“National Broadband Plan”).

¹⁴ See 47 U.S.C. § 1302(a) (directing the Commission to encourage advanced telecommunications deployments by, among other things, “remov[ing] barriers to infrastructure investment”); 47 U.S.C. § 303(y) (authorizing the Commission to promote flexible spectrum allocations).

¹⁵ *Amendment of the Commission's Rules to Establish New Personal Communications Services*, Second Report and Order, 8 FCC Rcd 7700, ¶ 23 (1993) (adopting flexible service rules to “allow PCS providers the maximum degree of flexibility to meet the communications requirements of differing mobile and portable applications for both business and individuals”).

¹⁶ See, e.g., *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, ¶¶ 1, 5 (2004) (fundamentally restructuring the 2.5 GHz band and adopting flexible service rules to “promot[e] . . . the economic viability of services in this band by ensuring that the spectrum is as fungible, tradable, and marketable as possible”); *Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, Report and Order, 18 FCC Rcd 25162, ¶ 1 (2003) (establishing a flexible licensing plan for AWS that assures “that this spectrum is efficiently utilized and will foster the development of new and innovative technologies and services, as well as encourage the growth and development of broadband services”); *Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules*, First Report and Order, 15 FCC Rcd 476, ¶ 2 (2000) (finding that “a flexible, market-based approach is the most appropriate method for determining service rules in [the commercial 700 MHz] band”). See also *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band*, Report and Order and Second Report and Order, 25 FCC Rcd 11710, ¶ 24 (2010) (amending technical rules to permit WCS licensee to deploy mobile broadband services, thus “increas[ing] the supply of flexible use spectrum that can be used to address the explosive nationwide growth in consumer demand for mobile broadband services”).

proposals to promote flexible spectrum use, reduce obstacles to innovation and investment, and increase carriers' ability to respond to consumer demand.

For example, the Commission has initiated proceedings proposing a more flexible, geographic-based cellular licensing policy for areas that are currently unlicensed in the Cellular Service,¹⁷ as well as a new flexible regulatory regime for terrestrial use of the Mobile Satellite Service (MSS) spectrum in the 2 GHz band “to encourage innovation and investment in mobile broadband.”¹⁸ As Chairman Genachowski described in recent testimony before Congress, the Commission has focused on “removing barriers to broadband buildout” and has eliminated hundreds of outdated rules to make Commission regulation more efficient and effective.¹⁹

Section 90.209(b)(5) similarly represents an “outdated rule” and an antiquated obstacle to broadband buildout in the 800 MHz band. The *1995 Order* sought to eliminate this barrier and to provide ESMR licensees with “full discretion over channelization” so that CDMA and other broadband technologies could be deployed in the 800 MHz ESMR block.²⁰ Yet, notwithstanding twenty years of extensive precedent and flexible spectrum policy, section 90.209(b)(5) remains “on the books.” Its continued presence limits ESMR licensee flexibility in contrast to the flexibility that has been afforded competitors operating in other bands for many

¹⁷ *Amendment of Parts 1 and 22 of the Commission's Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area*, WT Docket No. 12-40, Notice of Proposed Rulemaking and Order, FCC 12-20, ¶ 19 (rel. Feb. 15, 2012) (“provid[ing] licensees with more flexibility to build out and provide service in areas that are currently unlicensed in the Cellular Service” and eliminating site-based licensing that “unduly limit[s] licensees’ ability in many markets to adopt to technological and marketplace changes”).

¹⁸ *Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*, WT Docket No. 12-70, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 12-32, ¶ 1 (rel. March 21, 2012).

¹⁹ Statement of Chairman Julius Genachowski, FCC, Hearing on the FCC’s Fiscal 2013 Budget Request, Before the Subcommittee on Financial Services and General Government Committee on Appropriations, U.S. House of Representatives, at 2, 6 (March 19, 2012).

²⁰ *1995 Order* ¶¶ 3, 37.

years, undermining the intent of the *1995 Order* and contravening the Commission's strong policies in favor of innovation and licensee flexibility. Accordingly, the Commission should modify this rule and make clear that ESMR licensees have the flexibility to innovate and deploy technologies that use wideband and broadband channels.

B. The Technical Flexibility Proposed in the *Notice* Will Maximize the Use of Scarce Spectrum Resources to Help Meet Growing Consumer Demand for Mobile Broadband Service

The *Notice* recognizes that eliminating ESMR channel spacing and bandwidth limits can allow ESMR licensees to enhance their services to meet the rising consumer demand for mobile broadband services.²¹ Both the President and the Commission have recognized the need to allocate additional spectrum to meet this rising demand,²² and Congress recently passed legislation that authorizes incentive auctions and directs the Commission to auction additional spectrum for mobile broadband services.²³ Consistent therewith, the Commission should encourage more efficient and intensive spectrum use in all existing broadband-capable spectrum, as Sprint has previously advocated.²⁴ President Obama has emphasized the importance of “finding ways to use spectrum more efficiently” and “unlock[ing] the value of otherwise underutilized spectrum.”²⁵ A simple, straightforward step toward achieving President Obama's

²¹ *Notice* ¶ 12 (proposed flexibility “may serve the public interest by allowing licensees to deploy more advanced wireless technologies, to consumers’ benefit”).

²² See President of the United States, Memorandum for the Heads of Executive Departments and Agencies, *Unleashing the Wireless Broadband Revolution*, 75 Fed. Reg. 38387 (June 28, 2010; published July 1, 2010) (*2010 Presidential Memorandum*) (calling for additional spectrum and more efficient use of spectrum to unleash the wireless broadband revolution), available at: <<http://www.whitehouse.gov/the-press-office/presidential-memorandum-unleashing-wireless-broadband-revolution>>; National Broadband Plan at 84-93.

²³ Middle Class Tax Relief and Job Creation Act of 2012, §§ 6103, 6401-6403, Pub. L. No. 112-96, 126 Stat. 156 (2012).

²⁴ Comments of Sprint Nextel Corp., GN Docket No. 09-47, at ii (Oct. 23, 2009).

²⁵ *2010 Presidential Memorandum*, 75 Fed. Reg. at 38387.

goal is to adopt the proposal in the *Notice* by revising Section 90.209(b)(5) to allow ESMR licensees to deploy CDMA and other broadband technologies on 800 MHz ESMR spectrum without additional case-by-case regulatory relief.

C. The Technical Flexibility Proposed in the *Notice* Will Promote the Commission’s Statutory “Regulatory Parity” Mandate

In 1993, Congress amended Section 332 of the Communications Act by bringing all mobile service providers under a comprehensive, consistent regulatory framework. The Conference Report for this legislation stated that the intent of Congress was for “similar services [to be] accorded similar regulatory treatment.”²⁶ In implementing the statute, the Commission observed that a primary objective of Congress was “to ensure that similar services would be subject to consistent regulatory classification” and “to achieve regulatory symmetry in the classification of mobile services.”²⁷

In the *1995 Order*, when the Commission moved to wide-area and contiguous-block licensing in the 800 MHz ESMR band – and stated that EA-based licensees would have “full discretion over channelization of available spectrum within [a] block” of ESMR spectrum – the Commission pointed to Congress’ mandate for regulatory parity between competing wireless services. The Commission stated that its action would “further the congressionally mandated goal of regulatory symmetry between 800 MHz SMR licensees and other competing providers of Commercial Mobile Radio Services (CMRS).”²⁸ With this new regulatory framework,

²⁶ H.R. Rep. 103-213, 103rd Cong., 1st Sess. 494 (Aug. 4, 1993).

²⁷ *Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services*, Second Report and Order, 9 FCC Rcd 1411, ¶ 13 (1994).

²⁸ *1995 Order* ¶¶ 2-3.

geographic-area SMR licensees could “compete effectively with other CMRS providers, such as cellular and broadband PCS systems.”²⁹

Since the *1995 Order*, the Commission has acted repeatedly in the wireless context and elsewhere to advance the goal of regulatory parity between similar services. To promote and maintain parity within wireless markets, for instance, the Commission has extended the same substantial service obligations, license term, renewal expectancy, and roaming obligations to new and incumbent wireless services.³⁰ In the instant case, to ensure regulatory parity between 800 MHz ESMR operators and other CMRS licensees, the Commission should adopt its proposal to eliminate the legacy channel spacing and bandwidth limitations in the 800 MHz ESMR band. ESMR licensees should have the same flexibility to deploy wideband and broadband systems as competitors operating in other bands.

²⁹ *Id.* ¶ 13.

³⁰ *See, e.g., Amendment of Parts 1 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Order on Reconsideration and Fifth Memorandum Opinion and Order and Third Memorandum Opinion and Order and Second Report and Order, 21 FCC Rcd 5606 (2006) (adopting a substantial service standard for the Broadband Radio Service and the Educational Broadband Service, creating regulatory parity between these services and other wireless services); *Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, Second Report and Order and Third Notice of Proposed Rulemaking, 11 FCC Rcd 9462, ¶¶ 12-13 (1996) (extending manual roaming rule to certain wireless services, in order to prevent new CMRS entrants from being at a competitive disadvantage with respect to incumbent wireless carriers). *See also Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz, and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, Report and Order, 26 FCC Rcd 5710, ¶ 2 (2011) (extending the existing spectrum manager leasing policies and rules to mobile satellite service (“MSS”) ancillary terrestrial component (“ATC”) spectrum, to “create greater predictability and regulatory parity with bands licensed for terrestrial mobile broadband service”); *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, Declaratory Ruling, 22 FCC Rcd 5901, ¶¶ 1-2 (2007) (finding that wireless broadband Internet access service is an information service under the Communications Act, helping to ensure regulatory parity among all broadband Internet access services, regardless of whether offered through wireline, cable or wireless technology).

III. THE TECHNICAL FLEXIBILITY PROPOSED IN THE *NOTICE* WILL NOT INCREASE THE RISK OF INTERFERENCE TO PUBLIC SAFETY LICENSEES

Sprint has consistently demonstrated its commitment to minimizing the risk of harmful interference to public safety systems and other non-cellular systems operating in the 800 MHz band. The rule change proposed in the *Notice* will in no way undermine this commitment. In previously submitted technical filings which the *Notice* describes as “thorough,”³¹ Sprint demonstrated that the deployment of broadband systems in the ESMR band will not increase the risk of interference to public safety or other non-cellular 800 MHz systems.³² The *Notice* thus correctly places the burden on parties claiming otherwise to address Sprint’s technical demonstration with specificity and relevant data.³³

Sprint, in fact, has gone beyond what is required under the Commission’s rules to minimize the risk of CMRS – public safety interference. Sprint has worked closely with its vendors to develop equipment for its CDMA deployment recognizing the radio frequency operating environment in the 800 MHz band. In particular, Sprint’s 800 MHz CDMA base stations incorporate extremely tight out-of-band emissions (OOBE) filtering to minimize the risk of harmful interference to 800 MHz public safety and other non-cellular systems that have completed band reconfiguration. Sprint’s CDMA base stations will also provide aggressive OOBE roll-off to protect public safety systems operating in the “old” NPSPAC band at 821-824/866-869 MHz in markets that have not yet completed band reconfiguration. As Sprint has demonstrated in its prior filings, these emissions limits are more stringent than the OOBE limits

³¹ *Notice* ¶ 15 n.47.

³² *See* Reply Comments of Sprint Nextel Corp., WT Docket No. 11-110, at 8-9 and Exhibits A and B (Aug. 16, 2011) (*2011 Sprint Reply*); Letter from Lawrence R. Krevor, Sprint Nextel Corp., to Michael Wilhelm and Roger Noel, FCC Staff (Feb. 8, 2011).

³³ *Notice* ¶ 15 & n.47.

set forth in the Commission's rules as well as in 3GPP2 standards and will help ensure that Sprint's CDMA operations provide comparable OOB interference protection to that provided by a post-reconfiguration iDEN® deployment.³⁴

Aside from providing strong protection against OOB interference, Sprint's CDMA deployment will provide protection against intermodulation interference that is as strong if not stronger than the protection provided under an iDEN® deployment. CDMA transmissions employ significantly lower power spectral density, making them less likely to cause intermodulation interference within a public safety receiver than iDEN® transmissions, which operate at a relatively higher power on a 12.5 kHz or 25 kHz frequency channel. Sprint has conducted numerous tests using a range of current public safety receivers that confirm that its CDMA deployment should further reduce the already-low risk of intermodulation interference to 800 MHz band public safety systems.³⁵

Sprint's planned CDMA deployment will thus continue to provide strong interference protection for public safety and other non-cellular systems in the 800 MHz band. In addition, consistent with the proposal in the *Notice*,³⁶ Sprint will not deploy broadband technology in the old NPSPAC channels (821-824/866-869 MHz) until 800 MHz reconfiguration is complete in a NPSPAC Region. In markets still in transition, Sprint will deploy broadband technology only in its current exclusive use channel block at 817-821/862-866 MHz band. In other words,

³⁴ 2011 Sprint Reply at Exhibit A (attaching letters from Sprint equipment vendors as well as technical paper entitled "CDMA at SMR 800 MHz: BTS Emission Mask," which describes interference protection and emissions mask specified for Sprint CDMA 800 MHz base stations).

³⁵ 2011 Sprint Reply at Exhibit B (attaching technical paper entitled "Intermodulation Interference Test Results for CDMA Operations in 800 MHz ESMR Band").

³⁶ *Notice* ¶ 13 (proposing to permit EA-based SMR licensees to exceed channel spacing and bandwidth limits in the 813.5-824/858.5-869 MHz band in areas where band reconfiguration is complete but only in the 813.5-821/858.5-866 MHz band in areas where reconfiguration is incomplete).

consistent with the *Notice*, there will be no interleaving of greater than 25 kHz technology with public safety operations in the old NPSPAC channels.³⁷

IV. CONCLUSION

The public interest will be served by updating the outdated provisions of section 90.209(b)(5) of the Commission's rules to assure that ESMR licensees can deploy wideband and broadband systems on their 800 MHz Band ESMR spectrum to meet consumer demand for mobile broadband service. This flexibility will promote the Commission's broadband and regulatory parity goals, and is also fully consistent with the technical flexibility the Commission sought to provide ESMR licensees in its *1995 Order*. The Commission should act quickly to issue a Report and Order adopting this proposed flexibility.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

/s/ Lawrence R. Krevor

Lawrence R. Krevor

Vice President – Spectrum

James B. Goldstein

Director, Spectrum Reconfiguration

12502 Sunrise Valley Drive

Reston, VA 20196

703-433-4212

Regina M. Keeney

Charles W. Logan

Stephen J. Berman

LAWLER, METZGER, KEENEY & LOGAN, LLC

2001 K Street NW, Suite 802

Washington, DC 20006

202-777-7700

blogan@lawlermetzger.com

Counsel to Sprint Nextel Corporation

April 13, 2012

³⁷ Sprint will, of course, also comply with the notice requirement proposed in paragraph 14 of the *Notice*.