



March 25, 2014

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Ex Parte Notice, WT Docket 02-55

Dear Ms. Dortch:

On March 21, 2014, Lawrence Krevor, Vice President – Spectrum for Sprint Corporation (“Sprint”) and Chris Putala of Putala Strategies, LLC met with Daniel Alvarez, Legal Advisor to Chairman Wheeler to discuss the above-captioned proceeding.

Sprint described the significant progress it and other 800 MHz stakeholders have made in completing 800 MHz Band Reconfiguration, the billions of dollars Sprint has spent to fund rebanding, and how each of the Commission’s public policy goals in this proceeding are being met or exceeded. As a result of 800 MHz band reconfiguration progress to date, harmful interference to public safety communications from commercial 800 MHz networks has been virtually eliminated in much of the nation, additional 800 MHz spectrum has become available for public safety system improvements and expansion and over 2000 800 MHz licensees have reconfigured their systems without incident. In addition, reconfiguration of the 800 MHz band has facilitated Sprint repurposing its 800 MHz spectrum to deploy wireless broadband services to benefit its customers who demand increased voice and data capabilities, capacity and speed.

Sprint also expressed its support for the Commission eliminating the \$850 million “floor” of the 800 MHz Letter of Credit, while still providing the necessary financial security for funding the remaining 800 MHz retuning costs of eligible incumbents.<sup>1</sup> Sprint explained that the original Letter of Credit was set at \$2.5 billion in 2004. Based on Sprint’s expenditures over the past nine years, the Public Safety and Homeland Security Bureau (“Bureau”) has authorized \$1.650 billion in reductions in the Letter of Credit which now stands at \$850 million and can be further reduced. Sprint noted that all stakeholders concur that the \$850 million floor is no longer needed to guarantee Sprint’s funding of the remaining 800 MHz reconfiguration costs.

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<sup>1</sup> See Petition for Declaratory Ruling filed by Sprint Nextel Corporation, WT Docket 02-55 (filed Jan. 22, 2013) (“Sprint Petition”).

Sprint also suggested that, given the success noted above, the Commission take this opportunity to simplify the post-retuning financial “closing” and certification process for retuned licensees. Sprint noted that the 800 MHz Transition Administrator (“TA”) typically applies a detailed post-retuning audit process intended to confirm Sprint’s expenditures for anti-windfall resolution purposes. The TA’s audits are, however, effectively an audit of the records of each state or local public safety communications operator that completes the required retuning of its network. The audit process causes excessive delay in closing completed retuning transactions and imposes unnecessary costs and administrative burdens on all participants while providing no cognizable benefit for the Commission, public safety communications operators or Sprint.

In the meeting, Sprint explained that the Commission can determine that Sprint has fully satisfied its payment obligations based on the following readily-available records and information:

- Sprint pays for 800 MHz incumbents to retune pursuant to individual contracts known as a “Frequency Retuning Agreement” (FRA). Each FRA results from arms-length negotiation in most cases assisted by a TA-assigned impartial mediator. The Mediator issues a recommended decision on contested issues which, if either party desires, is reviewed, approved or modified by the Commission’s Public Safety and Homeland Security Bureau (“PSHSB”). Every FRA, once executed, is also reviewed and approved by the TA itself.
- Sprint can demonstrate that it has paid for incumbent retuning in accordance with each TA-approved FRA. It can also demonstrate that the intended incumbent received the payment.
- Each incumbent, as required by the Commission, certifies that it has completed its retune in accordance with the FRA.
- As a further backstop, the Commission’s own licensing records reflect deletion of the incumbent’s original assigned channels from its license and authorization to operate on its replacement channels (selected by the TA) and issued by the Commission.

The fundamental purpose of the Commission’s 800 MHz Reconfiguration Program is to separate technically-incompatible networks to eliminate the risk of random interference that could disrupt essential public safety communications. Sprint agreed to pay for the program in return for replacement spectrum separated from public safety operations. The above documentation demonstrates that the Commission’s goal has been achieved and that Sprint provided (or has agreed to provide) the necessary funding. The TA’s audit program, however, is essentially an audit of the completion certifications provided by state and local law enforcement officials. Sprint explained that the information described above definitively demonstrates that Sprint has carried out its funding responsibilities. With that information, the Commission (or PSHSB) can then conclude that the anti-windfall payment provision of the Commission’s Report and Order has been satisfied.

Given the above, Sprint suggested that the Commission take this opportunity to give clear guidance that, absent compelling evidence to the contrary, the TA accept an incumbent’s certifications that it has completed the work required by its FRA and funded by Sprint, and that

Sprint be credited with making the payments required by the FRA for purposes of anti-windfall payment analysis.

Therefore, Sprint expressed support for a streamlined and simplified process to “close-out” existing contracts with all 800 MHz licensees once they have completed retuning. Sprint also requested elimination of burdensome requirements on 800 MHz licensees which impose unnecessary costs on Sprint and Public Safety licensees.<sup>2</sup>

Pursuant to Section 1.106 of the Commission’s Rules, Sprint hereby files this *ex parte* letter into the docket of the above-referenced proceeding.

Sincerely,

[/s/ James B. Goldstein](#)

James B. Goldstein  
Senior Counsel – Government Affairs  
Sprint Corporation

cc Daniel Alvarez, Legal Advisor to Chairman Wheeler

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<sup>2</sup> Reply Comments of Sprint Nextel Corporation, WT Docket 02-55 (filed March 11, 2013).