

May 13, 2014

David L. Furth
Deputy Chief
Public Safety and Homeland Security Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: Improving Public Safety Communications in the 800 MHz Band
WT Docket No. 02-55
Recommendation to Further Postpone 800 MHz Rebanding Financial True-Up

Dear Mr. Furth:

In its December 30, 2013 *True-Up Deferral Order*,¹ the Federal Communications Commission (“Commission”), pursuant to delegated authority granted to the Public Safety and Homeland Security Bureau, (1) provisionally postponed the 800 MHz rebanding financial reconciliation “true-up” date from December 31, 2013 to June 30, 2014, and (2) required the 800 MHz Transition Administrator (TA) to file a report by May 15, 2014, with its recommendation on whether the true-up date should occur on June 30, 2014, or be further postponed. The TA respectfully recommends that the financial “true-up” date be extended from June 30, 2014 until December 31, 2014.² Since the Commission released its *True-Up Deferral Order*, the 800 MHz reconfiguration expenditures paid by Sprint Corporation (“Sprint”) have increased. A substantial number of licensees, however, have yet to complete rebanding and a true-up as of June 30, 2014 would be incomplete and would not include a significant amount of Sprint’s reconfiguration expenditures.³

With respect to TA-approved agreements, as of December 31, 2013, Sprint and incumbent licensees had executed Frequency Reconfiguration Agreements (“FRAs”) and Planning Funding Agreements (“PFAs”) with TA-approved cost estimates totaling approximately \$1,138.1 million, not including replacement equipment, and Sprint had paid approximately \$882.5 million of this amount as advance payments and for work completed to date.⁴ This compares to \$1,136.9 million in executed FRAs and PFAs and \$838.8 million paid as of June 30, 2013.⁵ With respect to cash expenditures, Sprint has reported to the TA that as of

¹ See Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Order*, 29 FCC Rcd 1 (2013).

² The TA further requests that it have six months from the financial “true-up” date to submit a final “true-up” report to the Commission. Therefore, unless further extended, the “true-up” would be performed based on expenditures as of December 31, 2014, with the final “true-up” report issued to the Commission by June 30, 2015.

³ Consistent with prior years and its program obligations, the TA issues annually, on a calendar-year basis, audited Statements of Program Expenditures that report Sprint’s program related expenditures.

⁴ See 800 MHz Transition Administrator, LLC, Quarterly Progress Report for the Quarter Ended December 31, 2013, at 33 (filed Mar. 20, 2014) (“*December 2013 Report*”).

⁵ See 800 MHz Transition Administrator, LLC, Quarterly Progress Report for the Quarter Ended June 30, 2013, at 30 (filed Sept. 30, 2013) (“*June 2013 Report*”).

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December 31, 2013, it had incurred, on a cash basis, approximately \$1,774.2 million in total incumbent licensee reconfiguration costs, including replacement equipment, and approximately \$358.1 million for its internal costs.⁶ This compares to approximately \$1,727.4 million of total incumbent costs and \$351.4 million of Sprint internal costs as of June 30, 2013.⁷ In addition, as of December 31, 2013, approximately 25.2 percent of the total anticipated FRAs (not including FRAs for Mexican border licensees) had not completed actual cost reconciliation or other aspects of the closing process.⁸ This compares to approximately 28.3 percent as of June 30, 2013.⁹

Furthermore, Sprint has reported that it completed the Broadcast Auxiliary Service (“BAS”) market transition on July 15, 2010.¹⁰ Sprint has reported to the TA that, as of December 31, 2013, it had incurred approximately \$610.4 million in costs, on a cash basis, associated with reconfiguration of the 1.9 GHz band from January 1, 2005 to December 31, 2013, which is net of the approximately \$135 million that Sprint received as reimbursement from the Mobile Satellite Service licensees for their *pro rata* portion of the costs to clear the 1.9 GHz spectrum.¹¹ This amount is unchanged since June 30, 2013.¹²

We note that the Commission has pending before it a Petition for Declaratory Ruling (“Petition”) filed by Sprint in which Sprint states that the true-up can be conducted now based on cost and payment information already available to the TA and the Commission.¹³ The *True-Up Deferral Order* provided that although BAS relocation is now complete and substantial progress has been made in 800 MHz rebanding, a significant number of 800 MHz licensees have yet to

⁶ See *December 2013 Report* at 33-34. Amounts incurred since December 31, 2012 will be subject to audit as part of the preparation of the 800 MHz Reconfiguration Statement of Program Expenditures as of December 31, 2013.

⁷ See *June 2013 Report* at 30-31.

⁸ See *December 2013 Report* at 1.

⁹ See *June 2013 Report* at 1.

¹⁰ See Letter from Robert H. McNamara, Sprint Nextel Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 02-55 (filed July 15, 2010).

¹¹ See *December 2013 Report* at 35. BAS relocation expenditures are not subject to audit by the auditor of the 800 MHz Reconfiguration Statement of Program Expenditures. In total, including BAS relocation expenditures, as of December 31, 2013, Sprint has stated that from the inception of the program it has incurred approximately \$3.3 billion of costs directly attributable to the spectrum reconfiguration program. See Sprint Corporation, Annual Report (Form 10-K), at 54 (filed Feb. 24, 2014), available at <http://www.sec.gov/Archives/edgar/data/101830/000010183014000012/sprintcorp201310-k.htm>.

¹² See *June 2013 Report* at 31-32.

¹³ See Sprint Nextel Corporation, “Petition for Declaratory Ruling,” WT Docket No. 02-55, at iii (filed Jan. 22, 2013) (“Petition”). On January 25, 2013, the Public Safety and Homeland Security Bureau sought comment on Sprint’s Petition. See “Public Safety and Homeland Security Bureau Seeks Comment on Petition for Declaratory Ruling by Sprint Nextel Corporation Concerning 800 MHz Rebanding ‘Anti-Windfall’ Payment and Letter of Credit Minimum Amount,” WT Docket 02-55, *Public Notice*, 28 FCC Rcd 371 (2013).

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complete the process, and rebanding in the U.S.-Mexico border region had then only recently begun. In addition, the Commission noted that it had made no determination with respect to Sprint's declaratory ruling request to conduct the true-up based on currently available information. In light of these factors and the TA's recommendation, the Commission concluded that conducting a true-up of Sprint's rebanding expenditures as of December 31, 2013 would be premature. Accordingly, the Commission provisionally extended the true-up date by six months. The extension was granted on a provisional basis because it is subject to any action the Commission may take on Sprint's Petition. Thus, it did not preclude the Commission setting an alternative true-up date based on the record in that proceeding.

While there has been incremental progress since the TA's last report, it remains the case that a significant number of 800 MHz licensees have yet to complete their reconfigurations, including closing of their PFAs and/or FRAs. As such, the TA recommends that the Commission (1) provisionally postpone the 800 MHz rebanding financial reconciliation "true-up" date from June 30, 2014 to December 31, 2014, and (2) require the TA to file a report by November 14, 2014, with its recommendation on whether the true-up date should occur on December 31, 2014, or be further postponed.

Please let me know if you have any questions.

Sincerely,



Brett S. Haan
800 MHz Transition Administrator, LLC