



PUBLIC NOTICE

Federal Communications Commission
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DA 12-506

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST BY SPRINT NEXTEL CORPORATION FOR WAIVER OF SECTION 90.209 OF THE COMMISSION'S RULES

WT Docket No. 12-82

Comment Date: April 30, 2012

By this *Public Notice* we seek comment on the requests of Sprint Nextel Corp. (Sprint Nextel)¹ to exceed the applicable channel spacing and bandwidth limitation in the 817-824/862-869 MHz band.² Sprint Nextel seeks to deploy CDMA in the 817-821/862-866 MHz band segment in 11 economic areas (EA)³ in which it holds EA-based 800 MHz specialized mobile radio (SMR) licenses.⁴ Sprint Nextel asserts that a waiver is necessary to deploy CDMA, which it asserts uses a 1.30 MHz channel on contiguous spectrum, because Section 90.209 only permits 25 kHz channels with a bandwidth of 20 kHz.⁵ We note that the Commission adopted a *Notice of Proposed Rulemaking* on March 9, 2012 proposing to eliminate the channel spacing and bandwidth limitation in Section 90.209 for EA-based 800 MHz SMR licensees in the 813.5-824/858.5-869 MHz band, subject to proposed conditions to protect against any potential interference to 800 MHz public safety licensees.⁶

Sprint Nextel argues that the public interest will be served by the waiver because CDMA deployed on its EA-based 800 MHz SMR spectrum will result in improved coverage, increased capacity,

¹ Requests for Waiver of Section 90.209 of the Commission's Rules to Permit the Operation of Broadband CDMA Technology in the 817-824/862-869 MHz Band, *Request for Rule Waiver* (filed Mar. 27, 2012) (Waiver Request).

² 47 C.F.R. § 90.209(b)(5).

³ See Attachment A for a list of the EAs and call signs for which Sprint Nextel seeks a waiver of Section 90.209.

⁴ Waiver Request at 1.

⁵ *Id.* at 3-4; 47 C.F.R. § 90.209(b)(5).

⁶ See Improving Spectrum Efficiency Through Flexible Channel spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees; Request for Declaratory Ruling that the Commission's Rules Authorize Greater than 25 kHz Bandwidth Operations in the 817-824/862-869 MHz Band, FCC 12-25, WT Docket Nos. 12-64, 11-110, *Notice of Proposed Rulemaking* (2012); Channel Spacing and Bandwidth Limitations for Certain Economic Area (EA)-based 800 MHz Specialized Mobile Radio (SMR) Licensees, 77 Fed. Reg. 18991 (proposed Mar. 29, 2012) (to be codified at 47 C.F.R. § 90.209). We note that comments in response to the *Notice of Proposed Rulemaking* must be filed no later than April 13, 2012, and reply comments must be filed no later than April 23, 2012. Comments filed in the instant docket (Docket No. WT 12-82) will not be considered in response to the *Notice of Proposed Rulemaking*, and comments filed in the dockets for the *Notice of Proposed Rulemaking* (Docket Nos. WT 12-64, WT 11-110) will not be considered in response to this *Public Notice*. Commenters must file separate comments addressing the issues raised in the *Public Notice* or the *Notice of Proposed Rulemaking* in the relevant docket(s) for the relevant proceeding.

and increased broadband data speeds for Sprint Nextel subscribers.⁷ Sprint Nextel also argues that Commission action to facilitate competition in the wireless market by assigning wide-area SMR licenses over contiguous channel blocks will be frustrated by the application of Section 90.209 in this case.⁸ Further, Sprint Nextel argues that its CDMA network architecture will reduce the risk of interference to 800 MHz public safety licensees relative to its legacy iDEN network currently deployed on the relevant spectrum.⁹ Sprint Nextel notes that the Commission has previously granted it special temporary authority and waivers to allow it to exceed the channel spacing and bandwidth limitation on its EA-based 800 MHz SMR licenses in certain markets, subject to conditions to ensure such operation does not increase interference to 800 MHz public safety licensees.¹⁰

Procedural Matters

Comments are due **no later than April 30, 2012**. All filings should reference the docket number of this proceeding, WT 12-82.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.¹¹ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

The waiver request can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>, under Sprint Nextel's call signs listed in Attachment A. The request, and comments and reply comments filed in response to this *Public Notice*, will be available for public inspection and copying in the Commission's Reference Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, WT 12-82. Copies of the request are also available from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com.

⁷ Waiver Request at 4.

⁸ *Id.* at 3-4.

⁹ *Id.* at 4-5.

¹⁰ *Id.* at 4; Sprint Nextel Call Signs WPLM660, WPLM661, WQNX442, WQNX443, WQNX444, WQOQ770, WQOQ771, WQOQ772, and WQOU823.

¹¹ See 47 C.F.R. §§ 1.1200(a), 1.1206.

Comments may be filed using the ECFS or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. For filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the phrase “get form” in the body of the message. A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission, as follows:

- All hand-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m. **PLEASE NOTE:** This is the **ONLY** location where hand-delivered or messenger-delivered paper filings for the Commission’s Secretary will be accepted. The Commission’s former filing location at 236 Massachusetts Ave., N.E., is permanently closed.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, DC 20554.
- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Parties are requested to send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to fcc504@fcc.gov.

For further information, contact Brian Regan, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-2849, Brian.Regan@fcc.gov.

Action by the Associate Chief, Mobility Division, Wireless Telecommunications Bureau.

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ATTACHMENT A

Call Sign	Licensee	Economic Area
WPOH308	Nextel of Texas, Inc.	130
WPOH309	Nextel of Texas, Inc.	130
WPOI366	Nextel WIP License Corp.	130
WPOI367	Nextel WIP License Corp.	130
WPQT222	Nextel WIP Expansion Two, Corp.	130
WPQT238	Nextel WIP Expansion Two, Corp.	130
WPOH311	Nextel of Texas, Inc.	131
WPOH312	Nextel of Texas, Inc.	131
WPOI369	Nextel WIP License Corp.	131
WPOI370	Nextel WIP License Corp.	131
WPOH208	Nextel License Holdings 4, Inc.	093
WPOH209	Nextel License Holdings 4, Inc.	093
WPOH225	Nextel License Holdings 4, Inc.	099
WPOH226	Nextel License Holdings 4, Inc.	099
WPLM636	Nextel License Holdings 1, Inc.	031
WPLM637	Nextel License Holdings 1, Inc.	031
WPLM579	Nextel Communications of the Mid Atlantic, Inc.	012
WPLM580	Nextel Communications of the Mid Atlantic, Inc.	012
WPOI319	Nextel WIP License Corp.	012
WPOI320	Nextel WIP License Corp.	012
WPOH320	Nextel of Texas, Inc.	134
WPOH321	Nextel of Texas, Inc.	134
WPOK475	Nextel WIP Expansion, Corp.	134
WPOK476	Nextel WIP Expansion, Corp.	134
WPOH393	Nextel of California, Inc.	163
WPOH394	Nextel of California, Inc.	163
WPOH290	Nextel License Holdings 4, Inc.	123
WPOH291	Nextel License Holdings 4, Inc.	123
WPOH293	Nextel License Holdings 4, Inc.	124
WPOH294	Nextel License Holdings 4, Inc.	124
WPOH287	Nextel License Holdings 4, Inc.	122
WPOH288	Nextel License Holdings 4, Inc.	122
WPQT233	Nextel WIP Expansion Two, Corp.	122
WPQT234	Nextel WIP Expansion Two, Corp.	122