



Federal Communications Commission
Washington, D.C. 20554

November 25, 2013

James B. Goldstein
Sprint Corporation
12502 Sunrise Valley Drive
Reston, VA 20196

DA 13-2262

Re: Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Florida Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region, WT Docket 12-64; FCC File Nos. 0006020514, 0006020472, 0006020725, 0006020738, 0006020746, 0006020758, 0006020761, 0006020440, 0006020484, 0006020456

Dear Mr. Goldstein:

This letter addresses Sprint Corporation's (Sprint) request for a waiver of Section 90.209(b)(7) of the Commission's rules.¹ As explained below, we grant the Waiver Request to the extent described herein.

Pursuant to section 90.209(b)(7) of the Commission's rules, Sprint is deploying a 1.25 MHz wide CDMA channel in the lower portion of the 800 MHz Enhanced Specialized Mobile Radio (ESMR) band (817-821/862-866 MHz) throughout the country. In addition, Sprint is deploying a 5 x 5 MHz Long-Term Evolution (LTE) channel in the 800 MHz ESMR band at 819-824/864-869 MHz in National Public Safety Advisory Committee (NPSPAC) Regions where 800 MHz band reconfiguration has been completed.²

Sprint notes that 800 MHz band reconfiguration is complete in the NPSPAC Florida Region in all areas of the state except the Miami-Dade metropolitan area. Specifically, 23 of the 25 public safety licensees required to be retuned from the "old NPSPAC band" (821-824/866-869 MHz) have successfully complete their retunes; only Miami-Dade County and the State of Florida remain in the retuning process.³ Sprint states that until these two licensees have certified that they have completed their retunes, section 90.209(b)(7) prohibits broadband operations at 821-824/866-869 MHz anywhere in the NPSPAC Florida Region. Thus, Sprint argues, it cannot deploy broadband LTE in the old NPSPAC band in areas of Florida which are fully cleared of public safety operations, including populous metropolitan areas such as Tampa-St. Petersburg and Orlando.⁴ Sprint maintains that it can integrate the old NPSPAC band spectrum into its broadband network in much of Florida without posing any risk of interference to the Miami-Dade licensees finalizing their retuning.⁵

¹ See FCC File Nos. 0006020514, 0006020472, 0006020725, 0006020738, 0006020746, 0006020758, 0006020761, 0006020440, 0006020484, 0006020456 (collectively "Waiver Request").

² Waiver Request at 1.

³ *Id.* at 2.

⁴ *Id.* at 2.

⁵ *Id.* at 2-3.

Sprint requests a waiver of section 90.209(b)(7) so that it can launch LTE in the 56 Florida counties⁶ in which 800 MHz rebanding is complete. Sprint notes that each county is more than 80 miles away from the nearest Miami-Dade County or State of Florida operational site in the old NPSPAC band and argues that this more than 80-mile co-channel separation far exceeds the co-channel separation requirements in section 90.621(b) of the Commission's rules.⁷ Further, Sprint maintains that the minimum 80-mile co-channel separation will provide an additional protection buffer for the remaining Miami-Dade public safety operations in the process of being retuned.⁸ Additionally, Sprint will provide the State of Florida and Miami-Dade County 30 days advance notice of Sprint's deployment and planned initiation date of operations.⁹

Sprint states that it provided both the State of Florida and Miami-Dade County with details of Sprint's proposed deployment and its proposed measures to protect these jurisdictions from any risk of interference.¹⁰ Sprint also submits written confirmation from both jurisdictions indicating that neither has any objection to a grant of the Waiver Request in light of the 80-mile co-channel distance separation proposed by Sprint.¹¹

A waiver may be granted, pursuant to section 1.925 of the Commission's rules, if the petitioner establishes that: (1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and the grant of the waiver would be in the public interest; or (2) where the petitioner establishes unique or unusual factual circumstances, that application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.¹²

Based on the unusual factual circumstances described by Sprint, we find that a waiver is warranted in this case because application of the rule would inhibit LTE deployment in 56 counties in the NPSPAC Florida Region where retuning has been completed. As Sprint argues, it would be inequitable and unduly burdensome to prohibit its subscribers' access to these valuable broadband wireless services until the final two public safety licensees complete their retuning from the old NPSPAC band, particularly where neither licensee objects to the planned deployment.¹³ Such a constraint on broadband deployment and consumer choice is contrary to the public interest in light of measures (*i.e.* co-channel separation and advance notification) that will protect public safety entities from harmful interference. We therefore

⁶ See Attachment A.

⁷ Waiver Request at 3. Section 90.621(b) permits 800 MHz co-channel usage at sites as close as 55 miles depending on the technical parameters of the proposed facilities. 47 C.F.R. § 90.621(b).

⁸ Waiver Request at 3.

⁹ See *id.* at 3 n.6; see also Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licenses; Request for Declaratory Ruling that the Commission's Rules Authorize Greater than 25 kHz Bandwidth Operations in the 817-824/862-869 MHz Band, *Report and Order*, 27 FCC Rcd 6489, ¶ 14 (2012).

¹⁰ Waiver Request at 3.

¹¹ Correspondence from Charles Hadley, Communications Engineer, Florida Department of Management Services, to James Goldstein, Senior Counsel, Sprint Corporation, dated Sept. 30, 2013; Correspondence from Felix Perez, Division Director, Miami-Dade County, to James Goldstein, Senior Counsel, Sprint Corporation, dated Aug. 30, 2013.

¹² 47 C.F.R. § 1.925.

¹³

waive section 90.209(b)(7) to permit Sprint to accelerate its broadband deployment in the 56 counties listed in Attachment A. This waiver is specifically conditioned on the following:

- (1) In the 56 counties listed in Attachment A, Sprint must maintain a minimum 80-mile co-channel separation between Sprint's proposed operations in 821-824/866-869 MHz and the closest Miami-Dade County or State of Florida site still operational in the old NPSPAC band.
- (2) Sprint must provide the State of Florida and Miami-Dade County with 30 days advance notice of Sprint's deployment and planned initiation date of operations.
- (3) Sprint may not deploy LTE in 821-824/866-869 MHz in the 11 counties listed in Attachment B until 800 MHz band reconfiguration has been completed in the entire NPSPAC Florida Region.

As conditioned, our grant will facilitate more rapid broadband availability in the State of Florida, while protecting ongoing public safety operations in the old NPSPAC band until they are fully returned. The conditions of this waiver will terminate when the 800 MHz band reconfiguration has been completed in the entire NPSPAC Florida Region.

Accordingly, IT IS ORDERED that, pursuant to section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and sections 0.331 and 1.925 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.925, Sprint Corporation's waiver request IS GRANTED to the extent described above.

Sincerely,

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau
Federal Communications Commission

Attachment A – List of Florida Counties Subject to Waiver Request

Alachua	Lafayette
Baker	Lake
Bay	Leon
Bradford	Levy
Brevard	Liberty
Calhoun	Madison
Charlotte	Manatee
Citrus	Marion
Clay	Nassau
Columbia	Okaloosa
DeSoto	Orange
Dixie	Osceola
Duval	Pasco
Escambia	Pinellas
Flagler	Polk
Franklin	Putnam
Gadsden	Santa Rosa
Gilchrist	Sarasota
Gulf	Seminole
Hamilton	St. Johns
Hardee	Sumter
Hernando	Suwannee
Highlands	Taylor
Hillsborough	Union
Holmes	Volusia
Indian River	Wakulla
Jackson	Walton
Jefferson	Washington

Attachment B – List of Florida Counties Excluded from Waiver Request

Broward
Collier
Glades
Hendry
Lee
Martin
Miami-Dade
Monroe
Okeechobee
Palm Beach
St. Lucie