



Federal Communications Commission
Washington, D.C. 20554

DA 14-1643

November 12, 2014

Russell H. Fox, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky
and Popeo, PC
701 Pennsylvania Avenue, NW
Washington, DC 20004

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

REF: Notification of Long-Term Discontinuance

Dear Counsel:

On November 7, 2014, Sprint Corporation, together with Third District Enterprises, Telephone Connection and 3KFA (Licensees) (collectively the Parties), licensees of 800 MHz communications facilities listed in the Appendix to this letter, filed with the Commission a Notification of Long-Term Discontinuance (Notification). In the Notification, the Parties observed that Section 90.677 of the Commission's rules¹ provides that "during band reconfiguration the provisions of Section 90.157 will not apply to Nextel and non-Nextel stations that have been shut down in order to accommodate our rebanding plan. *See* 47 C.F.R. § 90.157."² Section 90.157 of the Commission's rules³ provides that "[a]n authorization shall cancel automatically upon permanent discontinuance of operations. Unless stated otherwise in this part or in a station authorization, for the purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued."

The Parties question whether the language of Section 90.677 was intended to apply only to discrete channels that were implicated in rebanding or to entire 800 MHz communications systems affected by rebanding. They submit that construing the language to apply only to discrete channels would be an unjustifiably narrow construction that would be "harmful" because the licensees listed in the Appendix are prepared to undertake long-term discontinuance of their entire system until rebanding is complete in the region.

The Notification asserts several benefits to the rebanding program as a consequence of the licensees listed in the Appendix discontinuing operation of their systems until rebanding is complete. Thus, for example, the Parties point out that the licensees' current operations block 15 public safety jurisdictions from retuning their facilities to replacement channels.⁴ Conversely, the Parties represent that

¹ 47 C.F.R. § 90.677.

² Notification at 3.

³ 47 C.F.R. § 90.157.

⁴ Notification at 2 n.3.

there are 7 licensees blocking the Licensees from retuning to the Licensees' replacement channels.⁵ Allowing the stations listed in the Appendix to discontinue operation, the Parties submit, will eliminate this "blocking" and thus facilitate rebanding in the region.

We agree with the Parties that the proposed discontinuance of operation will advance the rebanding program in the Mexico border region. We also agree with the Parties' claim that "the limited value to the public of having the Licensees operate systems only with non-rebanding channels is outweighed by the benefit that can be achieved by the Licensees' willingness to immediately suspend operations on rebanding channels for an indefinite period."⁶ Accordingly, we will not require the licensees to maintain service on the relatively few channels in their systems that are not implicated in rebanding.

We do not, however, believe it necessary to interpret Section 90.677 of the Commission's rules, *supra*, in the manner requested by the Parties. Instead, for good cause shown, and pursuant to Section 1.925 of the Commission's rules,⁷ we waive Section 90.157 of the Commission's rules as it otherwise would apply to the Licensees listed in the Appendix. Our waiver of the rule is conditioned on (1) the Licensees discontinuing operation of their facilities no later than a date to be set by the 800 MHz Transition Administrator; and (2) the Licensees reactivating their facilities on their replacement frequencies within one-year following the date they receive replacement frequencies from the 800 MHz Transition Administrator.

So ordered.

This action is taken under delegated authority pursuant to Sections 0.191(a) and 0.392 of the Commission's Rules, 47 C.F.R. §§ 0.191(a), 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Deputy Chief – Policy and Licensing Division
Public Safety and Homeland Security Bureau

⁵ *Id.* n.4.

⁶ *Id.* at 3.

⁷ 47 C.F.R. § 1.925.

APPENDIX

<u>CHANNEL</u>	<u>REBAND CHANNEL</u>	<u>WILL BE REBANDED?</u>	<u>LICENSEE(S)</u>	<u>CALL SIGN</u>	<u>PRIMARY SITES</u>
851.1125	857.4125	YES	TCLLC	KRR904	SANTIAGO PEAK
851.2875	860.6875	YES	TCLLC	KWH855/WYK281	MT. LUKENS, ONYX PEAK/SANTIAGO PEAK
851.7125	861.2375	YES	TCLLC	WNXG637	SKYLAND PEAK
852.1125	860.8625	YES	TCLLC	WGI554	SANTIAGO PEAK
852.1375	860.0625	YES	TCLLC	WNXG598	SKYLAND PEAK
852.4125	859.0375	YES	TCLLC	WNXG582	SKYLAND PEAK
852.6875	858.0625	YES	TCLLC	WNXG570	SKYLAND PEAK
853.5625	857.6375	YES	TCLLC	KRT844	SANTIAGO PEAK
855.0625	861.1875	YES	TCLLC	WPZZ380	PALVIKA PEAK, SANTIAGO PEAK, MT. LUKENS, and OAT MTN
856.4125	861.2125	YES	TCLLC	KNHA498/WPGZ423	MT. WILSON, PINE COVE
856.1875	856.1875	NO	TCLLC	WQTB890	MT. LUKENS
859.3375	859.3375	NO	3KFA	WQJL231	SOUTH MTN
859.3375	859.3375	NO	3KFA	KNJH490	MT. WILSON
855.8875	860.6625	YES	3KFA	KNJH406	SUNSET, MODJESKA and OAT
857.3375	857.3375	NO	3KFA	KNJH406	SUNSET, MODJESKA and OAT
851.8625	861.0125	YES	TDE	WNXS451	HEAPS PEAK
851.8875	854.4875	YES	TDE	KKV815	MT. LUKENS
852.5125	860.1875	YES	TDE	WNWQ646	HOLLYWOOD HILLS
852.7875	861.2625	YES	TDE	WPHU589	HOLLYWOOD HILLS
852.0875	860.9125	YES	TDE	WQDA740	RUNNING SPRINGS
851.5625	858.5125	YES	TDE	WNGC552	MT. LUKENS
851.4875	859.0875	YES	TDE	WNWB345/WQDA729	MT. LUKENS/SNOW PEAK
851.5125	854.6125	YES	TDE	WPPF295	HEAPS PEAK
854.8875	861.3125	YES	TDE	KNIV764	SANTIAGO PEAK
854.1125	859.2875	YES	TDE	WYA205	MT. LUKENS/SANTIAGO PEAK
855.3125	861.0625	YES	TDE	WYA205	SANTIAGO PEAK
852.6875	858.0625	YES	TDE	WNPP680	SADDLE PEAK
853.4875	858.8625	YES	TDE	WNVQ272	SANTIAGO PEAK
854.3875	854.3875	NO	TDE	WNXS439	HEAPS PEAK
858.9125	858.9125	NO	TDE	WPXE724/WPYH567	SADDLE PEAK/PALVIKA PEAK