



Federal Communications Commission
Washington, D.C. 20554

March 9, 2018

James B. Goldstein
Sprint Corporation
900 7th Street, NW
Suite 700
Washington, DC 20001

DA 18-233

Re: Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Southern California (Region 5) Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region; FCC File No. 0007919924

Dear Mr. Goldstein:

In this letter, we grant a waiver request by Sprint Corporation (Sprint) that will allow Sprint to deploy its 800 MHz wideband operations in certain portions of the Southern California National Public Safety Planning Advisory Committee (NPSPAC) Region 5 before 800 MHz Band reconfiguration has been completed in that Region.¹ Granting the Waiver Request will permit LTE deployment in portions of three counties—San Luis Obispo, Santa Barbara, and Kern Counties—north of Los Angeles, providing Sprint's subscribers access to these valuable broadband wireless services while protecting the remaining public safety entities from harmful interference. We therefore find that granting the Waiver Request is in the public interest.

Section 90.209(b)(7) of the Commission's rules permits Economic Area-based 800 MHz Specialized Mobile Radio (SMR) licensees, such as Sprint, to deploy wideband operations in the 817-821/862-866 MHz portion of the SMR spectrum band in NPSPAC regions where 800 MHz band reconfiguration is still continuing, and in the 821-824/866-869 MHz portion of the SMR band only in NPSPAC regions where 800 MHz band reconfiguration has been completed.² On September 8, 2017, Sprint filed the Waiver Request so that it may deploy 800 MHz LTE operations at 821-824/866-869 MHz in the three counties listed above within the Southern California NPSPAC Region prior to full completion of 800 MHz band reconfiguration in that Region.

¹ Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Southern California (Region 5) Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region, ULS File No. 0007919924 (filed Sept. 8, 2017) (Waiver Request). The Waiver Request covers Call Sign WPOH385 and was filed by one of Sprint's subsidiary corporations, Nextel of California, Inc.

² 47 CFR § 90.209(b)(7). *See also Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees*, Report and Order, WT Docket 12-64, 27 FCC Red 6489, 6495-96, para. 12 (2012) (*800 MHz Wideband Order*). SMR licensees are authorized to operate in the 813.5-824/858.5-869 MHz portion of the 800 MHz band only in the Southeastern U.S. counties listed in Section 90.614(c). *See* 47 CFR § 90.209(b)(7); *800 MHz Wideband Order*, 27 FCC Rcd at 6490, para. 1 n.1. The NPSPAC Region where Sprint requests relief does not contain any of the listed counties.

Sprint states that certain Southern California NPSPAC Region public safety licensees have not completed their retunes.³ Sprint explains that these remaining retunes are “predominantly delayed by the need for Mexican-side 800 MHz incumbents to start and complete their retunes in order that the former Mexican channels can be made available for U.S. public safety licensees.”⁴ Sprint maintains that with careful engineering and planning, it can deploy 800 MHz LTE at approximately 100 sites north of Los Angeles while rebanding continues in Los Angeles without increasing the risk of interference to the remaining Southern California NPSPAC licensees.⁵

Sprint argues, however, that it cannot deploy broadband LTE in the old NPSPAC band in the areas of the Southern California NPSPAC Region that are or will be fully cleared of public safety operations, including the portions of three counties located north of Los Angeles, in light of Section 90.209(b)(7).⁶ Sprint therefore requests a waiver of Section 90.209(b)(7) so that it may launch LTE in the portions of three Southern California NPSPAC Region counties⁷ in which 800 MHz rebanding is complete.⁸ Sprint states that its planned sites in each of these counties are located more than 70 miles away from the Southern California public safety sites still operating in the old NPSPAC band, and also that none of these sites would be located within 105 miles of certain “high sites” as listed in Section 90.621(b)(4).⁹ Sprint proposes to maintain these separation distances between co-channel operations to provide an additional buffer of protection to the remaining public safety operations, which, Sprint argues, exceeds the co-channel separation requirements in Section 90.621(b) of the Commission’s rules.¹⁰ Sprint also agrees to provide Orange County with technical information to enable Orange County to review and clear in advance Sprint’s deployment of any base stations where Sprint must comply with the separation distance provided in Section 90.621(b)(4)(ii).¹¹ In addition, Sprint agrees to correct any interference caused by its LTE deployment to public safety operations.¹² Sprint also notes that if any public safety communications operator believes that its 800 MHz public safety radio system is experiencing CMRS-public safety interference at any time, a well-developed process exists to address interference via the

³ See Waiver Request at 3; Supplement to Sprint Waiver Request to Permit 800 MHz Wideband Operations in Portions of Southern California (Region 5) NPSPAC Prior to Completion of 800 MHz Band Reconfiguration, WPOH 385, ULS File No. 0007919924 (filed Oct. 24, 2017) (Oct. 24, 2017 Supplement) at 1 n.1.

⁴ Waiver Request at 2-3.

⁵ See *id.* at 3-4.

⁶ See *id.* at 3.

⁷ See *id.* at 7; Attachment A.

⁸ See *id.* at 4.

⁹ See *id.* at 4; 47 CFR § 90.621(b)(4). Section 90.621(b)(4)(ii) provides an additional separation distance of 35 miles in addition to the co-channel distance separation distance prescribed by this rule (a maximum of 70 miles) when the location of certain sites has a directional height of the antenna above average terrain (DHAAT) of 1,500 feet or above. See 47 CFR § 90.621(b)(4), Short-Spacing Separation Table at n.1. Sprint states that it and Orange County have agreed to study the impact of Sprint sites located between 70 miles and 105 miles from Orange County’s “high-sites” to evaluate whether Sprint can operate its sites closer than 105 miles to these sites during the retuning process. See Waiver Request at 4 n.14.

¹⁰ See Waiver Request at 4. Section 90.621(b) specifies a minimum separation distance of 70 miles, while Section 90.621(b)(4) permits 800 MHz co-channel usage at sites as close as 55 miles depending on the technical parameters of the proposed facilities. 47 CFR §§ 90.621(b), 90.621(b)(4).

¹¹ See Waiver Request, Attachment B (Orange County concurrence).

¹² See, e.g., *id.*

industry-developed and maintained interference notification website at <http://www.publicsafety800mhzinterference.com>.¹³

As part of its petition, Sprint included concurrences from three of the largest public safety incumbents in Southern California—Orange County, the State of California, and San Bernardino County—in support of its request.¹⁴ Subsequently, Sprint supplemented its Waiver Request with concurrences from San Diego County, the City of San Diego, and the Coachella Valley Water District.¹⁵ Sprint also notes that, between the filing of the Waiver Request and January 25, 2018, four of the eleven Southern California NPSPAC licensees identified by Sprint in the Waiver Request have since completed retuning.¹⁶

Pursuant to Section 1.925 of the Commission's rules, waiver may be granted 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.¹⁷

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 the portions of three Southern California NPSPAC Region counties where retuning has been completed. We conclude that it would be inequitable and unduly burdensome to prohibit access to valuable broadband wireless services until the remaining Southern California NPSPAC licensees complete their retuning from the old NPSPAC band where Sprint will maintain such a significant geographic separation between its sites and those of the Southern California NPSPAC Region public safety entities. 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.¹⁸

¹³ *Id.* at 5 n.18. As Sprint explains, this website immediately notifies Sprint, as well as the other cellular carriers operating in a given area, to commence interference investigation and mitigation procedures in accordance with the Commission's mandated 24-hour interference response timelines and the requirements specified in Sections 90.674 and 22.974 of the Commission's rules. *Id.*

¹⁴ *See id.*, Attachments B, C, and D.

¹⁵ *See* Oct. 24, 2017 Supplement at 4; Second Supplement to Sprint Waiver Request to Permit 800 MHz Wideband Operations in Portions of Southern California (Region 5) NPSPAC Prior to Completion of 800 MHz Band Reconfiguration, WPOH 385, ULS File No. 0007919924 (filed Nov. 7, 2017) (providing City of San Diego concurrence); Third Supplement to Sprint Waiver Request to Permit 800 MHz Wideband Operations in Portions of Southern California (Region 5) NPSPAC Prior to Completion of 800 MHz Band Reconfiguration, WPOH 385, ULS File No. 0007919924 (filed Nov. 28, 2017) (providing Coachella Valley Water District concurrence).

¹⁶ *See* Oct. 24, 2017 Supplement at 1 n.1 (noting Imperial Irrigation District and Riverside County completed retuning); Fourth Supplement to Sprint Waiver Request to Permit 800 MHz Wideband Operations in Portions of Southern California (Region 5) NPSPAC Prior to Completion of 800 MHz Band Reconfiguration, WPOH 385, ULS File No. 0007919924 (filed Jan. 25, 2018) (noting Los Angeles Fire Department and Los Angeles STRS completed retuning). Sprint also states that it originally erred in including San Diego Transit, as that entity does not have NPSPAC-based facilities. Oct. 24, 2017 Supplement at 1 n.1. The Southern California NPSPAC licensees are listed in Attachment C.

¹⁷ 47 CFR § 1.925.

¹⁸ *See 800 MHz Wideband Order*, 27 FCC Rcd at 6495, para. 14.

We note that we have previously granted similar waivers where Sprint maintained a separation distance of at least 70 miles from the closest public safety site,¹⁹ and we are not aware of occurrences of harmful interference that were found to have resulted from those waivers. Our review of Sprint's Waiver Request leads us to conclude that similar relief is warranted here. We therefore waive Section 90.209(b)(7) to permit Sprint to accelerate its broadband deployment in the portions of three Southern California NPSPAC Region counties listed in Attachment A. This waiver is specifically conditioned on the following:

- (1) In the portions of the three (3) counties in the Southern California NPSPAC Region listed in Attachment A, Sprint must maintain a minimum 70-mile co-channel separation between Sprint's proposed operations at 821-824/866-869 MHz and the closest public safety site still operational in the old NPSPAC band.
- (2) Sprint must provide each public safety entity listed in Attachment C with 30-days advance notice of Sprint's deployment and planned initiation date of operations in the Southern California NPSPAC Region, or if Sprint's operation of a base station site is subject to Section 90.621(b)(4)(ii)'s separation distance requirements, technical information and sufficient time to permit advance review and clearance of Sprint's deployment at that site.
- (3) Sprint may not deploy LTE at 821-824/866-869 MHz in the seven (7) counties listed in Attachment B until 800 MHz band reconfiguration has been completed in the entire Southern California NPSPAC Region.
- (4) If Sprint receives a report that station(s) operating in the areas covered by this waiver are causing harmful interference to a public safety licensee, it shall immediately suspend operation under this waiver of such station(s) except for test transmissions to identify and eliminate the interference. Sprint may resume operation under this waiver of such station(s) only after the interference has been successfully mitigated.

Further, Sprint's operations remain subject to the Commission's rules regarding abatement of unacceptable interference as set forth in Sections 90.672, 90.673, 90.674, and 90.675.²⁰ We also remind Sprint that its operations must afford additional co-channel distance separation pursuant to Section 90.621(b)(4)(ii) if its sites or those of any public safety entity still operating in the old NPSPAC band meet the protection criteria provided in that rule.²¹

As conditioned, our grant will facilitate more rapid broadband availability in portions of three counties north of Los Angeles, while protecting ongoing public safety operations in the old NPSPAC band until they are fully retuned. The conditions of this waiver will terminate when 800 MHz band reconfiguration has been completed in the entire Southern California NPSPAC Region 5.

¹⁹ See, e.g., *Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Arizona Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region*, Letter Order, 32 FCC Rcd 1365 (WTB MD 2017).

²⁰ See 47 CFR §§ 90.672, 90.673, 90.674, and 90.675.

²¹ See 47 CFR § 90.621(b)(4)(ii).

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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 CFR §§ 0.331, 1.925, the Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Southern California (Region 5) Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region, filed September 8, 2017, is GRANTED to the extent described above.

Sincerely,

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau

Attachment A – List of Counties Subject to Waiver Request

Kern
San Luis Obispo
Santa Barbara

Attachment B – List of Counties Excluded from Waiver Request

Imperial
Los Angeles
Orange
Riverside
San Bernardino
San Diego
Ventura

Attachment C – List of Remaining Licensees in the Southern California NPSPAC Region

City of San Diego
Coachella Valley Water District
County of San Diego
Orange County
San Bernardino County
State of California