



Federal Communications Commission
Washington, D.C. 20554

May 6, 2008

DA 08-1074

Lawrence R. Krevor
Vice President – Spectrum
James B. Goldstein
Director, Spectrum Reconfiguration
Sprint Nextel Corporation
2001 Edmund Halley Drive
Reston, VA 20191

Re: Sprint Nextel Request for Amendment of 800 MHz EA Licenses to Include 821-824/866-869 MHz, WT Docket 02-55

Dear Mr. Krevor and Mr. Goldstein:

This letter responds to the March 25, 2008 request of Sprint Nextel Corporation (Sprint) that we update the Commission licensing database and reissue three of Sprint's 800 MHz Economic Area (EA) licenses (WPOH337, WPOH340, and WPOH370) to specify Sprint's right to operate in the 821-824/866-869 MHz band in National Public Safety Advisory Committee (NPSPAC) Region 7 (Colorado).¹ As discussed below, we will update our database with respect to the three referenced Sprint Colorado EA licenses to implement the Commission's action taken pursuant to the 2004 *800 MHz Report and Order*,² subject to conditions specified below that will ensure the continued protection of NPSPAC systems in the region that have not yet relocated out of the 821-824/866-869 MHz band. We also establish a process to govern future requests by Sprint that the Commission further implement the *800 MHz Report and Order* by authorizing Sprint's operations in the 821-824/866-869 MHz band in other NPSPAC regions.

Background

In its License Modification Request, Sprint contends that 800 MHz band reconfiguration has reached the point "where an increasing number of incumbent . . . NPSPAC licensees have either completed or are conducting the physical retunes of their 800 MHz systems" from the 821-824/866-869 MHz band segment (old NPSPAC band) to new channel assignments in the 806-809/851-854 MHz band segment (new NPSPAC band).³ Sprint states that to further the rebanding process, its EA licenses should be updated to expressly authorize Sprint to commence operations in the old NPSPAC band as it is vacated by public safety. Sprint asserts that the Commission actually modified Sprint's licenses in the *800 MHz Report and Order* to authorize such operation, but that "the purely administrative act of updating Sprint

¹ Letter from Lawrence R. Krevor, Vice President – Spectrum, and James B. Goldstein, Director, Spectrum Reconfiguration, Sprint Nextel, to David Furth, Associate Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, March 25, 2008 (License Modification Request).

² See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Report and Order*, *Fifth Report and Order*, *Fourth Memorandum Opinion and Order*, and *Order*, 19 FCC Rcd 14969 (2004) (*800 MHz Report and Order*).

³ License Modification Request at 1.

Nextel's licenses has not yet occurred."⁴ Sprint specifically asks that the Commission update Sprint's EA licenses covering Region 7 to authorize operation in the old NPSPAC band because numerous NPSPAC licensees in Region 7 have either completed or soon will complete their relocation to the new NPSPAC band.⁵ According to Sprint, updating of its EA licenses in this manner will simplify the administrative process by enabling it to begin operation in "white space" in the old NPSPAC band as it is vacated by public safety.⁶

Sprint also states that it "recognizes its responsibility" to avoid causing new interference to public safety as it commences use of the old NPSPAC channels.⁷ Sprint therefore proposes to undertake a series of measures to protect NPSPAC incumbents in the region that have not yet relocated out of the old NPSPAC band. These measures include notification of incumbent licensees and the NPSPAC Regional Planning Coordinator prior to commencing operations, maintaining co-channel and adjacent-channel separation from NPSPAC incumbents still in the band, compliance with interference protection rules applicable during the transition, and prompt response to interference complaints under the timelines and requirements mandated by the Commission.⁸

On April 1, 2008, Colorado CallComm, Inc. (CallComm), an SMR licensee in EA 141 in Colorado, filed a partial opposition to Sprint's request.⁹ Specifically, CallComm requests that the Commission not authorize Sprint to use the old NPSPAC band in EA 141 under station WPOH340, on the grounds that so authorizing Sprint would prejudice CallComm's interest in relocating to the same spectrum. CallComm states that it has not yet reached an agreement with either the 800 MHz Transition Administrator (TA) or Sprint regarding the replacement channels that will be assigned to CallComm in the 800 MHz transition. CallComm states that it has asked to be assigned replacement channels in the old NPSPAC band, and that until this matter is resolved, the Commission should not permit Sprint to operate in the old NPSPAC band in EA 141.¹⁰

On April 11, 2008, Sprint replied to CallComm's opposition and urged the Commission to reject CallComm's claim.¹¹ Sprint argues that grant of its request will not prejudice CallComm or any other licensee. Sprint also contends that CallComm's filing is an "irrelevant attempt to gain leverage" in its rebanding negotiations with Sprint.¹² Sprint asserts that the TA assigned CallComm replacement

⁴ *Id.* at 2.

⁵ *Id.* The three EA licenses referenced in Sprint's request encompass all of Region 7 except for Sedgwick County, Colorado, which is part of EA 121. Therefore, we do not consider Sedgwick County to be encompassed by this request.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 2-4.

⁹ Letter from Russell Fox, Esq. to David Furth, Associate Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, April 1, 2008 (CallComm Opposition). No other party has opposed the Sprint request.

¹⁰ *Id.*

¹¹ Letter from Lawrence R. Krevor, Vice President – Spectrum and James B. Goldstein, Director, Spectrum Reconfiguration, Sprint Nextel, to David Furth, Associate Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, April 11, 2008 (Sprint Reply).

¹² *Id.* at 2.

channels outside the old NPSPAC band in 2007, that CallComm's objection to this assignment is untimely, and that CallComm has never indicated an interest in being retuned to channels in the old NPSPAC band.¹³

Discussion

We agree with Sprint that the *800 MHz Report and Order* contemplated that Sprint would be allowed to relocate to vacated spectrum in the old NPSPAC band as NPSPAC licensees relocate to the new NPSPAC band.¹⁴ While the *800 MHz Report and Order* modified Sprint's licenses in various respects pursuant to Section 316(a)(1) of the Communications Act, as amended,¹⁵ the Commission did not update ULS to reflect conditional authorization to operate in the old NPSPAC band (821-824/866-869 MHz). Accordingly, we will implement the Commission's modification and update the referenced Sprint licenses to authorize such operation, subject to the conditions set forth below, including protection of NPSPAC licensees that have not yet relocated as required under its rebanding obligations. The Commission specifically contemplated the need for such protection in the *800 MHz Second Memorandum Opinion and Order*, when it granted the petition filed by NPSPAC Region 8 (New York Metropolitan Area) requiring Sprint to maintain adjacent channel as well as co-channel separation from NPSPAC licensees during the transition.¹⁶ Sprint has offered to abide by such conditions in its request, which we will impose with certain minor modifications as specified below.

We deny CallComm's request that we not authorize Sprint to operate in the old NPSPAC band in EA 141 under station WPOH340. The issues raised by CallComm are not germane to the question of whether this license should be updated to incorporate the 821-824/866-869 MHz band. Our decision to implement the Commission's modification of Sprint's licenses is without prejudice to any claim that CallComm may have that it should receive replacement channels in this band from Sprint, nor does it preclude Sprint from assigning such channels to CallComm in the future. However, we make no determination here regarding CallComm's right to assert such a claim or the merits of such a claim.

Conditions

Sprint's authorization to operate in the 821-824/866-869 MHz band under three EA licenses in Region 7 is hereby conditioned on its compliance with the following:

1. Sprint will provide appropriate co-channel protection to incumbent licensees pursuant to Section 90.621(b) of the Commission's co-channel protection rules.¹⁷
2. Sprint will provide adjacent-channel protection in accordance with the standard adopted by the Commission in the *800 MHz Second Memorandum Opinion and Order* based on the petition filed by NPSPAC Region 8 (New York Metropolitan Area).¹⁸

¹³ *Id.*

¹⁴ See *800 MHz Report and Order*, 19 FCC Rcd at 15073-74 ¶ 198.

¹⁵ 47 U.S.C. § 316(a)(1).

¹⁶ Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Second Memorandum Opinion and Order*, 22 FCC Rcd 10467, 10486 (2007) ¶¶ 51-52 (*800 MHz Second Memorandum Opinion and Order*).

¹⁷ See 47 C.F.R. § 90.621(b).

3. Sprint will not use and will protect the five nationwide mutual aid channels in the 821-824/866-869 MHz band in each NPSPAC region in which it operates until rebanding is complete in that region.
4. At least 60 days prior to initiating service in the 821-824/866-869 MHz band pursuant to its modified EA licenses, Sprint must provide written notification to every NPSPAC licensee in the affected NPSPAC region(s),¹⁹ at the contact address listed in ULS, that it intends to use its modified licenses to operate in the 821-824/866-869 MHz band. In addition, Sprint must provide the same written notification to the Regional Planning Coordinator(s) for the affected NPSPAC region(s).
5. Sprint will notify the administrator of the CTIA interference website of any new geographic areas in which Sprint deploys facilities in the 821-824/866-869 MHz band.²⁰
6. In the event of an interference complaint, Sprint Nextel will strictly adhere to the Commission's mandated interference response timelines and requirements specified in Section 90.674 of the Commission's rules.²¹
7. Until the conclusion of band reconfiguration in the affected NPSPAC region(s), Sprint will protect public safety systems in the 821-824/866-869 MHz band in accordance with the "interim" interference standard specified by the Commission in the *800 MHz Supplemental Order*.²² In addition, Sprint Nextel will employ the additional protection methods identified in the *800 MHz Supplemental Order* to protect public safety systems in the 821-824/866-869 MHz band that do not meet the signal strength threshold under Commission's interim rule but that do meet the threshold under the Commission's final interference rules.²³

Update of EA Licenses in Additional Regions

At such time as it seeks to commence operation in the old NPSPAC band in other NPSPAC regions, Sprint may request equivalent update of additional EA licenses covering such regions, provided that it agrees to accept the conditions set forth in this letter on such licenses. Sprint may submit such requests by letter filing in this docket, addressed to the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau. The Wireless Telecommunications Bureau will announce by Public Notice those Sprint licenses that have been updated in the Commission's licensing database to reflect conditional authorization to operate in the 821-824/866-869 MHz band.

¹⁸ See *800 MHz Second Memorandum Opinion and Order*, 22 FCC Rcd at 10486 ¶¶ 51-52.

¹⁹ Sprint must also notify NPSPAC licensees in adjacent regions whose facilities are within 70 miles of Sprint's proposed EA operations.

²⁰ The CTIA interference website is located at <http://www.publicsafety800mhzinterference.com/CTIAWEB/index.aspx>

²¹ 47 C.F.R. §90.674.

²² See *Improving Public Safety Communications in the 800 MHz Band*, WT Docket 02-55, *Supplemental Order*, 19 FCC Rcd 25120, 25137-38 (2004) ¶ 39 (*800 MHz Supplemental Order*).

²³ *Id.*, 19 FCC Rcd at 25139-40 ¶ 42.

Implementation

The Policy Division of the Public Safety and Homeland Security Bureau Policy Division and the Mobility Division of the Wireless Telecommunications Bureau will coordinate as necessary to implement the actions specified in this letter.

FEDERAL COMMUNICATIONS COMMISSION

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David L. Furth
Associate Bureau Chief
Public Safety and Homeland Security Bureau

A handwritten signature in black ink, appearing to read "Joel D. Taubenblatt". The signature is cursive, with a large initial "J" and a long, sweeping horizontal stroke at the end.

Joel D. Taubenblatt
Acting Deputy Chief
Wireless Telecommunications Bureau

cc: Russell H. Fox, Esq. (via e-mail)
Brett Haan (via e-mail)
Joseph P. Markoski (via e-mail)