



PUBLIC NOTICE

Federal Communications Commission
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**WIRELESS TELECOMMUNICATIONS BUREAU REQUESTS COMMENT ON NEXTEL
PARTNERS PETITION FOR LIMITED WAIVER OF THE DECEMBER 31, 2005 DEADLINE
TO ACHIEVE NINETY-FIVE PERCENT PENETRATION OF LOCATION-CAPABLE
HANDSETS AMONG ITS SUBSCRIBERS**

WT Docket No. 05-302

Comments Due: November 4, 2005

Reply Comments Due: November 14, 2005

By this Public Notice, we seek comment on a petition for limited waiver filed October 17, 2005 by Nextel Partners, Inc. (Nextel Partners)¹ seeking relief from the requirement that it achieve ninety-five percent penetration of location-capable handsets among its subscribers by December 31, 2005, as required by Section 20.18(g)(1)(v) of the Commission's Rules (Ninety-five Percent Penetration Rule).²

Specifically, Nextel Partners seeks to defer its obligation to comply with the Ninety-five Percent Penetration Rule until December 31, 2007.³ Nextel Partners states it seeks an extension as a result of difficulties in converting customers being served on its integrated Digital Enhanced Network ("iDEN") network to GPS-enabled devices.⁴ In support of its request, Nextel Partners also cites to the following factors: delay in the initial availability of GPS-enabled handsets for its iDEN network,⁵ the occurrence of a latent software defect that disabled GPS functionality in a number of iDEN devices already on its network,⁶ customer unwillingness to upgrade to new location-capable handsets,⁷ the churn rate of its

¹ See Petition for Limited Waiver of Nextel Partners, Inc., CC Docket No. 94-102 (filed Oct. 17, 2005) (Nextel Partners Petition).

² 47 C.F.R. § 20.18(g)(1)(v).

³ See Nextel Partners Petition at 4-5.

⁴ See *id.* at i-ii.

⁵ See *id.* at i, 16.

⁶ See *id.* at ii, 19-22.

⁷ See *id.* at ii-iii, 17.

iDEN customer base (including large corporate or government users),⁸ and the lack of Public Safety Answering Point (PSAP) Phase II readiness.⁹

Commenting parties should address the Nextel Partners Petition relative to the Commission's stated policy that it is critical for all handset-based carriers to meet the final implementation deadline of December 31, 2005 for ninety-five percent location-capable handset penetration, in order to allow all stakeholders (including carriers, technology vendors, public safety entities, and consumers) to have greater certainty about when Phase II will be implemented and ensure that Phase II is fully implemented as quickly as possible.¹⁰ Further, we seek comment on whether granting the relief requested would be consistent with established waiver standards.¹¹

GENERAL INFORMATION

Comments must be filed no later than November 4, 2005, and reply comments must be filed no later than November 14, 2005. All filings concerning matters referenced in this Public Notice should refer to WT Docket No. 05-302. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS): <http://www.fcc.gov/cgb/ecfs/>, (2) the Federal Government's eRulemaking Portal: <http://www.regulations.gov>, or (3) paper copies.¹²

- **ECFS Filers:** If multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full names, U.S. Postal Service mailing addresses, and the applicable docket or rulemaking number. Interested parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.
- **eRulemaking Filers:** Filers should follow the instructions provided on the website for submitting comments.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers 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.

⁸ See *id.* at iii, 16-19.

⁹ See *id.* at 10-11, 15.

¹⁰ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers, CC Docket No. 94-102, *Order to Stay*, 17 FCC Rcd 14841, 14853 ¶ 38 (2002).

¹¹ See, e.g., Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442, 17458 ¶ 44 (2000); 47 C.F.R. § 1.925(b)(3).

¹² See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- 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, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

Copies of this public notice and the petition noted herein will be posted on the web at http://gullfoss2.fcc.gov/prod/ecfs/comsreh_v2.cgi and will be available for public inspection and duplication during regular business hours in the FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Copies of the comments and other filings in this docket also may be obtained from the Commission’s duplicating contractor, Best Copy and Printing, Inc. in person at 445 12th Street, SW, Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300 or (800) 378-3160, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This proceeding is designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹³ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.¹⁴ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission’s rules.¹⁵

For further information, contact David Siehl, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, at (202) 418-0680.

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¹³ 47 C.F.R. §§ 1.1200(a), 1.1206.

¹⁴ 47 C.F.R. § 1.1206(b).

¹⁵ *Id.*