

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Former Nextel Communications, Inc.)	WT Docket No. 06-169
Upper 700 MHz Guard Band Licenses)	
and Revisions to Part 27 of the)	
Commission's Rules)	
)	
Development of Operational, Technical and)	WT Docket No. 96-86
Spectrum Requirements for Meeting Federal,)	
State and Local Public Safety Communications)	
Requirements Through the Year 2010)	

ORDER

Adopted: October 25, 2006

Released: October 25, 2006

By the Acting Chief, Wireless Telecommunications Bureau:

1. On September 8, 2006, the Commission issued a *Notice of Proposed Rule Making (Notice)* seeking public comment regarding, *inter alia*, proposals on possible changes to the Part 27 service rules applicable to existing and prospective Upper 700 MHz Guard Bands licensees as well as on proposals to modify the existing Upper 700 MHz band plan with respect to the Guard Bands.¹ On September 21, 2006, a summary of the *Notice* was published in the *Federal Register*, establishing deadlines for the filing of comments and reply comments of October 23, 2006, and November 6, 2006, respectively.²

2. On October 20, 2006, the State of Maryland, Commonwealth of Virginia, Loudoun County, Virginia (Loudoun County), and the Region 20 Regional Planning Committee (Region 20) each filed a request for extension of time to submit comments in response to the *Notice*.³ The parties argue that the *Notice* raised complex issues, and assert that any change to the existing 700 MHz Public Safety band plan will affect their plans for public safety communications.⁴ The parties state that they require additional

¹ Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules, WT Docket No. 06-169; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, *Notice of Proposed Rule Making*, FCC 06-133 (rel. September 8, 2006) (*Notice*).

² See 71 Fed. Reg. 55149 (Sept. 21, 2006).

³ Motion for Extension of Time for Submission of Comments to NPRM (FCC 06-133) of the State of Maryland Department of Budget and Management, filed October 20, 2006; Motion for Extension of Time from the Commonwealth of Virginia for Submission of Comments to NPRM (FCC 06-133) of the Commonwealth of Virginia, filed October 20, 2006; Motion of Loudoun County, Virginia for an Extension of Time to File Comments to Notice of Proposed Rule Making 06-133 of Loudoun County, Virginia, filed October 20, 2006; and Motion for Extension of Time for Submission of Comments to NPRM (FCC 06-133) of Region 20 Regional Planning Committee, filed October 20, 2006.

⁴ See Loudoun County Petition at 2, State of Maryland Petition at 2, Region 20 Petition at 2, Commonwealth of Virginia Petition at 1.

time to more thoroughly analyze the complex issues raised,⁵ and request extensions of time ranging from “no less than 30 days” to 60 days in which to file comments.⁶

3. Section 1.46(a) of the Commission's rules states that motions for extension of time will not be granted routinely.⁷ In addition, Section 1.46(b) of the Commission's rules requires that motions for extensions of time shall be filed seven days before the filing date.⁸ In an emergency situation, we may consider a late-filed motion for a brief extension of time related to the duration of the emergency. Pursuant to the Commission's rules, extension requests were due by October 16, 2006, in this matter. The parties, however, did not submit motions for extension of time until October 20, 2006, nor did they provide sufficient information upon which we may grant emergency relief. We therefore conclude that we are unable to extend the comments deadline of October 23, 2006.

4. However, in order to provide all interested parties with a full and fair opportunity to participate in this proceeding, we find that it is in the public interest to extend the reply comment deadline by seven days until November 13, 2006. While we find that it is appropriate to provide additional time in order to build a more thorough and complete record, we are also cognizant of the concerns raised by the public safety community that the Commission address the issues raised in this proceeding in a prompt and timely manner.⁹ As the Commission emphasized in the *Notice*, proposed changes to the 700 MHz band plan can not occur unless issues affecting public safety are resolved expeditiously, and are made in time to allow the Commission to conduct the auction of 700 MHz spectrum in accordance with the relevant statutory requirements.¹⁰ Accordingly, by extending the reply comments deadline by seven days, we strike a balance between providing commenters with adequate time in which to respond to the *Notice*, and ensuring that this proceeding is resolved expeditiously. In this regard, it should be noted that we do not anticipate granting further extensions to the reply comments deadline.

5. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 154(j), and sections 0.131, 0.331, and 1.46 of the

⁵ *See id.*

⁶ The State of Maryland and Region 20 both request an extension of 30 days. State of Maryland Petition at 2, Region 20 Petition at 2. The Commonwealth of Virginia seeks an extension of 30-60 days. Commonwealth of Virginia Petition at 1. Loudoun County seeks an extension of “no less than 30 days.” Loudoun County Petition at 2.

⁷ 47 C.F.R. § 1.46(a).

⁸ 47 C.F.R. § 1.46(b).

⁹ *See e.g.* Reply Comments of the National Public Safety Telecommunications Council in WT Docket No. 96-86, filed July 6, 2006; Letter from Association of Public-Safety Communications Officials International, Inc., International Association of Chiefs Of Police, International Association of Fire Chiefs, Major Cities Chiefs Association, Major Counties Sheriffs Association, and National Sheriffs Association to Catherine Seidel, FCC, *Ex Parte* in WT Docket No. 96-86, filed July 31, 2006.

¹⁰ *See e.g. Notice* at 8-9 ¶ 17. Specifically, the Commission tentatively concluded that it would not be appropriate to adopt any proposal that entails a shift in the narrowband channels within the public safety band unless two issues—the costs of reprogramming existing public safety radios and international border coordination—are resolved expeditiously, and that any decision to shift the existing Upper 700 MHz band plan in a way that affects “recovered analog spectrum” within the digital television transition would need to be made in time to allow the Commission to conduct the auction of recovered spectrum in accordance with relevant statutory requirements. *See id.*

Commission's rules, 47 C.F.R. §§ 0.131, 0.331, and 1.46, the deadline for filing reply comments in response to the *Notice of Proposed Rulemaking* is extended to November 13, 2006.

FEDERAL COMMUNICATIONS COMMISSION

Catherine W. Seidel
Acting Chief, Wireless Telecommunications Bureau