

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

In the Matter of	)	
	)	
Improving Public Safety Communications in the 800 MHz Band	)	WT Docket No. 02-55
	)	
Relinquishing By Sprint Nextel of Channels in the Interleaved, Expansion and Guard Bands	)	
	)	

**ORDER**

**Adopted: June 20, 2008**

**Released: June 20, 2008**

By the Chief, Public Safety and Homeland Security Bureau:

1. In this Order, on delegated authority, we waive for 30 days the June 26, 2008 deadline by which Sprint Nextel Corporation (Sprint) is required to vacate its spectrum holdings in the 800 MHz Interleaved Band (809-815/854-860 MHz), Expansion Band (815-816/860-861 MHz), and Guard Band (816-817/861-862 MHz) (collectively, Mid-Band). This will provide time to consider a Petition for Relief that Sprint filed on June 17, 2008.<sup>1</sup> This action is being taken without prejudice relative to the merits of the Petition.

2. In the *800 MHz Report and Order*, the Commission ordered rebanding of the 800 MHz band to resolve interference between commercial and public safety systems in the band.<sup>2</sup> As one element of rebanding, the Commission required Sprint to vacate all of its 800 MHz spectrum holdings below 817/854 MHz, including its holdings in the Mid-Band.<sup>3</sup> The Commission further provided that the vacated channels in the Interleaved Band would be made exclusively available for licensing to public safety for three years after the completion of rebanding in each region, and would be exclusively available to public safety and critical infrastructure industries for the following two years.<sup>4</sup> The vacated channels in the Expansion Band and Guard Band would be available for licensing under their pre-rebanding pool categories.<sup>5</sup>

3. In the *800 MHz Third Memorandum Opinion and Order*, the Commission affirmed that Sprint is required to vacate the Mid-Band in non-border areas by the end of the 36-month rebanding transition period, *i.e.*, by June 26, 2008, regardless of whether other elements of the rebanding transition

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<sup>1</sup> Petition for Relief – Expedited Action Requested, filed by Sprint Nextel Corporation, June 17, 2008 (Sprint Petition).

<sup>2</sup> Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, et al., *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 (2004) (*800 MHz Report and Order*). See also *Supplemental Order and Order on Reconsideration*, 19 FCC Rcd 25120 (2004); *Memorandum Opinion and Order*, 20 FCC Rcd 16015 (2005); *Second Memorandum Opinion and Order*, 22 FCC Rcd 10467 (2007).

<sup>3</sup> *800 MHz Report and Order*, 19 FCC Rcd at 15046-47 ¶ 146.

<sup>4</sup> *Id.* at 15052 ¶ 152.

<sup>5</sup> *Id.* at 15051-52 ¶ 151.

are complete.<sup>6</sup> Sprint appealed the *800 MHz 3rd MO&O* to the Court of Appeals for the D.C. Circuit, contending that it is not required to vacate the Mid-Band in any NPSPAC region until all licensees in the region have completed rebanding, even if the completion of rebanding takes longer than 36 months. On May 2, 2008, the Court upheld the Commission's decision in full.<sup>7</sup> Consequently, Sprint is legally obligated to vacate the Mid-Band on June 26, 2008 unless the Commission finds good cause to modify or waive the requirement.

4. On June 17, 2008, Sprint filed a Petition for Relief requesting that the Commission authorize it to clear its spectrum holdings in the Mid-Band in stages based on the region-by-region progress made by public safety licensees in retuning their systems to the new NPSPAC block.<sup>8</sup> On our own motion, we hereby waive the deadline by which Sprint must vacate the Mid-Band for a period of 30 days (*i.e.*, until July 26, 2008). This will provide the Commission with time to consider the issues raised by the Sprint Petition.

5. Accordingly, IT IS ORDERED, pursuant to the authority of Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392; Sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 C.F.R. §§ 154(i) and (j), and Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, and Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925, that the deadline by which Sprint must vacate the Mid-Band is waived for a period of 30 days.

FEDERAL COMMUNICATIONS COMMISSION

Derek K. Poarch  
Chief, Public Safety and Homeland Security Bureau

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<sup>6</sup> Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Third Memorandum Opinion and Order*, 22 FCC Rcd 17209, 17217 ¶ 28 (2007) (*800 MHz 3rd MO&O*).

<sup>7</sup> *Sprint Nextel Corp. v. FCC*, 524 F.3d 253 (D.C. Cir. 2008).

<sup>8</sup> Sprint Petition at 2-5.