

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

In the Matter of)
)
Improving Public Safety Communications in the) WT Docket No. 02-55
800 MHz Band)

ORDER

Adopted: October 24, 2008

Released: October 24, 2008

By the Chief, Public Safety and Homeland Security Bureau:

1. In this Order, on our own motion, we extend for an additional 30 days our prior waiver of the 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 waiver will extend until November 24, 2008, to enable the Commission to further consider Sprint's Petition for Relief filed on June 17, 2008.¹ We take this action 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.² 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.³ 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.⁴ The vacated channels in the Expansion Band and Guard Band would be available for licensing under their pre-rebanding pool categories.⁵

3. In the *800 MHz 3rd MO&O*, 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 are complete.⁶ 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

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

² 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).

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

⁴ *Id.* at 15052 ¶ 152.

⁵ *Id.* at 15051-52 ¶ 151.

⁶ 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*).

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.⁷

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.⁸ Since the Sprint Petition was filed, several other parties have submitted comments on the petition.⁹ On June 20, 2008, we waived the deadline by which Sprint must vacate the Mid-Band for a period of 30 days to provide the Commission with additional time to consider the Sprint Petition.¹⁰ We have since extended the deadline by three additional 30-day periods, *i.e.*, until October 24, 2008.¹¹ Today, we waive this deadline for an additional 30 days to provide the Commission with additional 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), 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 until November 24, 2008.

FEDERAL COMMUNICATIONS COMMISSION

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

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

⁸ Sprint Petition at 2-5.

⁹ See Letter from Robert M. Gurs, Director, Legal & Government Affairs, APCO International; Harlin R. McEwen, Chairman, IACP Communications & Technology Committee; and Alan Caldwell, Senior Advisor, Government Relations, International Association of Fire Chiefs, to Marlene H. Dortch, Secretary, Federal Communications Commission, June 24, 2008; Letter from Mark E. Crosby, President/CEO, Enterprise Wireless Alliance, to Marlene H. Dortch, Secretary, Federal Communications Commission, July 10, 2008; Letter from Alejandro A. Calderon, CEO, Spectrum Acquisitions, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, July 25, 2008.

¹⁰ Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Order*, 23 FCC Rcd 9581 (PSHSB 2008).

¹¹ Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Order*, 23 FCC Rcd 11271 (PSHSB 2008); Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Order*, 23 FCC Rcd 12819 (PSHSB 2008); Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Order*, 23 FCC Rcd 13851 (PSHSB 2008).