



Federal Communications Commission  
Washington, D.C. 20554

June 26, 2009

DA 09-1438

David L. Nace, Esq.  
Lukas, Nace, Guitierrez & Sachs, LLP  
1650 Tysons Boulevard, Suite 1500  
McLean, Virginia 22102

Nadja S. Sodos-Wallace, Esq.  
Clearwire Corporation  
815 Connecticut Avenue, N.W., Suite 610  
Washington, D.C. 20006

Dear Mr. Nace and Ms. Sodos-Wallace:

On April 25, 2007, Evertek, Inc. ("Evertek") filed a request seeking a permanent waiver of Sections 27.1230-27.1239 of the Commission's Rules to allow Evertek and its licensees/lessors to opt-out of the transition of the 2500-2690 MHz band.<sup>1</sup> On April 21, 2009, Evertek sought leave to withdraw its Waiver Request.<sup>2</sup> For the reasons stated below we grant Evertek's Withdrawal Requests.

Evertek seeks to withdraw its opt-out waiver request because it has changed its business plans.<sup>3</sup> Specifically, instead of continuing to offer service over 23 high-power channels in the 2496-2690 MHz band, Evertek will migrate its video customers to a satellite provider or to a fiber optic system in Sioux City and to a satellite provider in Fort Dodge.<sup>4</sup> Evertek has coordinated this withdrawal request with Fixed Wireless Holdings, LLC and Clearwire Corporation (together, Clearwire), the transition proponent for the Sioux City, Iowa (B421)<sup>5</sup> and Fort Dodge, Iowa (B150)<sup>6</sup> Basic Trading Areas, where Evertek's operations are located.<sup>7</sup> We note that the Transition Initiation Plans filed by Clearwire for both the Sioux City and Fort Dodge BTAs on January 21, 2009, included licenses that constitute Evertek's system, as

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<sup>1</sup> Request for Waiver, Evertek, Inc. (filed Apr. 25, 2007) (Waiver Request).

<sup>2</sup> Notice of Conditional Withdrawal of Opt Out Request of Evertek, Inc. and Amendment to Transition Plan of Clearwire Corporation for BTA 421, Sioux City, IA, Evertek, Inc. and Clearwire Corporation (filed Apr. 21, 2009) (Sioux City Withdrawal Request); Notice of Conditional Withdrawal of Opt Out Request of Evertek, Inc. and Amendment to Transition Plan of Clearwire Corporation for BTA 421, Fort Dodge, IA, Evertek, Inc. and Clearwire Corporation (filed Apr. 21, 2009) (Fort Dodge Withdrawal Request).

<sup>3</sup> Sioux City Withdrawal Request at 1; Fort Dodge Withdrawal Request at 1.

<sup>4</sup> Sioux City Withdrawal Request at 1; Fort Dodge Withdrawal Request at 1; Waiver Request at 3-4.

<sup>5</sup> Letter from Nadja Sodos-Wallace, Regulatory Counsel and Assistant Secretary, Clearwire Corporation to Office of the Secretary, Federal Communications Commission, WT Docket No. 06-136 (filed Jan. 21, 2009) (Clearwire Sioux City Transition Initiation Plan).

<sup>6</sup> Letter from Nadja Sodos-Wallace, Regulatory Counsel and Assistant Secretary, Clearwire Corporation to Office of the Secretary, Federal Communications Commission, WT Docket No. 06-136 (filed Jan. 21, 2009) (Clearwire Fort Dodge Transition Initiation Plan).

<sup>7</sup> Evertek's Spencer system is located in the Sioux City, IA BTA and its Palmer system is located in the Fort Dodge, IA BTA. Waiver Request at 3-4.

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well as other licenses.<sup>8</sup> Clearwire originally estimated that it would complete the transition for both BTAs by August 3, 2009.<sup>9</sup> As part of its coordination with Evertek's Sioux City and Fort Dodge Withdrawal Requests, Clearwire has filed an amendment to its Transition Initiation Plans estimating that it would complete the transition by October 21, 2010.<sup>10</sup> Evertek has agreed to cease operations in the Sioux City and Fort Dodge BTAs by October 1, 2010.<sup>11</sup>

We have reviewed the Withdrawal Request and find that withdrawal of the Waiver Request would facilitate transition to the new band plan for the 2500-2690 MHz band and would be consistent with Evertek's current business plans. We therefore find Evertek's Withdrawal Request to be in the public interest. As required, we will place Clearwire's transition plans for the Sioux City, Iowa and Fort Dodge, Iowa BTAs, as amended, on public notice.<sup>12</sup>

Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), and Section 27.1231(g) of the Commission's Rules, 47 C.F.R. § 27.1231(g), that the Notice of Conditional Withdrawal of Opt Out Request of Evertek, Inc. and Amendment to Transition Plan of Clearwire Corporation for BTA 421, Sioux City, IA filed by Evertek, Inc. and Clearwire Corporation on April 21, 2009 and the Notice of Conditional Withdrawal of Opt Out Request of Evertek, Inc. and Amendment to Transition Plan of Clearwire Corporation for BTA 150, Fort Dodge, IA filed by Evertek, Inc. and Clearwire Corporation on April 21, 2009 ARE GRANTED, and the Request for Waiver filed by Evertek, Inc. on April 25, 2007 IS DISMISSED WITH PREJUDICE.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble  
Deputy Chief, Broadband Division  
Wireless Telecommunications Bureau

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<sup>8</sup> Clearwire Sioux City Transition Initiation Plan at Exhibit 1; Clearwire Fort Dodge Transition Initiation Plan at Exhibit 1.

<sup>9</sup> Clearwire Sioux City Transition Initiation Plan at 1; Clearwire Fort Dodge Transition Initiation Plan at 1.

<sup>10</sup> Letter from Nadja Sodos-Wallace, Regulatory Counsel and Assistant Secretary, Clearwire Corporation to Office of the Secretary, Federal Communications Commission, WT Docket No. 06-136 (filed Apr. 23, 2009) at 1-2; Letter from Nadja Sodos-Wallace, Regulatory Counsel and Assistant Secretary, Clearwire Corporation to Office of the Secretary, Federal Communications Commission, WT Docket No. 06-136 (filed Apr. 23, 2009) at 1-2.

<sup>11</sup> Sioux City Withdrawal Request at 1; Fort Dodge Withdrawal Request at 1.

<sup>12</sup> See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Third Memorandum Opinion and Order and Second Report and Order*, WT Docket No. 03-66, 21 FCC Rcd 5606, 5653 ¶ 93 (2006).

David L. Nace, Esq.  
Nadja S. Sodos-Wallace, Esq.

cc: Trey Hanbury, Esq.  
Director, Sprint Nextel Corporation  
2001 Edmund Halley Drive  
Reston, VA 20191

Cheryl Crate  
Vice President, Government and Public Relations  
Xanadoo, LLC  
225 City Line Avenue, Suite 100  
Bala Cynwyd, PA 19004

Jennifer M. McCarthy  
NextWave Wireless, Inc.  
975 F Street, N.W., Suite 520  
Washington, DC 20004

Todd D. Gray, Esq.  
Dow Lohnes PLLC  
1200 New Hampshire Ave., N.W., Suite 800  
Washington, DC 20036-6802

Edwin N. Lavergne, Esq.  
Donna A. Balaguer, Esq.  
Fish & Richardson P.C.  
1425 K Street, N.W., Suite 1100  
Washington, D.C. 20005