



PUBLIC NOTICE

Federal Communications Commission
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DA 11-1152
Released: June 30, 2011

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON PETITION FROM SPRINT NEXTEL TO ALLOW WIDEBAND OPERATIONS IN 800 MHZ ENHANCED SPECIALIZED MOBILE RADIO SERVICE BANDS.

WT Docket No. 11-110

Comment Date: August 1, 2011

Reply Comment Date: August 16, 2011

On June 3, 2011, Sprint Nextel Corporation (Sprint Nextel) submitted a Petition for Declaratory Ruling (Petition) that the Commission's rules permit larger than 25 kHz bandwidth operations in the 800 MHz Enhanced Specialized Mobile Radio Service (ESMR) bands (817 – 824 MHz/862 – 869 MHz).¹ As an alternative, Sprint Nextel requests the Petition be treated as a Petition for Rulemaking to revise Section 90.209 to the extent necessary to expressly authorize ESMR band Economic Area (EA) licensees to deploy technologies using bandwidths greater than 25 kHz on their contiguous spectrum assignments.² Sprint Nextel contends that there is an apparent incongruity between Section 90.209 of the Commission's Rules, which restricts 800 MHz channels to a maximum bandwidth of 25 kHz, and the more narrowly-focused provision in Subpart S of Part 90, Section 90.691 of the Commission's rules, which it believes to allow wider bandwidth operations on contiguous channel EA licenses, so long as such operations conform to the Commission's out-of-band emission requirements.³

Sprint Nextel holds geographically-licensed ESMR licenses with sufficient contiguous 800 MHz channels to accommodate wideband technology options, such as 1.25 MHz CDMA equipment.⁴ It plans to incorporate the 800 MHz ESMR spectrum into Sprint's existing CDMA network which will result in improved coverage, increase capacity, and increased broadband data speeds.⁵ However, Sprint Nextel seeks clarification of the Commission's rules or, in the alternative, a change of the rules, to ensure that the 25 kHz channel limitation in Section 90.209 does not apply to ESMR licenses with contiguous spectrum sufficient to accommodate wideband technologies. Sprint Nextel states that such a clarification would further Congressional intent under the Omnibus Budget Reconciliation Act of 1993 (OBRA 93) by creating regulatory parity among commercial licensees in the 800 MHz, Cellular, and PCS spectrum allocations.⁶ Sprint Nextel contends that a review of recent Commission decisions for the 800 MHz band

¹ See Request for Declaratory Ruling that the Commission's Rules Authorize Greater than 25 kHz Bandwidth Operations in the 817-824/862-869 MHz Band, submitted to the Chief, Mobility Division, Wireless Telecommunication Division, FCC, on filed June 3, 2011 ("Petition").

² *Id.* at 1 n.1.

³ 47 CFR 90.209, 90.691.

⁴ See Petition at 3.

⁵ *Id.*

⁶ *Id.* at 4.

reveals that the Commission intended to allow wideband technologies in the ESMR bands, but Section 90.209 was never updated to reflect the changes in Subpart S of Part 90.⁷

We seek comment on all aspects of the Petition, as well as any other relevant issues such as possible interference to adjacent services by allowing wideband technologies and any other rules that may need to be changed if wideband technologies are permitted in the ESMR bands.

Procedural matters

Comments on the request are due **no later than August 1, 2011**. Reply comments are due **no later than August 16, 2011**. All filings should reference the docket number of this proceeding WT 11-110.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.⁸ Parties making oral *ex parte* presentations in this proceeding are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.⁹ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁰

The application and waiver request can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The request, and comments and reply comments filed in response to this *Public Notice*, will be available for public inspection and copying in the Commission's Reference Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, WT 11-110. Copies of the request are also available from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, “get form.” A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

⁷ Petition at 4-5.

⁸ *See* 47 C.F.R. §§ 1.1200(a), 1.1206.

⁹ *See* Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Rcd 19945 (2000).

¹⁰ *See* 47 C.F.R. § 1.1206(b)(2). Other rules pertaining to oral and written presentations are also set forth in Section 1.1206(b). *See* 47 C.F.R. § 1.1206(b).

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, as follows:

-Effective December 28, 2009, all hand-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m. **PLEASE NOTE:** This is the **ONLY** location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. The Commission's former filing location at 236 Massachusetts Ave., N.E., is permanently closed.

-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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

-All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Parties shall send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

Comments filed in response to this *Public Notice* will be available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, WT 11-110. The comments may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to fcc504@fcc.gov.

For further information, contact Mr. Thomas Derenge of the Wireless Telecommunications Bureau at (202) 418-2451 (voice), (202) 418-7233 (TTY), or via e-mail to thomas.derenge@fcc.gov.

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau.

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