



Federal Communications Commission
Washington, D.C. 20554

June 23, 2014

James B. Goldstein, Esq.
Sprint Corporation
12502 Sunrise Valley Drive
Reston, VA 20196

DA 14-866

Re: Sprint Waiver Request to Permit Wideband Operations in Portions of Nevada and Northern California NPSPAC Regions, WT Docket No. 14-29

Dear Mr. Goldstein:

In this letter, we grant two waiver requests by Sprint Corporation (Sprint) that will allow Sprint to deploy its 800 MHz wideband operations in certain portions of the Northern California¹ and Nevada² National Public Safety Planning Advisory Committee (NPSPAC) regions before 800 MHz Band reconfiguration has been completed in those regions (collectively, Waiver Requests). Granting the Waiver Requests will permit LTE deployment in most of the counties within the Northern California and Nevada NPSPAC regions, providing Sprint's subscribers access to these valuable broadband wireless services while protecting the remaining public safety entity from harmful interference. We therefore find that granting the Waiver Requests is in the public interest.

Section 90.209(b)(7) of the Commission's rules³ permits Economic Area-based 800 MHz Specialized Mobile Radio (SMR) licensees, such as Sprint, to deploy wideband operations in the 817-821/862-866 MHz portion of the SMR spectrum band in NPSPAC regions where 800 MHz band reconfiguration is still continuing, and in the 821-824/866-869 MHz portion of the SMR band only in NPSPAC regions where 800 MHz band reconfiguration has been completed.⁴

¹ Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Northern California Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region (filed Feb. 12, 2014) (Northern California Waiver Request). The Northern California Waiver Request covers Call Signs WPOH360, WPOH391, WPOH394, WPOH397, WPOH399, and WPOH401. This region is designated by NPSPAC as Region 6.

² Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Nevada Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region (filed Feb. 12, 2014) (Nevada Waiver Request). The Nevada Waiver Request covers Call Signs WPOH360 and WPOH366. This region is designated by NPSPAC as Region 27.

³ 47 C.F.R. § 90.209(b)(7).

⁴ 47 C.F.R. § 90.209(b)(7). *See also* Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees, *Report and Order*, WT Docket 12-64, 27 FCC Red 6489, 6495-96 ¶ 12 (2012) (*800 MHz Wideband Order*). SMR licensees are authorized to operate in the 813.5-824/858.5-869 MHz portion of the 800 MHz band only in the Southeastern U.S. counties listed in Section 90.614(c). *See* 47 C.F.R. § 90.209(b)(7); *800 MHz Wideband Order* at 6490 ¶ 1 n. 1. The NPSPAC regions where Sprint requests relief do not contain any of the listed counties.

Pursuant to this rule, Sprint is deploying a 1.25 MHz wide CDMA channel at 817-821/862-866 MHz throughout the country while rebanding is still underway.⁵ Sprint also is deploying a 5 x 5 MHz Long-Term Evolution (LTE) channel in the SMR band at 819-824/864-869 MHz, which comprises both the 817-821/862-866 MHz and 821-824/866-869 MHz portions of the SMR Bands, in NPSPAC regions where 800 MHz band reconfiguration has been completed.⁶ On February 12, 2014, Sprint filed the Waiver Requests so that it may deploy 800 MHz wideband operations at 821-824/866-869 MHz in certain portions of the Northern California and Nevada NPSPAC regions prior to full completion of 800 MHz band reconfiguration in those regions.

In the Northern California Waiver Request, Sprint notes that 800 MHz band reconfiguration is complete in the Northern California NPSPAC Region 6 in all areas except for two sites licensed to San Bernardino County (SBC), a Southern California NPSPAC region licensee.⁷ Specifically, 54 of the 55 public safety licensees required to be retuned from the “old NPSPAC band” (821-824/866-869 MHz) have successfully completed their retunes.⁸ Similarly, in the Nevada Waiver Request, Sprint notes that 800 MHz band reconfiguration is complete in the Nevada NPSPAC Region 27 in all areas in the region except for one site licensed to SBC.⁹ Specifically, 10 of the 11 public safety licensees required to be retuned from the old NPSPAC band have successfully completed their retunes.¹⁰

Sprint states that Section 90.209(b)(7) prohibits broadband operations at 821-824/866-869 MHz in either the Northern California or Nevada NPSPAC regions until SBC has certified that it has completed its retunes in the corresponding NPSPAC region.¹¹ Thus, Sprint argues, it cannot deploy broadband LTE in the old NPSPAC band in the areas of Northern California or Nevada that are fully cleared of public safety operations, including populous metropolitan areas such as San Francisco, Oakland, and Sacramento, as well as Reno, Lake Tahoe and Carson City, respectively.¹² Sprint maintains that it can integrate the old NPSPAC band spectrum into its broadband network in much of Northern California and Nevada without posing any risk of interference to SBC’s operations in Inyo County and Clark County, Nevada that have not been re-tuned.¹³

⁵ See Northern California Waiver Request at 1; Nevada Waiver Request at 1.

⁶ See Northern California Waiver Request at 1; Nevada Waiver Request at 1.

⁷ See Northern California Waiver Request at 1. SBC’s two Northern California NPSPAC Region 6 sites are located in Inyo County, which is just north of San Bernardino County and is at the southernmost edge of the Northern California NPSPAC Region. *Id.* at 1-2.

⁸ See Northern California Waiver Request at 2.

⁹ See Nevada Waiver Request at 1. SBC’s one Nevada NPSPAC Region 27 site is in Clark County, which is the southernmost county in the Nevada NPSPAC region. *Id.* at 1-2.

¹⁰ See Nevada Waiver Request at 2.

¹¹ See Northern California Waiver Request at 3; Nevada Waiver Request at 3.

¹² See Northern California Waiver Request at 3; Nevada Waiver Request at 3.

¹³ See Northern California Waiver Request at 3; Nevada Waiver Request at 3. While Sprint does not explicitly discuss the impact to Tulare County in the Northern California Waiver Request, Sprint does exclude it from the scope of the Northern California Waiver Request. From a review of Sprint’s waiver showing, including maps
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Sprint therefore requests a waiver of Section 90.209(b)(7) so that it may launch LTE in the 46 Northern California NPSPAC Region 6 counties¹⁴ and 16 Nevada NPSPAC Region 27 counties¹⁵ in which 800 MHz rebanding is complete.¹⁶ Sprint notes that in the Northern California NPSPAC Region 6, each county is more than 80 miles away from the nearest SBC operational site in the old NPSPAC band,¹⁷ and in the Nevada NPSPAC Region 27, 14 of the 16 counties are entirely located more than 80 miles away from the closest SBC site still operational in the old NPSPAC band.¹⁸ Sprint argues that this more-than-80-mile co-channel separation exceeds the co-channel separation requirements in Section 90.621(b) of the Commission's rules.¹⁹ Further, Sprint maintains that the minimum 80-mile co-channel separation will provide an additional protection buffer for the remaining SBC operations in the process of being retuned in the Northern California and Nevada NPSPAC regions.²⁰ Additionally, Sprint will, as required by the Commission's rules, provide SBC with 30 days advance notice of Sprint's deployment and planned initiation date of operations in the Northern California and Nevada NPSPAC regions.²¹

Sprint states that it has provided SBC with details of Sprint's proposed deployment in the Northern California and Nevada NPSPAC regions and its proposed measures to protect these jurisdictions from any risk of interference.²² Sprint also states that it has provided SBC with copies of the Waiver Requests and that SBC has indicated that it does not object to a grant of the Waiver Requests in light of the 80-mile co-channel distance separation proposed by Sprint.²³

On February 19, 2014, the Commission issued a *Public Notice* seeking comment on the Waiver Requests.²⁴ SBC filed comments in response to the *Public Notice* stating that it does not oppose the Waiver Requests.²⁵

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detailing SBC site locations, it appears that Sprint's operations in the old NPSPAC band spectrum should similarly not impact SBC operations in Tulare County.

¹⁴ See Attachment A.

¹⁵ See Attachment A.

¹⁶ See Northern California Waiver Request at 3; Nevada Waiver Request at 3.

¹⁷ See Northern California Waiver Request at 3.

¹⁸ See Nevada Waiver Request at 3. Sprint states that in two counties where the 80 mile protection zone is bisected (Esmeralda and Nye), it will provide more than 80 miles of co-channel separation to any SBC sites in California or Nevada on any site that it does deploy in these two counties. *Id.* at n. 8.

¹⁹ See Northern California Waiver Request at 3; Nevada Waiver Request at 3. Section 90.621(b) permits 800 MHz co-channel usage at sites as close as 55 miles depending on the technical parameters of the proposed facilities. 47 C.F.R. § 90.621(b).

²⁰ See Northern California Waiver Request at 3; Nevada Waiver Request at 3.

²¹ See Northern California Waiver Request at 3 n. 8; Nevada Waiver Request at 3 n. 9; see also *800 MHz Wideband Order* at 6495 ¶ 14.

²² See Northern California Waiver Request at 3; Nevada Waiver Request at 3.

²³ See Northern California Waiver Request at 3; Nevada Waiver Request at 3.

²⁴ Wireless Telecommunications Bureau Seeks Comment on Sprint Waiver Request to Permit Wideband Operations in Portions of Nevada and Northern California NPSPAC Regions, *Public Notice*, WT Docket 14-29, 29 FCC Rcd 1794 (WTB MD 2014) (*Public Notice*).

Pursuant to Section 1.925 of the Commission's rules, waiver may be granted if the petitioner establishes that: (1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and the grant of the waiver would be in the public interest; or (2) where the petitioner establishes unique or unusual factual circumstances, that application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.²⁶

Based on the unusual factual circumstances described by Sprint, we find that a waiver is warranted in this case because application of the rule would inhibit LTE deployment in the 46 Northern California counties and 16 Nevada counties where retuning has been completed. As Sprint argues, it would be inequitable and unduly burdensome to prohibit its subscribers' access to these valuable broadband wireless services until SBC, the final public safety licensee, completes its retuning from the old NPSPAC band, particularly where SBC does not object to the planned deployment.²⁷ Such a constraint on broadband deployment and consumer choice is contrary to the public interest in light of measures (*i.e.* co-channel separation and advance notification) that will protect public safety entities from harmful interference.²⁸ We therefore waive Section 90.209(b)(7) to permit Sprint to accelerate its broadband deployment in the 46 Northern California counties and 16 Nevada counties listed in Attachment A. This waiver is specifically conditioned on the following:

- (1) In the 46 Northern California counties and 16 Nevada counties listed in Attachment A, Sprint must maintain a minimum 80-mile co-channel separation between Sprint's proposed operations at 821-824/866-869 MHz and the closest SBC site still operational in the old NPSPAC band.
- (2) Sprint must provide SBC with 30 days advance notice of Sprint's deployment and planned initiation date of operations in both the Northern California and Nevada NPSPAC regions.²⁹
- (3) Sprint may not deploy LTE at 821-824/866-869 MHz in the two Northern California counties listed in Attachment B until 800 MHz band reconfiguration has been completed in the entire Northern California NPSPAC Region 6. In addition, Sprint may not deploy LTE at 821-824/866-869 MHz in the one Nevada county listed in Attachment B until 800 MHz band reconfiguration has been completed in the entire Nevada NPSPAC Region 27.

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²⁵ See Joint Comments of San Bernardino County, California; Ottawa County, Ohio; Orleans County, New York; Franklin County, Ohio; and the City of Mesa, Arizona, WT Docket 14-29, at 2 (Joint Comments); Further Joint Comments of San Bernardino County, California; Ottawa County, Ohio; Orleans County, New York; Franklin County, Ohio; and the City of Mesa, Arizona, WT Docket 14-29, at 2 (Further Joint Comments). We note that the Joint Comments also seek action regarding public safety use of 800 MHz interleaved spectrum. That issue is outside the scope of this Letter and therefore is not addressed herein.

²⁶ 47 C.F.R. § 1.925.

²⁷ See Joint Comments at 2; Further Joint Comments at 2.

²⁸ See *800 MHz Wideband Order* at 6495 ¶ 14.

²⁹ The 30 day notification is required by 47 C.F.R. § 90.209(b)(7).

Further, Sprint's operations remain subject to the Commission's rules regarding abatement of unacceptable interference as set forth in sections 90.672, 90.673, 90.674 and 90.675.³⁰

As conditioned, our grant will facilitate more rapid broadband availability in both Northern California and Nevada, while protecting ongoing public safety operations in the old NPSPAC band until they are fully retuned. The conditions of this waiver will terminate for the Northern California NPSPAC region when 800 MHz band reconfiguration has been completed in the entire Northern California NPSPAC Region 6, and for the Nevada NPSPAC region when 800 MHz band reconfiguration has been completed in the entire Nevada NPSPAC Region 27.

Accordingly, IT IS ORDERED that, pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Sections 0.331 and 1.925 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.925, Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Northern California Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region and Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Nevada Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region ARE GRANTED to the extent described above.

Sincerely,

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau
Federal Communications Commission

³⁰ See 47 C.F.R. §§ 90.672, 90.673, 90.674 and 90.675.

Attachment A – List of Counties Subject to Waiver Request

Northern California

Alameda	Napa
Alpine	Nevada
Amador	Placer
Butte	Plumas
Calaveras	Sacramento
Colusa	San Benito
Contra Costa	San Francisco
Del Norte	San Joaquin
El Dorado	San Mateo
Fresno	Santa Clara
Glenn	Santa Cruz
Humboldt	Shasta
Kings	Sierra
Lake	Siskiyou
Lassen	Solano
Madera	Sonoma
Marin	Stanislaus
Mariposa	Sutter
Mendocino	Tehama
Merced	Trinity
Modoc	Tuolumne
Mono	Yolo
Monterey	Yuba

Nevada

Carson City	Lincoln
Churchill	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine

Attachment B – List of Counties Excluded from Waiver Request

Northern California

Inyo
Tulare

Nevada

Clark
