



Federal Communications Commission  
Washington, D.C. 20554

May 24, 2018

James B. Goldstein  
Sprint Corporation  
900 7<sup>th</sup> Street, NW  
Suite 700  
Washington, DC 20001

DA 18-542

Re: Sprint Corporation Request for Modification of Waiver to Permit 800 MHz Wideband Operations in Additional Portions of San Antonio – Texas (Region 53) Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region; FCC File Nos. 0007885836, 0007885843, and 0007885851

Dear Mr. Goldstein:

In this letter, we grant a modification request by Sprint Corporation (Sprint) that will allow Sprint to deploy its 800 MHz wideband operations in certain portions of the San Antonio – Texas National Public Safety Planning Advisory Committee (NPSPAC) Region 53 before 800 MHz Band reconfiguration has been completed in that Region.<sup>1</sup> Granting the Modification Request will permit LTE deployment in a total of 39 counties—including 30 counties where we have granted similar waiver relief<sup>2</sup> in addition to nine counties where Sprint has yet to deploy LTE<sup>3</sup>—providing Sprint’s subscribers access to these valuable broadband wireless services while protecting the remaining public safety entities from harmful interference. We therefore find that granting the Modification Request is in the public interest.

Section 90.209(b)(7) of the Commission’s rules 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

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<sup>1</sup> Sprint Corporation Request for Modification of Waiver to Permit 800 MHz Wideband Operations in Additional Portions of San Antonio – Texas (Region 53) Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region, ULS File Nos. 0007885836, 0007885843, and 0007885851 (filed Aug. 10, 2017) (Modification Request). The Modification Request was filed by one of Sprint’s subsidiary corporations, NPCR, Inc., and covers Call Signs WPOI311, WPOK476, and WPOH315.

<sup>2</sup> *Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Texas – San Antonio (Region 53) Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region*, Letter Order, 32 FCC Rcd 1365 (WTB MD 2014) (2014 Waiver Order).

<sup>3</sup> Specifically, Sprint seeks to include portions of the following counties in the Modification Request: Aransas, Duval, Jim Wells, Nueces, and Webb. It plans to include the full county in the Modification Request with respect to La Salle, Live Oak, McMullen, and San Patricio Counties.

NPSPAC regions where 800 MHz band reconfiguration has been completed.<sup>4</sup> In 2014, Sprint sought and was granted a waiver of Section 90.209(b) that permitted it to deploy LTE in 30 counties in the San Antonio – Texas NPSPAC Region, subject to several conditions.<sup>5</sup> Since then, Sprint states that it has deployed LTE broadband services at nearly 300 sites in those counties under its conditional waiver of Section 90.209(b).<sup>6</sup> On August 10, 2017, Sprint filed this request to modify the waiver relief granted in the *2014 Waiver Order* so that Sprint may now deploy 800 MHz LTE operations at 821-824/866-869 MHz no closer than 70 miles in the 30 counties where it is currently deploying LTE and an additional nine counties within the San Antonio – Texas NPSPAC Region prior to full completion of 800 MHz band reconfiguration in that Region.

Sprint states that certain San Antonio – Texas NPSPAC Region public safety licensees have not completed their retunes.<sup>7</sup> Sprint explains that many of these remaining retunes will take place in, if not before, early 2018 when “the Mexican-side retunes will clear the path for U.S. licensees to retune to their replacement frequencies.”<sup>8</sup> Sprint maintains that it can deploy 800 MHz LTE within the additional nine counties while rebanding continues in South Texas without increasing the risk of interference to the remaining San Antonio – Texas NPSPAC licensees.<sup>9</sup>

Sprint argues, however, that, “[b]ecause the 800 MHz band reconfiguration is not yet completed in South Texas, Sprint remains unable to provide 800 MHz 4G LTE services in all areas of the San Antonio NPSPAC Region” in light of Section 90.209(b)(7).<sup>10</sup> Sprint therefore requests a modification of the waiver of Section 90.209(b)(7) granted in the *2014 Waiver Order* so that it may accelerate its broadband deployment by also operating LTE sites in the nine additional San Antonio – Texas NPSPAC Region counties in which 800 MHz rebanding is now complete.<sup>11</sup> Sprint states that its planned sites in each of these counties are located more than 70 miles away from the San Antonio – Texas public safety sites still operating in the old NPSPAC band.<sup>12</sup> Sprint proposes to maintain a distance of more than 70 miles between co-channel operations to provide an additional buffer of protection to the remaining public safety operations, which, Sprint argues, would be entirely consistent with the co-channel separation

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<sup>4</sup> 47 CFR § 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 Rcd 6489, 6495-96, para. 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 CFR § 90.209(b)(7); *800 MHz Wideband Order*, 27 FCC Rcd at 6490, para. 1 n.1. The NPSPAC Region where Sprint requests relief does not contain any of the listed counties.

<sup>5</sup> *2014 Waiver Order*, 29 FCC Rcd at 1368-69.

<sup>6</sup> Modification Request at 2.

<sup>7</sup> *See id.* at 3.

<sup>8</sup> *Id.* at 2. Sprint states that, since the *2014 Waiver Order*, it and the 800 MHz incumbent licensees have made significant progress on the 800 MHz band reconfiguration initiative. *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 1 and 3.

<sup>12</sup> *See id.* at 3.

requirements in the Commission's rules.<sup>13</sup> In addition, Sprint agrees to correct any interference caused by its LTE deployment to public safety operations.<sup>14</sup>

To support its petition, Sprint provided concurrences from four public safety incumbents in the San Antonio – Texas NPSPAC Region—Cameron County, the City of Rio Grande, Willacy County, and the San Benito CISD Police Department on October 23, 2017.<sup>15</sup> Subsequently, Sprint provided additional concurrences from the City of Brownsville, the City of Edinburg, the City of Harlingen, the City of Mission, the City of Pharr, Hidalgo County, and the Lower Rio Grande Valley Development Council.<sup>16</sup> Sprint also notes that, between the filing of the Waiver Request and April 3, 2018, the Lower Rio Grande Valley Development Council, the City of Hidalgo, and the Edinburg CISD PD have since completed retuning.<sup>17</sup>

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.<sup>18</sup>

Based on the unusual factual circumstances described by Sprint, we find that modification of the waiver granted in the *2014 Waiver Order* is warranted in this case because application of the rule would inhibit LTE deployment in nine counties, which were excluded from the previous waiver, within the San Antonio – Texas NPSPAC Region where retuning has been completed. We conclude that it would be inequitable and unduly burdensome to prohibit access to valuable broadband wireless services in the areas

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<sup>13</sup> *Id.* Section 90.621(b) specifies a minimum separation distance of 70 miles, while Section 90.621(b)(4) permits 800 MHz co-channel usage at sites as close as 55 miles depending on the technical parameters of the proposed facilities. 47 CFR §§ 90.621(b), 90.621(b)(4).

<sup>14</sup> *See, e.g.*, Supplement to Sprint Waiver Modification Request for Additional Portions of San Antonio – Texas NPSPAC Region 53, ULS File Nos. 0007885836, 0007885843, and 0007885851 (filed Oct. 23, 2017), Attachments.

<sup>15</sup> *Id.*

<sup>16</sup> *See* Supplement to Sprint Waiver Modification Request for Additional Portions of San Antonio – Texas NPSPAC Region 53, ULS File Nos. 0007885836, 0007885843, and 0007885851 (filed Nov. 7, 2017) (providing concurrences from the City of Harlingen and Hidalgo County); Fourth Supplement to Sprint Waiver Modification Request for Additional Portions of San Antonio – Texas NPSPAC Region 53, ULS File Nos. 0007885836, 0007885843, and 0007885851 (filed Jan. 2, 2018) (providing the Lower Rio Grande Valley Development Council concurrence); Fifth Supplement to Sprint Waiver Modification Request for Additional Portions of San Antonio – Texas NPSPAC Region 53, ULS File Nos. 0007885836, 0007885843, and 0007885851 (filed Jan. 25, 2018) (providing the City of Pharr concurrence); Sixth Supplement to Sprint Waiver Modification Request for Additional Portions of San Antonio – Texas NPSPAC Region 53, ULS File Nos. 0007885836, 0007885843, and 0007885851 (filed Feb. 13, 2018) (providing concurrences from the City of Brownsville and the City of Mission); Eighth Supplement to Sprint Waiver Modification Request for Additional Portions of San Antonio – Texas NPSPAC Region 53, ULS File Nos. 0007885836, 0007885843, and 0007885851 (filed Apr. 3, 2018) (providing the City of Edinburg concurrence).

<sup>17</sup> *See* Seventh Supplement to Sprint Waiver Modification Request for Additional Portions of San Antonio – Texas NPSPAC Region 53, ULS File Nos. 0007885836, 0007885843, and 0007885851 (filed Apr. 3, 2018). We note that Sprint erred in including Harlingen CISD and the City of McAllen, as both are non-NPSPAC public safety entities. The Texas – San Antonio NPSPAC licensees are listed in Attachment C.

<sup>18</sup> 47 CFR § 1.925.

around Corpus Christi and Laredo until the remaining San Antonio – Texas NPSPAC licensees complete their retuning from the old NPSPAC band where Sprint will maintain such a significant geographic separation between its sites and those of the San Antonio – Texas NPSPAC Region public safety entities. 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.<sup>19</sup> We note that we have previously granted similar waivers where Sprint maintained a separation distance of at least 70 miles from the closest public safety site,<sup>20</sup> and we are not aware of occurrences of harmful interference that were found to have resulted from those waivers. Our review of Sprint’s Modification Request leads us to conclude that similar relief is warranted here. We therefore waive Section 90.209(b)(7) to permit Sprint to accelerate its broadband deployment in the portions of 39 San Antonio – Texas NPSPAC Region counties listed in Attachment A, including the nine additional counties. This modification of the waiver granted in the *2014 Waiver Order* is specifically conditioned on the following:

- (1) In the portions of the thirty-nine (39) counties in the San Antonio – Texas NPSPAC Region listed in Attachment A, Sprint must maintain a minimum 70-mile co-channel separation between Sprint's proposed operations at 821-824/866-869 MHz and the closest public safety site still operational in the old NPSPAC band.
- (2) Sprint must provide each public safety entity listed in Attachment C with 30-days advance notice of Sprint's deployment and planned initiation date of operations in the San Antonio – Texas NPSPAC Region.
- (3) Sprint may not deploy LTE at 821-824/866-869 MHz in the nine (9) counties listed in Attachment B until 800 MHz band reconfiguration has been completed in the entire San Antonio – Texas NPSPAC Region.
- (4) If Sprint receives a report that station(s) operating in the areas covered by this waiver are causing harmful interference to a public safety licensee, it shall immediately suspend operation under this waiver of such station(s) except for test transmissions to identify and eliminate the interference. Sprint may resume operation under this waiver of such station(s) after the interference has been successfully mitigated.

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.<sup>21</sup>

As conditioned, our grant will facilitate more rapid broadband availability in areas close to Corpus Christi and Laredo, while protecting ongoing public safety operations in the old NPSPAC band until they are fully retuned. The conditions of this waiver will terminate when 800 MHz band reconfiguration has been completed in the entire San Antonio – Texas NPSPAC Region 53.

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<sup>19</sup> See *800 MHz Wideband Order*, 27 FCC Rcd at 6495, para. 14.

<sup>20</sup> See, *e.g.*, *Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Arizona Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region*, Letter Order, 32 FCC Rcd 1365 (WTB MD 2017).

<sup>21</sup> See 47 CFR §§ 90.672, 90.673, 90.674 and 90.675.

James B. Goldstein  
May 24, 2018  
Page 5

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 CFR §§ 0.331, 1.925, the Sprint Corporation Request for Modification of Waiver to Permit 800 MHz Wideband Operations in Additional Portions of San Antonio – Texas NPSPAC Region (Region 53) Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region, filed August 10, 2017, is GRANTED to the extent described above.

Sincerely,

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

**Attachment A – List of Counties Subject to Modification Request**

*\*denotes county not originally included in 2014 Waiver Order*

Aransas*	Kendall
Atascosa	Kerr
Bandera	Kinney
Bee	LaSalle*
Bexar	Lavaca
Caldwell	Live Oak*
Calhoun	Maverick
Comal	McMullen*
DeWitt	Medina
Dimmit	Nueces*
Duval*	Real
Edwards	Refugio
Frio	San Patricio*
Gillespie	Uvalde
Goliad	Val Verde
Gonzales	Victoria
Guadalupe	Webb*
Jackson	Wilson
Jim Wells*	Zavala
Karnes	

**Attachment B – List of Counties Excluded from Modification Request**

Brooks
Cameron
Hidalgo
Jim Hogg
Kennedy
Kleberg
Starr
Willacy
Zapata

**Attachment C – List of Remaining Licensees in the San Antonio – Texas NPSPAC Region**

City of Brownsville
Cameron County
City of Edinburg
City of Harlingen
City of Mission
City of Pharr
City of Rio Grande
Hidalgo County
San Benito CISD PD
Willacy County