



PUBLIC NOTICE

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**COMMISSION SEEKS COMMENT ON *EX PARTE* PRESENTATIONS AND
EXTENDS CERTAIN DEADLINES REGARDING THE
800 MHZ PUBLIC SAFETY INTERFERENCE PROCEEDING
WT DOCKET NO. 02-55**

Comment Date: 10 days after publication in the Federal Register

On September 16, 2004, Nextel Communications, Inc. (Nextel) filed an *ex parte* presentation in WT Docket 02-55, Improving Public Safety Communications in the 800 MHz Band,¹ in which it sought clarification and/or modification of certain aspects of the Commission's *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, FCC 04-168 (800 MHz Public Safety Order)*, released on August 6, 2004.² Nextel has also submitted additional *ex parte* presentations that provide information regarding several of the issues raised in the September 16th *ex parte* presentation.³ Other parties have filed *ex parte* presentations in response to Nextel's *ex parte* filings.⁴

In order to develop a full and complete record and to further the effective implementation of the 800 MHz band reconfiguration process, the Commission issues this Public Notice seeking expedited comment on the issues raised in all of the above-referenced *ex parte* presentations, including the

¹ Letter from Regina M. Keeney, Esq., Counsel to Nextel, to Marlene H. Dortch, Secretary, Federal Communications Commission (FCC) (filed Sept. 16, 2004).

² See Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket 02-55, 19 FCC Rcd 14,969 (2004).

³ See, e.g., Letter from Regina M. Keeney, Esq., Counsel to Nextel, to Marlene H. Dortch, Secretary, FCC (filed Sept. 21, 2004); Letter from Regina M. Keeney, Esq., Counsel to Nextel, to Marlene H. Dortch, Secretary, FCC (filed Sept. 23, 2004); Letter from Lawrence R. Krevor, Vice-President-Government Affairs, Nextel, to Marlene H. Dortch, Secretary, FCC (filed Sept. 28, 2004); Letter from Regina M. Keeney, Esq., Counsel to Nextel, to Marlene H. Dortch, Secretary, FCC (filed Oct. 1, 2004).

⁴ See, e.g., Letter from R. Michael Senkowski, Esq., Counsel for Verizon Wireless, to Michael Powell, Chairman, FCC (filed Sept. 15, 2004); Letter from Elizabeth R. Sachs, Esq. Counsel for Airpeak Communications, LLC, and Airtel Wireless Services, LLC, to Michael Powell, Chairman, FCC (filed Oct. 5, 2004); Letter from Robert M. Gurs, Esq., Counsel to Association of Public-Safety Communications Officials International, Inc., to Michael Powell, Chairman, FCC (filed Oct. 5, 2004); Letter from Christine Gill, Esq., Counsel to SouthernLINC, to Michael J. Wilhelm, Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, FCC (filed Oct. 8, 2004); Letter from Chris Guttman-McCabe, CTIA, to Marlene H. Dortch, Secretary, FCC (filed Oct. 13, 2004).

mechanics of the relocation process, valuation of the spectrum, and interference issues. *Note that we are not seeking comment on those filings that address the freeze on 900 MHz applications.*⁵ Rather, we ask that commenters focus their comments on the issues that Nextel has raised in its above-referenced *ex parte* presentations.

The Commission requests comments to be filed no later than **10 days after publication of this Public Notice in the Federal Register** and is **not** requesting reply comments. We are waiving the reply comment cycle required pursuant to 47 C.F.R. § 1.415(c) for good cause, because we believe that expedited consideration of these issues is important to avoid uncertainty in the implementation of the 800 MHz band reconfiguration process and to avoid further delaying resolution of the problems of unacceptable interference affecting public safety licensees in this band.⁶ In addition, in order to avoid uncertainty for Nextel and other 800 MHz licensees, we believe it is appropriate to provide these parties with additional time to comply with certain benchmarks that are set forth in the *800 MHz Public Safety Order*. For this reason, with the exception of the statutory deadlines for filing petitions for reconsideration and for seeking judicial review of the *800 MHz Public Safety Order*,⁷ we extend these deadlines by 45 days.⁸ Specifically, we extend the following deadlines:

- The deadlines contained in paragraph 342 of the *800 MHz Public Safety Order*;
- The deadlines contained and referenced in paragraph 344 of the *800 MHz Public Safety Order* (as amended by the *Second Erratum* in this docket released October 5, 2004);
- The deadline contained in paragraph 345 of the *800 MHz Public Safety Order* (as numbered in the *Second Erratum*);
- The BAS relocation deadlines set out in paragraphs 346 and 352 of the *800 MHz Public Safety Order* (as numbered in the *Second Erratum*).

We stress, however, that we are not delaying the effective date of the rules set forth in Appendix C of the *800 MHz Public Safety Order*, including the effective dates of technical standards and procedural mechanisms we adopted in the *800 MHz Public Safety Order* to abate unacceptable interference in the short term.

Interested parties may view the referenced *ex parte* filings on the Commission's Electronic Comment Filing System (ECFS) using the following steps: (1) access ECFS at <http://www.fcc.gov/e-file/ecfs.html>. (2) In the introductory screen, click on "Search for Filed Comments." (3) In the

⁵ Wireless Telecommunications Bureau Freezes Applications in the 900 MHz Band, *Public Notice*, DA 04-3013, Sept. 17, 2004 (Wireless Telecommunications Bureau (Bureau) suspended the acceptance of applications for new 900 MHz licenses as of September 17, 2004). The Bureau will resolve petitions relating to the 900 MHz freeze in a future proceeding. *See 800 MHz Public Safety Order*, 19 FCC Rcd 14,969, ¶ 342.

⁶ This Public Notice, and the filing of comments responsive to it, does not prejudice the right of any party to file a petition for reconsideration, *see* 47 C.F.R. § 1.429, or any other pleading authorized by the Commission's rules, relating to the instant *800 MHz Public Safety Order* or any subsequent order in this proceeding. Accordingly, parties seeking to file a petition for reconsideration of the *800 MHz Public Safety Order* must comply with the Commission's filing requirements. *See, e.g.*, 47 C.F.R. §§ 1.4, 1.429.

⁷ *See* 47 U.S.C. §§402, 405; *see also* 47 C.F.R. § 1.429.

⁸ For example, actions that previously were required within 30 or 60 days of Federal Register publication of the *800 MHz Public Safety Order* are now required within 75 or 105 days, respectively, of Federal Register publication of the *800 MHz Public Safety Order*. As noted above, this extension does not apply to the deadlines for filing petitions for reconsideration or for seeking judicial review of the *800 MHz Public Safety Order*.

“Proceeding” box, enter “02-55.” (4) Check the box marked “Search by Date Range. (5) In the “Date received/adopted” block, in the “From” column, enter 07/08/2004; and in the “To” column enter the date this Public Notice is published in the Federal Register in the format MM/DD/YYYY.

All filings must be addressed to the Commission’s Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. One (1) courtesy copy must be delivered to Roberto Mussenden at Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, 445 12th Street, SW, Suite 5-C140, Washington, DC 20554, or via e-mail, roberto.mussenden@fcc.gov, and one (1) copy must be sent to Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160, or via e-mail www.bcpweb.com.

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission’s rules, 47 C.F.R. § 1.1206(b).

Commenters may file comments 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). Commenters filing through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, commenters must submit only one copy of an electronic submission. 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. Commenters 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 <your e-mail address>.” Commenters will receive a sample form and directions in reply.

Parties that choose to file by paper must file an original and four copies 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.

Commenters may send filings by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). The Commission’s contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. Commenters must bind all hand deliveries together with rubber bands or fasteners and must dispose of any envelopes before entering the building. This facility is the only location where the Commission’s Secretary will accept hand-delivered or messenger-delivered paper filings. Commenters must send commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) to 9300 East Hampton Drive, Capitol Heights, MD 20743. Commenters should address U.S. Postal Service first-class mail, Express Mail, and Priority Mail to 445 12th Street, SW, Washington, D.C. 20554.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160, or via e-mail www.bcpweb.com.

By the Commission.

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