



# PUBLIC NOTICE

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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES ENHANCEMENTS TO THE METRIC DATA USED IN 800 MHZ REBANDING NEGOTIATIONS AND MEDIATIONS

WT Docket No. 02-55

By this Public Notice, the Public Safety and Homeland Security Bureau (Bureau) announces enhancements to the TA Metrics – historical data on the cost of rebanding 800 MHz systems compiled by the 800 MHz Transition Administrator (TA). These data are derived from the rebanding costs documented in approved Frequency Reconfiguration Agreements (FRAs) and amendments between Stage 2 public safety licensees and Sprint Nextel Corporation (Sprint).

Currently, the TA Metrics, publicly available on the TA’s web site,<sup>1</sup> reflect cost data from over 800 FRAs and amendments that have been evaluated and approved by the TA. With the large amount of data now available, the TA has been able to provide more granular breakdowns of two key system size parameters – number of subscriber units and number of system repeaters. This more granular information will allow licensees in ongoing or future FRA negotiations to more closely relate their systems to those that serve as the basis of the TA Metrics. The tables, below, summarize the changes:

### SUBSCRIBER UNITS

### REPEATERS

Prior Increments of Subscriber Units	New Increments of Subscriber Units		Prior Increments of Repeaters	New Increments of Repeaters
0	0		0	0
1-500	1-500		1-5	1-5
501-1000	501-1000		6-10	6-10
1001-2000	1001-2000		>10	11-55
2001-4000	2001-4000			56-145
4001-10000	4001-6000			>145
> 10000	6001-10000			
	>10000			

Because the TA Metrics are organized by system size and characteristics, they serve as a valuable tool for licensees with variously sized systems to assess their estimated rebanding costs before they enter

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<sup>1</sup> The TA Metrics are available at [http://www.800ta.org/content/resources/FRA\\_Metrics.pdf](http://www.800ta.org/content/resources/FRA_Metrics.pdf).

into FRA negotiations with Sprint. They also assist the TA and the Bureau in analyzing whether licensees' proposed rebanding costs meet the Commission's Minimum Cost Standard.<sup>2</sup> We therefore encourage parties to use the TA Metrics and related Cost Metrics Comparison Reports as guidelines during their negotiations and mediations.

We emphasize that, although the cost ranges presented in the TA Metrics give rise to a presumption of reasonableness, they are not binding or dispositive of individual cases. In particular, any party to negotiation or mediation may demonstrate that there are aspects of a reconfiguration that differentiate it from the reconfigurations on which the TA Metrics are based, therefore justifying higher or lower rebanding costs. Because rebanding licensees bear the burden of demonstrating that their proposed costs meet the Minimum Cost Standard, a licensee whose costs are significantly higher than the costs incurred by licensees with similarly sized reconfigurations must conclusively demonstrate by record evidence that its reconfiguration is, in fact, materially different from the reconfigurations on which the TA Metrics are based. Costs that deviate greatly from the TA Metrics will be given close scrutiny by the TA Mediators and by the Bureau in cases that are submitted to the Bureau for *de novo* review.

To assist parties in applying the TA Metrics, we provide the following specific guidance:

- Before beginning rebanding negotiations with Sprint, licensees should consult the TA Metrics so that they have an understanding of, among other things, typical costs for the internal management of rebanding and the fees charged by consultants, attorneys, and other service providers for rebanding of similarly sized systems.
- After a licensee submits its reconfiguration cost estimate, the TA prepares a "Cost Metrics Comparison Report" that compares the licensee's proposed costs in 17 categories to the TA Metrics for similarly sized reconfigurations. The TA mediator provides this report to both parties at the start of negotiations.
- On request by a party, the TA will provide both parties with additional TA Metrics information, *e.g.*, licensee identity, network manufacturer, and cost information for FRAs for reconfigurations of similar size that serve as the basis of the TA Metrics.
- If the parties fail to negotiate an FRA, and there are cost issues in dispute, the TA will generate, and the TA mediator will include in the mediation record, Final Cost Metrics Comparison Reports comparing the TA Metrics to the final respective cost proposals of the parties. As described in the TA's Alternative Dispute Resolution Plan, the parties have the opportunity to comment on the reports, and the reports and the parties' comments will be considered by the TA mediator as part of his or her Recommended Resolution.<sup>3</sup>
- If parties do not agree on an FRA, the TA mediator forwards the Recommended Resolution and the mediation record, including the Final Cost Metrics Comparison Reports, to the Bureau for *de novo* review and decision.

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<sup>2</sup> The Commission's orders in this docket assign licensees the burden of proving that the funding they request is reasonable, prudent, and the "minimum necessary to provide facilities comparable to those presently in use" (Minimum Cost Standard). Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969, 15074 (2004); *clarified by* Improving Public Safety Communications in the 800 MHz Band, *Memorandum Opinion and Order* 22 FCC Rcd 9818, 9819-9821 (2007).

<sup>3</sup> See "Alternative Dispute Resolution Plan for 800 MHz Transition Administrator, LLC (Version 1.7)," at 18, WT Docket No. 02-55 (filed Sept. 17, 2009).

The enhancements to the TA Metrics discussed in this Public Notice are to be applied on a going-forward basis and shall not be used in cases in which a TA Mediator has previously submitted a Recommended Resolution to the Bureau. For further information, please contact Roberto Mussenden, Esq., (202) 418-1428, roberto.mussenden@fcc.gov.

By the Deputy Chief, Policy Division, Public Safety and Homeland Security Bureau

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