

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of)	
)	
Mississippi State University)	WT Docket No. 02-55
)	
and)	Mediation No. TAM-32234
)	
Nextel Communications, Inc.)	

SECOND ORDER REOPENING THE RECORD

Adopted: January 4, 2013

Released: January 4, 2013

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

I. BACKGROUND

1. By *Order Reopening the Record*,¹ released July 26, 2012, the Policy and Licensing Division of the Public Safety and Homeland Security Bureau (Bureau) reopened the record in the captioned matter to adduce additional evidence on the performance characteristics of radios operated by Mississippi State University (MSU) if those radios were retuned to the NPSPAC band.² More specifically, the *Order Reopening the Record* required that a representative sample of MSU radios be submitted to a Commission-certified laboratory to ascertain whether the radios conformed to current Commission rules respecting NPSPAC band operations, and the Commission's environmental rules, when retuned to the NPSPAC band consistent with the "radio realignment solution" proposed by Sprint Nextel Corp. (Sprint).³ After a considerable delay,⁴ the laboratory produced reports indicating that the radios fully conformed with current Commission NPSPAC band and environmental rules. Those reports and related documents were transmitted to the Bureau by the 800 MHz Transition Administrator (TA) mediator on January 2, 2013. The record transmitted included, *inter alia*, comments by MSU disputing the scope of measurements made by the laboratory,⁵ responsive

¹ Mississippi State University and Nextel Communications, Inc., WT Docket 02-55, *Order Reopening the Record*, 27 FCC Rcd 8351, 8357 (PSHSB 2012) (*Order Reopening the Record*). Nextel is a wholly-owned subsidiary of Sprint Nextel Corp. For purposes of uniformity in the 800 MHz rebanding proceeding, we refer to Sprint Nextel Corp. and its subsidiaries as "Sprint."

² 806-809/851-854 MHz. The band is so called because it was allocated pursuant to recommendations from the National Public Safety Planning Advisory Committee.

³ *Order Reopening the Record*, 27 FCC Rcd at 8357. The radio realignment solution refers to Sprint's proposal to reduce the deviation of MSU's 3-Site Scan radios from 5 kHz to 4 kHz to enable the radios to comply with the Commission's technical rules for the NPSPAC band.

⁴ The delay was due, in principal part, to negotiations between MSU and Sprint over the alignment of the radios to make them suitable for the laboratory testing procedures.

⁵ Comments of Licensee, Nov. 21, 2012.

pleadings by Sprint and a Surreply from MSU.⁶

II. DISCUSSION

2. MSU disputes the scope of the laboratory measurements in the following respects:
 - It claims that the radios should have been tested for compliance with the “H” and “G” emission masks in Section 90.210 of the Commission’s rules because the radios do not employ a low-pass audio filter when transmitting data on the trunking control channel.
 - It claims that the power flux density of one of the radios (the MDX model) was understated because the radio, in practice, may have a higher gain antenna than the antenna that MSU provided for the test MDX radio.
 - It questions the laboratory’s conclusions concerning SAR (Specific Absorption Rate) values because they were made on the assumption that the body SAR represented the worst case and, therefore, that face SAR measurement was not required, and because the radio on which this conclusion was based was not representative all of the radio models furnished by MSU.

III. DECISION

3. On review of the supplemented record, we find that there is sufficient evidence therein for the Bureau to decide the merits of MSU’s claims regarding radio power flux density. We agree with MSU, however, that the record remains incomplete with respect to MSU’s radios’ compliance with the emission mask requirements of Section 90.210 of the Commission’s rules.⁷ The MSU radios were tested for conformance with emission mask B – the mask applicable only when radios employ an audio low-pass filter. MSU’s radios, however, do not employ an audio low-pass filter when they transmit data on the radios’ control channel. Accordingly, the radios should have been tested for conformance with emission mask H for the NPSPAC channels and emission mask G for the interleaved channels.⁸ We also agree with MSU that both face and body SAR should have been tested. The laboratory’s assumption that the face SAR would be less than the body SAR was unwarranted because the assumption was extrapolated from historical data from another laboratory, and was not representative of all of the radio models submitted by MSU for testing.⁹

4. We are therefore remanding this matter to the TA mediator for the limited purpose of adducing evidence on the radios’ conformity to emission masks G and H, when operated in the digital mode without an audio low-pass filter; and the radios’ conformity to the SAR limits in Sections 2.1091 and 2.1093 of the Commission’s rules.¹⁰ Sprint shall be responsible for payment of reasonable

⁶ Comments of Nextel Communications, Inc., Nov. 21, 2012; Reply of Nextel Communications, Inc. to the Comments of Licensee, Dec. 11, 2012; Surreply of Mississippi State University, Dec. 24, 2012.

⁷ 47 C.F.R. § 90.210.

⁸ The interleaved channels extend from 809-815/854-860 MHz. Three of the 4 radios provided by MSU were manufactured before the emission mask rules became effective. The Bureau, however, required that the retuned radios meet current NPSPAC band rules and conform to current environmental standards. *Order Reopening the Record*, 27 FCC Rcd at 8356-8357. No party sought reconsideration of the *Order Reopening the Record*.

⁹ As MSU observes, the Harris model PCS radio uses a different platform than the Harris model 300P radio which served as the basis for the laboratory’s determination that face testing was not required. MSU Surreply at 6.

¹⁰ 47 C.F.R. §§ 2.1091, 2.1093.

associated expenses or may, at its option, accept the Integrated Multisite Controller (IMC) solution proposed by MSU.¹¹ We direct the TA Mediator to transmit the results of the laboratory's supplementary measurements to the Bureau without accepting comments, proposed resolution memoranda, or other pleadings from the parties. A party may submit supplementary statements of position within 5 calendar days of transmittal of the supplementary record to the Bureau.¹² The supplementary statements of position are limited to 5 pages, double spaced, not including appendices. No responsive pleadings whether by reply or otherwise will be accepted. The record will close upon submission of supplementary statements of position, if any. Otherwise the record will be deemed to have closed upon transmittal of the supplementary record to the Bureau.

IV. ORDERING CLAUSES

5. Accordingly, pursuant to the authority of Sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331; Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 90.677, of the Commission's Rules, 47 C.F.R. § 90.677, IT IS ORDERED, that the record in this proceeding IS RE-OPENED.

6. IT IS FURTHER ORDERED, that this matter IS REMANDED to the Transition Administrator Mediator for action consistent herewith.

7. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
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¹¹ MSU proposes an IMC switch to mimic 3-Site Scan functionality. Sprint objects to this proposal on the grounds that it represents an impermissible upgrade to MSU's system and, if implemented, would create network congestion and busy signals. *Order Reopening the Record*, 27 FCC Rcd at 8352.

¹² The TA Mediator shall notify the parties, by email or telephone when the supplementary record is submitted to the Bureau.