



PUBLIC NOTICE

**Federal Communications Commission
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DA 13-98
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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON PETITION FOR DECLARATORY RULING BY SPRINT NEXTEL CORPORATION CONCERNING 800 MHZ REBANDING “ANTI-WINDFALL” PAYMENT AND LETTER OF CREDIT MINIMUM AMOUNT

WT Docket No. 02-55

COMMENTS DUE: February 25, 2013

REPLY COMMENTS DUE: March 11, 2013

By this Public Notice, the Public Safety and Homeland Security Bureau (PSHSB) seeks comment pursuant to Section 1.2(b) of the Commission’s rules¹ on a request for Declaratory Ruling filed by Sprint Nextel Corporation (Sprint) in the 800 MHz rebanding proceeding.² In its declaratory ruling request, Sprint seeks a determination that, based on its cumulative creditable rebanding expenditures, it will not have to make an “anti-windfall” payment to the U.S. Treasury pursuant to the Commission’s 800 MHz rebanding orders.³ Should the Commission determine that no anti-windfall payment is required, Sprint urges the Commission to simplify and streamline certain rebanding-related record-keeping and audit processes.⁴

Sprint further requests that the Commission allow Sprint to reduce below \$850 million the minimum amount of the Letter of Credit that Sprint was required to obtain to secure its relocation funding obligations.⁵ The Commission has allowed reductions in the original \$2.5 billion Letter of Credit amount as Sprint has paid rebanding expenses, but previously established an \$850 million “floor” for the Letter of Credit balance.⁶ Sprint contends that this minimum balance no longer serves the public interest because it exceeds the amount that Sprint will need to pay to complete the rebanding of 800 MHz systems that have not rebanded to date.⁷

¹ 47 C.F.R. § 1.2(b).

² Petition for Declaratory Ruling filed by Sprint Nextel Corporation (filed Jan. 22, 2013) (Petition). The Petition is available in the FCC Electronic Comment Filing System (ECFS), <http://apps.fcc.gov/ecfs/>. Select “Search for Filings” and enter “02-55” in the “Proceeding Number” field.

³ *Id.* at 5-13.

⁴ *Id.* at 15-16.

⁵ *Id.* at 16-19.

⁶ 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, 14987 (2004).

⁷ Petition at 18.

We seek comment on Sprint’s Petition for Declaratory Ruling and announce the pleading cycle during which comments and replies may be filed.

This proceeding will be treated as “permit but disclose” for purposes of the Commission’s *ex parte* rules. *See generally* 47 C.F.R. §§ 1.1200-1.1216. As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission’s rules applicable to non-restricted proceedings.⁸ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). Written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Parties may file comments on the Petition for Declaratory Ruling on or before February 25, 2013. Reply comments may be filed on or before March 11, 2013.

Please place the rulemaking number, WT Docket No. 02-55, on all filings. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

⁸ 47 C.F.R. § 1.1206.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Copies of the Petition and any subsequently filed documents in this matter are also available for inspection in the Commission's Reference Information Center:

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For further information, contact John A. Evanoff, Esq., Policy and Licensing Division, Public Safety and Homeland Security Bureau, at 202-418-0848 or John.Evanoff@fcc.gov.

Action by the Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau.

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