

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Sprint Nextel Request for Waiver of ) WT Docket No. 12-82  
FCC Rule Section 90.209 )

To: Chief, Wireless Telecommunications Bureau

**COMMENTS  
OF THE  
ENTERPRISE WIRELESS ALLIANCE**

The Enterprise Wireless Alliance (“EWA” or “Alliance”), in accordance with Section 1.45 of the Federal Communications Commission (“FCC” or “Commission”) rules, respectfully submits its comments in the above-entitled proceeding.<sup>1</sup> The proceeding involves a request submitted by Sprint Nextel Corporation (“Sprint Nextel”) seeking a waiver of the 25 kHz bandwidth limitation in FCC Rule Section 90.209 to enable it to deploy a 1.30 MHz bandwidth CDMA channel within the 817-821/862-866 MHz portion of the Enhanced Specialized Mobile Radio (“ESMR”) band (817-824/862-869 MHz) in 11 Basic Economic Areas (EAs).<sup>2</sup>

EWA has addressed this same issue in several recent proceedings. It filed comments in response to the initial Sprint Nextel submission on this subject and stated that if the FCC satisfied itself that deployment of CDMA on ESMR spectrum would not cause harmful

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<sup>1</sup> *Wireless Telecommunications Bureau Seeks Comment on Request by Sprint Nextel Corporation for Waiver of Section 90.209 of the Commission’s Rules*, Public Notice, WT Docket No. 12-82, DA 12-506 (rel. Mar. 30, 2012) (“Public Notice”).

<sup>2</sup> Request for Rule Waiver of Section 90.209 of the Commission’s Rules to Permit the Operation of Broadband CDMA Technology in the 817-824/862-869 MHz Band, filed Mar. 27, 2012 (“Waiver Request”).

interference to other users in the 800 MHz band, then the Alliance believed the public interest would be well-served by the availability of this more advanced technology.<sup>3</sup>

Earlier this month, EWA filed in response to the FCC's Notice of Proposed Rulemaking seeking comment on whether Section 90.209 should be modified to permit the deployment of broadband technology in the ESMR band.<sup>4</sup> The Alliance supported the proposed rule change on the basis that the FCC indicated it had analyzed the impact of allowing CDMA operations in the ESMR band and had concluded that doing so would not increase the potential for interference to other users in the band. The Alliance also noted that the spectrum included in the ESMR band is not uniform throughout the country and, in particular, can vary in the Canadian Border area from region to region. It recommended that this fact be recognized in the rules to ensure that site-based facilities continue to be protected from adjacent region CDMA operations. EWA also reminded the Commission that non-public safety entities will begin to utilize 800 MHz Guard Band (816-817/861-862 MHz) spectrum that sits immediately below the ESMR band in much of the country as soon as the FCC establishes a process for accepting applications for Guard Band channels. For that reason, the Alliance urged that the rules recognize that non-public safety and public safety licensees alike are entitled to protection when operating in bands adjacent to Sprint Nextel's CDMA facilities.

The instant Waiver Request seeks authority to deploy CDMA technology in several EAs pending Commission action in the rulemaking proceeding. The Commission already has granted waivers and special temporary authorizations ("STAs") that have permitted Sprint Nextel to deploy and test CDMA on its ESMR band channels in a number of markets, subject to conditions

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<sup>3</sup> See *Wireless Telecommunications Bureau Seeks Comment on Petition from Sprint Nextel to Allow Wideband Operations in 800 MHz Enhanced Specialized Mobile Radio Service Bands*, WT Docket No. 11-110, Public Notice, DA 11-1152 (rel. June 30, 2011); EWA Comments filed Aug. 1, 2011.

<sup>4</sup> See *Notice of Proposed Rulemaking*, WT Docket Nos. 12-64 and 11-110, 77 FR 18991 (Mar. 29, 2012) ("NPRM"); EWA Comments filed Apr. 13, 2012.

intended to ensure that it does not cause interference to public safety users in the 800 MHz band.<sup>5</sup> In its Waiver Request, Sprint Nextel states that it “has provided the Commission with a conclusive demonstration that its CDMA network architecture reduces the risk of interference to 800 MHz public safety communications as compared to existing iDEN operations.”<sup>6</sup> Both the Public Notice and the Waiver Request reference the conditions imposed on previously granted waivers and STAs, conditions that presumptively would apply to the waivers sought herein as well.<sup>7</sup>

EWA supports the waiver relief requested by Sprint Nextel for the same reasons and with the same caveats that the Alliance has articulated in previous filings on this subject. Assuming Sprint Nextel has provided the conclusive documentation of non-interference as stated in the Waiver Request, a claim supported by the rule changes proposed in the NPRM, then the Alliance agrees that deployment of this more advanced technology will serve the public interest. However, it urges the FCC to condition waiver relief on non-interference to both public safety and non-public safety users in the 800 MHz band. Should Sprint Nextel seek further waiver relief in EAs affected by exceptions from the nationwide 800 MHz band plan, then the Alliance’s caution about preventing adjacent market interference also must be addressed.

ENTERPRISE WIRELESS ALLIANCE

By: \_\_\_\_\_/s/  
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<sup>5</sup> See NPRM at n. 23; Waiver Request at 2-3.

<sup>6</sup> Waiver Request at 4-5 citing NRPM at n. 47.

<sup>7</sup> See Waiver Request at 2-3; Public Notice at 2.

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April 30, 2012

CERTIFICATE OF SERVICE

I, Linda J. Evans, with the law firm of Lukas, Nace Gutierrez and Sachs, LLP, hereby certify that I have, on this 30<sup>th</sup> day of April, 2012 caused to be mailed, first-class, postage prepaid, a copy of the foregoing Comments to the following:

James B. Goldstein, Esq.  
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/s/ Linda J. Evans