



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU OUTLINES APPLICATION FREEZE PROCESS FOR IMPLEMENTATION OF 800 MHZ BAND RECONFIGURATION

By this *Public Notice*, the Wireless Telecommunications Bureau (Bureau) outlines the process for acceptance of applications for 800 MHz band licenses in connection with implementation of the reconfiguration of the band.¹ Specifically, in each National Public Safety Planning Advisory Committee (NPSPAC)² region, there will be two separate application filing freezes during band reconfiguration. As discussed below, the use of two separate freezes is intended to preserve licensee flexibility and, to the extent practicable, to avoid adverse effects on 800 MHz band radio operations.

By way of background, pursuant to the *Report and Order*, band reconfiguration in a given NPSPAC region would begin with the release of a Public Notice (*Starter PN*), specifying the date on which reconfiguration negotiations become mandatory instead of voluntary.³ During the negotiation period all incumbent licensees in the NPSPAC region whose facilities must be reconfigured would negotiate with Nextel about payment of the associated costs.⁴ If Nextel and an incumbent licensee fail to reach a voluntary agreement, they would then be required to enter a three-month mandatory negotiation period, starting on the date specified in the *Starter PN*.⁵

On January 31, 2005, the Transition Administrator (TA) for the band reconfiguration process⁶ filed a band reconfiguration schedule proceeding over four separate time periods (“waves”), with each

¹ See Improving Public Safety Communications in the 800 MHz Band, *Report and Order*, WT Docket No. 02-55, 19 FCC Rcd 14969, 15078 ¶ 204 (2004) (*Report and Order*).

² NPSPAC refers to six megahertz of spectrum the Commission set aside for public safety use on a regional basis. This band became known as the “NPSPAC band” because many of the rules governing this band had been recommended by the National Public Safety Planning Advisory Committee (NPSPAC). See Development and Implementation of a Public Safety National Plan and Amendment of Part 90 to Establish Service Rules and Technical Standards for Use of the 821-824/866-869 MHz Bands by the Public Safety Services, GEN Docket No. 87-112, *Report and Order*, 3 FCC Rcd 905 (1987).

³ See *Report and Order*, 19 FCC Rcd at 15076 ¶ 201.

⁴ See *Report and Order*, 19 FCC Rcd at 15064 ¶ 178. Note that parties are free to enter into negotiations at any time, but must conclude any voluntary negotiations before the start of the mandatory negotiation period. *Id.* at 15076, ¶ 201; see also *Supplemental Order*, 19 FCC Rcd at 25158-59, ¶ 87.

⁵ *Report and Order*, 19 FCC Rcd 15075-76, ¶ 201.

⁶ The Commission established the position of a Transition Administrator to oversee band reconfiguration. See *Report and Order*, 19 FCC Rcd at 15070-75 ¶¶ 190-200. The entity selected to serve as the TA is a three-organization made up of BearingPoint, Squire, Sanders & Dempsey L.L.P., and Baseline Telecom, Inc. See Wireless Telecommunications Bureau Concurs with Search Committee Selection of a Transition Administrator, *Public Notice*, DA 04-3492, 19 FCC Rcd 21923 (WTB 2004).

wave encompassing a group of NPSPAC regions.⁷ Under the TA's "wave-by-wave" approach, there are two separate negotiation periods for each NPSPAC region -- one negotiation period for non-NPSPAC licensees and a second negotiation period for NPSPAC licensees. In so doing, the TA adhered to the Commission's direction in the *Report and Order* to make such accommodations as were necessary to avoid the adverse effects attendant on freezes.⁸ We approved the schedule and specifically concurred with the TA's recommendation for two separate negotiation periods. Similarly, there will be two freeze periods, one for non-NPSPAC licensees and one for NPSPAC licensees. This approach implements the 800 MHz band reconfiguration in a manner which minimizes the adverse effects of a freeze on incumbent licensees and new applicants, as envisioned by the Commission.⁹

- The freeze period for non-NPSPAC licensees in a given region starts upon release of a *Starter PN* and, affects only the band segment 806-817 MHz / 851-862 MHz.
- Thereafter, we will issue a subsequent *Starter PN* -- the *NPSPAC Starter PN* -- that will freeze the acceptance of applications in the current NPSPAC band segment 821-824 MHz / 866-869 MHz.

Immediately upon release of the *Starter PN* and the *NPSPAC Starter PN*, the Bureau, as a general matter, would no longer accept applications for new facilities, changes in the frequency of existing facilities or coverage increases in the particular NPSPAC region during the negotiation period.¹⁰ The freeze period will end thirty working days after conclusion of the three-month mandatory negotiation period.¹¹

Action by the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau.

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⁷ See Wireless Telecommunications Bureau Approves the Basic Reconfiguration Schedule put Forth in the Transition Administrator's 800 MHz Regional Prioritization Plan, WT Docket No. 02-55, *Public Notice*, DA 05-619, 70 Fed. Reg. 21786 (2005). The Reconfiguration Schedule filed by the TA is available on the Commission's 800 MHz band reconfiguration web page at <http://www.800MHz.gov>.

⁸ See *Report and Order*, 19 FCC Rcd at 15078 ¶ 204.

⁹ The Commission explicitly intended band reconfiguration to have the least adverse effect on licensees. See *Report and Order*, 19 FCC Rcd at 15078 ¶ 204.

¹⁰ The Commission did not freeze the acceptance of applications that are necessary to implement band reconfiguration. *Report and Order*, 19 FCC Rcd at 15078 ¶ 204. However, the Commission did include an area within seventy miles of the NPSPAC region within the parameters of the application acceptance freeze because 800 MHz systems within that seventy-mile area can affect stations located within the region that is being reconfigured. See *Supplemental Order*, 19 FCC Rcd at 25158-59 ¶ 87. Further, the Commission reiterated the availability of the Commission's waiver process and special temporary authorizations when needed in order to avoid prejudice to any applicant during the band reconfiguration process. *Report and Order*, 19 FCC Rcd at 15078 ¶ 204.

¹¹ See *Report and Order*, 19 FCC Rcd at 15078 ¶ 204.