

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

In the Matter of)	
)	
Amendment of Parts 1, 21, 73, 74 and 101)	WT Docket No. 03-66
of the Commission's Rules to Facilitate the)	RM-10586
Provision of Fixed and Mobile Broadband)	
Services, Educational and Other Advanced)	
Services in the 2150-2162 and 2500-2690)	
MHz Bands)	

COMMENTS IN SUPPORT OF PETITION FOR RECONSIDERATION

Sprint Corporation, pursuant to Section 1.106 of the Commission's Rules,¹ hereby submits its Comments in Support of the Petition for Reconsideration ("PFR") filed April 7, 2003 by the Wireless Cable Association International, Inc. ("WCA") in the above-referenced proceeding. In its PFR, WCA asks the Commission to limit the freeze on the filing of applications for new and modified facilities imposed in the Notice of Proposed Rule Making and Memorandum Opinion and Order ("NPRM/MO&O") released April 2nd in this proceeding.² Sprint strongly supports the PFR and urges the Commission to expeditiously limit the freeze as requested in the PFR – to apply only for new ITFS applications seeking licenses for what is now ITFS spectrum "white space."

Sprint supports WCA's PRF *in toto*. Most fundamentally, Sprint agrees with WCA that it is "... impossible to square the Commission's broad suspension of applications with the Commission's recognition that:

This proceeding provides us with another opportunity to help meet our statutory duty to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including,

¹ 47 C.F.R. § 1.106

² See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz bands, WT 03-66, FCC 03-56 (Released April 2, 2003) ["NPRM/MO&O"].

in particular, elementary and secondary schools and classrooms). . .”³

As Chairman Powell has recently stated:

Introducing a third broadband pipe to the home as a competitor to cable modems and digital subscriber lines is among the FCC’s highest priorities – and there is no better candidate than spectrum-based services. Though wireless broadband is available in some markets, this potential pipe now merely trickles. My goal is to foster a regulatory environment in which this trickle becomes a rushing torrent, raging over and through obstacles to provide vital competition and reach unserved homes and communities.⁴

The Chairman’s views in this regard are universally shared by his fellow Commissioners.⁵ The application of the broad freeze in the NPRM/MO&O tightens the valve on the MDS/ITFS broadband pipe, limits existing broadband service in the 2150-2162 and 2500-2690 MHz bands to a continuing trickle and prevents Sprint and others from ending the wireless broadband draught that exists in many parts of the country. In

³PFR @2, quoting NPRM/MO&O, at ¶ 32 (footnotes omitted).

⁴FCC Chairman Michael Powell, “FCC Wireless Spadework in ’02 to Bear Fruit in ’03,” *RCR Wireless News*, at 1 (Mar. 17, 2003).

⁵ See *Health of the Telecommunications Sector: A Perspective from the Commissioners of the Federal Communications Commission: Hearing Before the House of Representatives Subcommittee on Telecommunications and the Internet*, 108th Cong., 1st Sess. (Feb. 26, 2003) (Opening Statement of Commissioner Kevin J. Martin) (“I have long believed that the Commission should make broadband its top priority. It is critical to create a regulatory environment that encourages new investment and the deployment of new broadband infrastructure.”) and (Written Statement of Commissioner Jonathan S. Adelstein) (“Wireless services also offer a dynamic and burgeoning new avenue for competition in both broadband and voice communications. We must encourage new and innovative technologies, and more efficient spectrum management, to maximize those opportunities.”) See also NPRM/MO&O (Separate Statement of Commissioner Kathleen Q. Abernathy) (“I believe that the public interest is best served by creating regulatory policies that foster effective investment and stimulate the delivery of service to the public.”); Remarks of Commissioner Michael J. Copps before the National Association of Regulatory Utility Commissioners – Telecommunications Committee in Portland, OR (July 29, 2002) (“. . . broadband is already becoming the key to our nation’s system of education and jobs and entertainment, and therefore, key to America’s future. Today access to broadband is as important as access to basic telephone service was in the past.”).

addition, the freeze needlessly prolongs the broadband duopoly currently enjoyed by most cable modem and DSL providers.

Sprint has deployed more first generation broadband wireless networks in the 2150-2162 and 2500-2690 MHz bands than any other licensee in those bands, adding over 50,000 customers to the service. Sprint has tested, and continues to test, next generation systems in several locations, including Houston, TX and Montreal, Canada.⁶ Sprint has also participated with Navini Networks, Inc. to obtain special temporary experimental authority to test Navini broadband equipment in Kansas City, MO and Overland Park, KS⁷ and has worked with IP Wireless (“IPW”) in IPW’s market test in Jacksonville, FL. And, Sprint has conducted user experience trials in Houston with approximately 75 customers using next generation technology. These trials have been highly successful, and Sprint is preparing to bring next generation broadband services to at least one major market and one smaller market before the end of the year. Sprint has invested a substantial amount of time and money to get to this point. The freeze imposed by the NPRM/MO&O prevents Sprint from realizing the benefits of its efforts and investments and denies broadband consumers the benefit of a third broadband pipe to the home.

One of the stated goals of the NPRM/MO&O is to, “. . . provide competition to cable and (Digital Subscriber Line) DSL services in the provision of broadband services in urban and rural areas . . . which may lead to reduced prices and more competition in the delivery of high-speed internet access services.”⁸ This goal is entirely consistent with Chairman Powell’s, as well as his fellow Commissioners’, goal of introducing a third broadband pipe to the home. The freeze, however, as WCA’s PRF notes, is entirely inconsistent with this goal. The freeze is the antithesis of the kind of regulatory

⁶ See, Mansell, “IP Wireless Gaining Customers,” *Kagan Broadband Fixed Wireless*, at 6 (May 6, 2002) (“Sprint . . . along with [MDS/ITFS operator] Nucentrix, are now trailing a new generation of [MDS/ITFS broadband equipment] suppliers led by the likes of Navini, IP Wireless, Vyyo, Iospan, Beam Reach and NextNet.”); Marek, “Houston Trial Tests MMDS’ Limits,” *Wireless Week*, at 1, 34 (Sept. 23, 2002).

⁷ *Federal Communications Commission Experimental Special Temporary Authorization*, Call Sign WB9XSD, FCC File No. 0451-EX-ST-2002 (Dec. 23, 2002).

⁸ *NPRM/MO&O* at ¶¶ 34-35.

environment needed to spur wireless broadband deployment and must be modified in accord with WCA's PFR.

For the reasons set forth herein and in WCA's PFR, Sprint strongly urges the Commission to reconsider and reverse the decision to suspend for the duration of this proceeding the filing of applications for any new or modified MDS and ITFS facilities, and to instead limit its freeze to applications proposing new ITFS stations in areas that are outside the protected service areas of currently licensed or applied-for stations.

Respectfully submitted,

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April 8, 2003

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CERTIFICATE OF SERVICE

I, LaTashia T. Williams, hereby certify that copies of the foregoing Petition for Reconsideration have been served by hand this 7th day of April, 2003, on the following:

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