

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the matter of)	
)	
NSAC, LLC)	
)	
Applications for Special Temporary Authority)	File Nos. 0006858203
To Transmit on EBS Channels KG1, KG2 and)	through 0006858219
KG3 in BTA 469 (West Palm Beach-Boca Raton,)	
FL), <i>et al.</i>)	

To: Secretary, Federal Communications Commission
Attn: Chief, Broadband Division, Wireless Telecommunications Bureau

OBJECTION TO APPLICATIONS

The National EBS Association (“NEBSA”) and the Catholic Technology Network (“CTN”) respectfully object to the above-referenced applications filed by NSAC, LLC (“Sprint”). Sprint requests Special Temporary Authority (“STA”) in seventeen BTAs to use spectrum in the K Guard Band licensed as part of the Educational Broadband Service (“EBS”) G channel group. Under the Commission’s rules, Sprint is not eligible to be authorized to operate on EBS channels, and it has not sought, and should not be granted, a waiver of the eligibility rules. Authorization of new operations on EBS channels should await the Commission’s forthcoming decision in WT Docket No. 03-66 relating to the licensing of vacant EBS spectrum.

Background

NEBSA and CTN are non-profit organizations that represent a large segment of the EBS community. Both organizations have been leading participants for decades in proceedings relating to EBS, including the adoption of rules and policies for licensing of all remaining vacant

EBS spectrum. Thus, NEBSA and CTN have a significant and legitimate interest in the processes and rules by which new EBS channels are applied for and authorized.

Sprint operates a commercial wireless network that relies in part on transmissions in the 2.5 GHz band pursuant to Sprint licenses in the Broadband Radio Service (“BRS”) and its leasing of excess capacity on EBS spectrum. Sprint now seeks to create multiple BTA-wide contiguous 71.5 MHz swaths of 2.5 GHz spectrum beginning with BRS Channel F4 in the Mid-Band Segment and running through BRS Channel H3 in the Upper Band Segment, in order to operate three 20 MHz wide commercial channels. Sprint notes that it is the licensee of all BRS spectrum in these BTAs, but is not licensed for the one megahertz of the K Block Guard Band channels that are licensed as part of the EBS G channel group. Sprint may have some access to leased spectrum on the G channel group, including the Guard Band channels, in these BTAs. However, there are areas within the BTAs where currently there are no authorized G group operations, and Sprint seeks by these applications to obtain authorizations to operate in those areas on the Guard Band channels associated with the EBS G channel group.

Argument

NEBSA and CTN have consistently objected to applications by commercial entities seeking direct FCC authorization to use EBS spectrum. Section 27.1201(a) of the Commission’s rules provides that EBS licenses are reserved for accredited institutions and governmental organizations engaged in the formal education of enrolled students and non-profit educational organizations serving such institutions and governmental organizations. Sprint is not qualified to hold an EBS license.

The fact that Sprint has requested temporary, rather than permanent, authority does not justify grant of the requested STAs. STAs for EBS spectrum should address emergency

situations where spectrum needs to be used temporarily to meet critical educational needs. STAs are not intended as a means of bypassing the Commission's basic eligibility requirements.¹ Sprint is not eligible for permanent EBS licenses, and it should not be found to be eligible for STAs on EBS spectrum.²

This is particularly true where, as here, the professed goal is to deploy commercial service on these channels "throughout the country." Thus, the request does not involve a unique situation faced by Sprint in a particular BTA, but rather a strategic decision by Sprint to use a particular swath of BRS and EBS channels nationwide to create three contiguous 20 MHz wireless channels for commercial purposes. The proposal bypasses the carefully constructed 2.5 GHz band plan which, as Sprint was aware when it developed its network plans, includes EBS spectrum that can only be authorized to EBS-eligible entities.³ The Commission should not permit Sprint to use STAs to circumvent eligibility rules and spectrum allocations.

NEBSA and CTN have no desire for the K Band channels to lie fallow if they can be used effectively. Indeed, NEBSA and CTN want to see full utilization of all EBS spectrum throughout the country at the earliest possible time. But there is a more appropriate way to accomplish this result. NEBSA and CTN have worked cooperatively with the Wireless

¹ In addition, "temporary" use is a slippery slope, particularly when Sprint intends to provide paid services to the public on the spectrum. For example, several years ago, NEBSA and CTN worked with another commercial entity which agreed to temporary use of EBS spectrum for a very limited period of time. That entity subsequently obtained a new STA from the Commission to continue its use even after it operated illegally on the spectrum for five years past the STA expiration date. *See* FCC File No. 0006439415.

² *See Dakota Central Telecommunications Cooperative, et al.*, 24 FCC Rcd 4729, 4738 (WTB 2009) (Bureau denying request for STA for EBS channels to for-profit entity because "DCTC is not eligible to hold spectrum in the EBS, where eligibility is limited to educational institutions and qualified non-profit educational organizations").

³ Sprint fully supported the adoption of the current 2.5 GHz band plan. *See* Comments of Sprint Corporation, WT Docket No. 03-66 (Sep. 2003).

Communications Association International and other stakeholders (including Sprint's predecessor Clearwire) to develop a consensus proposal to license all remaining vacant EBS spectrum nationwide. The consensus proposal was submitted to the Commission on June 6, 2014 in WT Docket No. 03-66.⁴ Adoption of the proposal will result in prompt licensing of remaining EBS spectrum to eligible entities, thus permitting Sprint access to this spectrum as appropriate through the normal secondary markets leasing process.

Conclusion

With rare exceptions where temporary use of EBS spectrum may be justified for *bona fide* educational purposes, authorizations for vacant EBS spectrum should be granted only pursuant to permanent licensing rules, and not pursuant to *ad hoc* STA requests. NEBSA and CTN also oppose licensing any non-EBS eligible entity on EBS spectrum under any circumstances. Thus, NEBSA and CTN object to the Sprint applications and urge that the applications be dismissed or denied.

Respectfully submitted,

NATIONAL EBS ASSOCIATION

THE CATHOLIC TECHNOLOGY NETWORK

By: /s/ Todd D. Gray
Todd D. Gray
Its Counsel
Gray Miller Persh LLP
1200 New Hampshire Avenue, N.W.
Suite 410
Washington, D.C. 20036-6802
202-776-2571

By: /s/ Edwin N. Lavergne
Edwin N. Lavergne
Donna Balaguer
Its Counsel
Fish & Richardson P.C.
1425 K Street, N.W., Suite 1100
Washington, D.C. 20005
202-626-6359

⁴ *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 2015-2162 and 2500-2690 MHz Band*, WT Docket No. 03-66.

CERTIFICATE OF SERVICE

I, Jessica Barrow, certify that I have this 20th day of August, 2015, served true copies of the foregoing "Objection to Applications" of the National EBS Association and Catholic Technology Network by hand delivery or first class United States mail, postage prepaid, or by email, upon the following:

James B. Goldstein, Esq.
Senior Counsel – Legal and Government Affairs
Sprint Corporation
12502 Sunrise Valley Drive
Reston, VA 20196

Blaise Scinto, Chief*
Broadband Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

John Schauble, Deputy Chief*
Broadband Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

* By email

/s/ Jessica Barrow

Jessica Barrow