



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, S.W.
WASHINGTON, D.C. 20554

DA 02-38

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WIRELESS TELECOMMUNICATIONS BUREAU APPROVES REQUEST FOR DISMISSAL OF PETITION FOR DECLARATORY RULING

On September 22, 2000, Pacific Wireless Technologies, Inc. (Pacific), filed a Petition for Declaratory Ruling (Petition) requesting that the Commission clarify the meaning of section 90.621(b)(2) of the Commission's rules¹ regarding the appropriate geographic separation for 800 MHz co-channel licensees in Northern California. On March 9, 2001, the Wireless Telecommunications Bureau (Bureau) issued a *Public Notice* seeking comment on Pacific's Petition.² The Bureau received initial comments from Nextel Communications, Inc. (Nextel),³ Applied Technology Group, Inc.⁴ and James A. Kay, Jr.⁵ On April 11, 2001, Pacific filed Reply Comments.⁶

On December 20, 2001, Pacific filed a Request for Dismissal of Pleadings and Termination of Proceeding (Request for Dismissal). Pacific seeks dismissal of its Petition and termination of the proceeding due to changed circumstances resulting from the Bureau's November 16, 2001 consent to the assignment of virtually all of Pacific's 800 MHz authorizations to Nextel.⁷ Pacific indicated that closing on the underlying Nextel transaction would occur on or about December 21, 2001,⁸ and that the facilities for which co-channel protection was sought would be, at the time of closing, assigned and thus licensed to Nextel. Accordingly, Pacific states that its Petition would be moot.⁹

¹ 47 C.F.R. § 90.621(b)(2).

² See *Public Notice*, "Wireless Telecommunications Bureau Seeks Comment on Pacific Wireless Technologies, Inc. Petition for Declaratory Ruling," DA 01-623 (CWD rel. March 9, 2001). In the *Public Notice*, the Bureau noted that Pacific's request for clarification regarding rule section 90.621(b)(2) stemmed from negotiations between Pacific and Nextel pursuant to section 90.699 of the Commission's rules. See 47 C.F.R. § 90.699.

³ See Comments of Nextel Communications, Inc., filed March 30, 2001.

⁴ See Comments of Applied Technology Group, Inc., filed March 23, 2001.

⁵ See Comments of James A. Kay, Jr., filed March 28, 2001.

⁶ See Reply Comments of Pacific Wireless Technologies, Inc., filed April 11, 2001.

⁷ See *Memorandum Opinion and Order*, DA 01-2685 (WTB rel. November 16, 2001).

⁸ See Request for Dismissal at 2.

⁹ *Id.*

We have reviewed Pacific's Request for Dismissal and, given the changed circumstances involving Pacific and Nextel, find that a grant of Pacific's request is in the public interest. We therefore dismiss Pacific's Petition for Declaratory Ruling and terminate this proceeding. This action is taken pursuant to delegated authority under Section 0.331 of the Commission's rules.¹⁰

Action by Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau.

For further information, contact Donald Johnson, Commercial Wireless Division, at (202) 418-7444.

¹⁰ 47 C.F.R § 0.331.