



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12<sup>th</sup> St., S.W.**  
**Washington, D.C. 20554**

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**DA 02-817**  
**April 10, 2002**

**WIRELESS TELECOMMUNICATIONS BUREAU  
SEEKS COMMENT ON PETITION FOR RULEMAKING REGARDING LOCATION  
AND MONITORING SERVICE RULES**

**RM No. 10403**

**Comments Due: May 10, 2002.**  
**Reply Comments Due: May 28, 2002.**

Pursuant to Section 1.403 of the Commission's rules, 47 C.F.R. § 1.403, the Wireless Telecommunications Bureau hereby seeks comment on the Petition for Rulemaking (Petition) filed by Progeny LMS, LLC (Progeny) on March 5, 2002. In its Petition, Progeny, a licensee in the Location and Monitoring Service (LMS) 902-928 MHz band, requests that the Commission eliminate or modify certain restrictions currently included in the Commission's LMS service rules, 47 C.F.R. §§ 90.351-90.365.

Specifically, Progeny requests that the Commission consider eliminating or modifying: (1) the LMS spectrum cap, to allow a single licensee to hold all LMS licenses in an EA;<sup>1</sup> (2) the restriction on real-time interconnection with the public switched telephone network (PSTN);<sup>2</sup> (3) the restriction on types of communications or services that LMS operators may provide;<sup>3</sup> and (4) the safe harbor provision that creates a presumption of non-interference for secondary users of the band.<sup>4</sup>

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<sup>1</sup> 47 C.F.R. § 90.353(d) & (f).

<sup>2</sup> 47 C.F.R. § 90.353(c).

<sup>3</sup> 47 C.F.R. § 90.351 & 90.353(b).

<sup>4</sup> 47 C.F.R. § 90.361.

## **Procedural Matters**

Comments on the Petition are due no later than **May 10, 2002**. Reply Comments are due no later than **May 28, 2002**.

All responsive filings should reference the Rulemaking Number of this proceeding, RM No. 10403.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>5</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must reflect the substance of the presentations and not merely list the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.<sup>6</sup> Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules.<sup>7</sup>

The Petition for Rulemaking is available for public inspection and copying in the Commission's Reference Center, Room CY A257, 445 12th Street, S.W., Washington, DC 20554. Copies of the Petition are also available from Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, D.C. 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or e-mail at [qualexint@aol.com](mailto:qualexint@aol.com). Copies of the Petition also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the Rulemaking Number of this proceeding, RM No. 10403.

Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments and reply comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Each filing should be submitted into the following proceeding: RM No. 10403. In completing the transmittal screen, parties should include their full name and Postal Service mailing address. Parties may also submit an electronic filing by Internet e-mail. To get filing instructions for e-mail filings, parties should send an e-mail message to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), including “get form to <your e-mail address>” in the body of the message. A sample form and directions will be sent in response.

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<sup>5</sup> See 47 C.F.R. §§ 1.1200(a), 1.1206.

<sup>6</sup> See 47 C.F.R. § 1.1206(b).

<sup>7</sup> *Id.*

Due to the threat of contamination that resulted in the disruption of regular mail, the Commission released on November 29, 2001, an *Order*,<sup>8</sup> temporarily amending certain procedural rules on an emergency basis. In addition to filing through the ECFS, comments and reply comments may be filed as indicated below:

- **If filed by e-mail**, comments and reply comments shall be filed at the following e-mail address: [WTBSecretary@fcc.gov](mailto:WTBSecretary@fcc.gov). Please also copy (CC) Richard Arsenault at [rsarsenau@fcc.gov](mailto:rsarsenau@fcc.gov). For security purposes, we recommend that documents filed via e-mail be converted to PDF format.
- **If filed by facsimile**, comments and reply comments shall be faxed to 202-418-0187. The fax transmission should include a cover sheet listing contact name, phone number and, if available, an e-mail address. In addition to the official filing, please also fax a copy to Richard Arsenault, 202-418-7447, Room 4-A267, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau.
- **If filed by hand delivery**, comments and reply comments shall be delivered to the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.<sup>9</sup> Please address documents to the Secretary, and copies thereof to the attention of Richard Arsenault, Room 4-A267, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau.
- **If filed by commercial overnight delivery service** (other than U.S. Postal Service Express Mail and Priority Mail), comments and reply comments shall be sent to the Commission's Secretary at 9300 East Hampton Drive, Capitol Heights, MD 20743.
- **If filed by U.S. Postal Service Express Mail and Priority Mail**, comments and reply comments shall be addressed to the Commission's Secretary at 445 12th Street, SW, Washington, D.C. 20554.

In addition, one copy of each comment and reply comment must be delivered to the Commission's duplicating contractor, Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, D.C. 20554, telephone (202) 863-2893, by facsimile (202) 863-2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com).

FOR FURTHER INFORMATION, CONTACT: Richard Arsenault of the Wireless Telecommunications Bureau, Commercial Wireless Division, at (202) 418-0920

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<sup>8</sup> See In the Matter of Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, FCC 01-345 (rel. Nov. 29, 2001)

<sup>9</sup> See "FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence," *Public Notice*, DA 01-2919 (rel. Dec. 14, 2001).

([rarsenau@fcc.gov](mailto:rarsenau@fcc.gov)).

Action by the Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau.

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