



PUBLIC NOTICE

Federal Communications Commission
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DA 09-2171

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**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST BY
NUCLEAR ENERGY INSTITUTE AND UTILITIES TELECOM COUNCIL FOR WAIVER TO
PERMIT THE USE OF PART 74 TWO-WAY WIRELESS HEADSETS AND INTERCOM
DEVICES INSIDE NUCLEAR POWER PLANTS**

WT Docket No. 09-176

Comment Date: October 26, 2009

Reply Date: November 5, 2009

On September 23, 2009, the Nuclear Energy Institute and the Utilities Telecom Council (collectively Petitioners) filed a revised version of a request, originally filed July 16, 2009, for waiver of Parts 2 and 90 of the Commission's Rules in order to permit commercial nuclear power plants to obtain licenses under Part 90 in order to use for indoor communications certain intercom and headset equipment certified for use only by broadcast auxiliary stations under Part 74 of the Commission's Rules (the "Two-Way Wireless Headsets").¹ Nuclear power plants currently are authorized to use the Two-Way Wireless Headsets pursuant to experimental licenses that are due to expire on February 18, 2010.² We seek comment on the waiver request.³

Petitioners contend that there is no currently available equipment designed to operate on Part 90 frequencies that offers all of the requisite performance features upon which nuclear power plants have come to rely to protect nuclear workers.⁴ Petitioners also state that there has been no evidence that the plants' use of the Two-Way Wireless Headsets has caused any interference to other licensees during the

¹ The Two-Way Wireless Headsets are manufactured by Telex Communications, Inc. (Telex). The headsets and the associated backpacks and base stations usually operate at 174.00-216.00 MHz, 470.00-608.00 MHz, and 614.00-806.00 MHz.

² See, e.g., Call Signs WE2XHS, WE2XNG. Nuclear power plants currently coordinate outdoor use of the Two-Way Wireless Headsets with local broadcasters. Because the waiver request seeks authorization only for indoor use, Petitioners do not propose a coordination procedure.

³ Petitioners argue that they have addressed the concerns that led to the denial of a previous request filed by Telex to permit nuclear power plants to use the Two-Way Wireless Headsets. See Telex Communications, Inc., *Order*, 19 FCC Red 23169 (WTB PSCID 2004), *aff'd*, *Order on Reconsideration*, 22 FCC Red 1250 (WTB MD 2007).

⁴ These features include hands-free use; full-duplex communications among multiple users; reliable signals with no call drop, background noise, or inadvertent actuation of other equipment; ease of use; and durability.

past five years,⁵ thus demonstrating that the underlying purpose of the rules would not be compromised by a grant of the relief requested. In order to ensure that the equipment will be used in a manner that poses no threat of interference to other licensed users, Petitioners propose that eligibility be limited to Power licensees⁶ that own or operate nuclear power plants⁷; that operation of the Two-Way Wireless Headsets be limited to the frequencies currently used by the plants under their experimental licenses, and restricted to indoor use; and that the Two-Way Wireless Headsets must be approved for operation as a low power auxiliary station under Subpart H of Part 74.

Procedural Matters

Comments on the request are due no later than **October 26, 2009**. Reply comments are due no later than **November 5, 2009**. All filings should reference the docket number of this proceeding, WT 09-176.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.⁸ Parties making oral *ex parte* presentations in this proceeding are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.⁹ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁰

The request is available for public inspection and copying in the Commission's Reference Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554. Copies of the request also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, WT 09-176. Copies of the request are also available from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, “get form.” A sample form and directions will be sent in reply.

⁵ Furthermore, Petitioners contend that the Two-Way Wireless Headsets, operating indoors at 50 to 100 mW, will have no effective signal beyond 500 feet to 1,000 feet outside of the plant building, given the unique physical structure of nuclear plants.

⁶ *See* 47 C.F.R. § 90.7.

⁷ Including those that provide a supporting service to a nuclear plant owned or operated by the licensee's parent corporation, another subsidiary of the same parent, or the licensee's own subsidiary.

⁸ *See* 47 C.F.R. §§ 1.1200(a), 1.1206.

⁹ *See* Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Rcd 19945 (2000).

¹⁰ *See* 47 C.F.R. § 1.1206(b)(2). Other rules pertaining to oral and written presentations are also set forth in Section 1.1206(b). *See* 47 C.F.R. § 1.1206(b).

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for 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.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.
- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Parties shall send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

Comments filed in response to this *Public Notice* will be available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, WT 09-176. The comments may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or send an e-mail to access@fcc.gov.

For further information, contact Mr. Rodney Conway of the Wireless Telecommunications Bureau, Mobility Division, at (202) 418-2904, rodney.conway@fcc.gov.

Action by the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau.

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