



# PUBLIC NOTICE

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DA 12-1420  
August 30, 2012

## QUIET PERIOD FOR NCTA'S CONDITIONAL PETITION FOR FORBEARANCE FROM SECTION 652 OF THE ACT

WC Docket No. 11-118

**Quiet Period Begins: 5:00 pm (EDT) on September 5, 2012**

On June 26, 2009, the Commission adopted the *Forbearance Procedures Order*,<sup>1</sup> which put in place procedural rules governing forbearance petitions under section 10 of the Communications Act of 1934, as amended.<sup>2</sup> Specifically, section 1.58 of the Commission's rules provides for a two-week quiet period before the statutory deadline for Commission action in forbearance proceedings, which thus begins one week before the voting deadline.<sup>3</sup> As indicated in the *Forbearance Procedures Order*, this public notice announces the beginning of the quiet period.<sup>4</sup>

On June 21, 2011, the National Cable and Telecommunications Association (NCTA) filed a conditional petition for forbearance,<sup>5</sup> seeking forbearance from the application of section 652 of the Communications Act of 1934, as amended (the Act),<sup>6</sup> to mergers, acquisitions, and other transactions

<sup>1</sup> *Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance Under Section 10 of the Communications Act of 1934, as Amended*, WC Docket No. 07-267, Report and Order, 24 FCC Rcd 9543 (2009) (*Forbearance Procedures Order*).

<sup>2</sup> 47 U.S.C. § 160.

<sup>3</sup> 47 C.F.R. § 1.58 (stating that “[t]he prohibition in § 1.1203(a) on contacts with decision makers concerning matters listed in the Sunshine Agenda shall also apply to a petition for forbearance for a period of 14 days prior to the statutory deadline under 47 U.S.C. 160(c) or as announced by the Commission”); 47 C.F.R. § 1.1203.

<sup>4</sup> *Forbearance Procedures Order*, 24 FCC Rcd at 9560-61, para. 33.

<sup>5</sup> Conditional Petition for Forbearance from Section 652 of the Communications Act for Transactions Between Competitive Local Exchange Carriers and Cable Operators, WC Docket No. 11-118 (filed June 21, 2011) (Conditional Petition for Forbearance). On June 21, 2011, NCTA simultaneously filed a petition for declaratory ruling requesting the Commission to clarify that section 652 of the Communications Act does not apply to transactions between cable operators and competitive LECs that were not providing telephone exchange services as of January 1, 1993. See Petition for Declaratory Ruling to Clarify 47 U.S.C. § 572 in the Context of Transactions Between Competitive Local Exchange Carriers and Cable Operators, WC Docket No. 11-118 (filed June 21, 2011) (Petition for Declaratory Ruling). The quiet period established in this Public Notice therefore applies equally to any issues raised by NCTA in its Petition for Declaratory Ruling that overlap, or relate to, issues raised by NCTA in its Conditional Petition for Forbearance. Because NCTA's petition for forbearance is “conditioned” on a denial, or partial denial of the Petition for Declaratory Ruling, see Conditional Petition for Forbearance at 2, the practical effect of this Public Notice is that the quiet period applies equally to both petitions.

<sup>6</sup> 47 U.S.C. § 572; see also 47 C.F.R. § 76.505.

between cable operators and local exchange carriers that did not provide telephone exchange service as of January 1, 1993. On May 30, 2012, the Wireline Competition Bureau, pursuant to section 10(c) of the Act,<sup>7</sup> extended by 90 days the date by which the Conditional Petition for Forbearance filed by NCTA shall be deemed granted in the absence of a Commission decision that the petition fails to meet the standards for forbearance.<sup>8</sup> Accordingly, the date on which NCTA's Conditional Petition for Forbearance petition shall be deemed granted, in the absence of a Commission denial of the petition, is September 19, 2012. Based on this deadline, the quiet period for this proceeding **begins at 5:00 pm (EDT) on September 5, 2012.**<sup>9</sup>

Section 1.58 extends the prohibition in section 1.1203(a) (governing contacts with decision makers concerning matters listed in the Sunshine Agenda) to petitions for forbearance “for a period of 14 days prior to the statutory deadline.”<sup>10</sup> All presentations to decision makers concerning NCTA's Conditional Petition for Forbearance, whether *ex parte* or not, are therefore prohibited during the two-week quiet period, beginning at 5:00 pm (EDT) September 5, 2012.<sup>11</sup>

For further information, contact Greg Kwan, Wireline Competition Bureau, (202) 418-1191, or Tim Stelzig, Wireline Competition Bureau, (202) 418-0942.

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<sup>7</sup> 47 U.S.C. §160(c).

<sup>8</sup> See *Petition for Declaratory Ruling to Clarify 47 U.S.C. § 572 in the Context of Transactions Between Competitive Local Exchange Carriers and Cable Operators; Conditional Petition for Forbearance from Section 652 of the Communications Act for Transactions Between Competitive Local Exchange Carriers and Cable Operators*, WC Docket No. 11-118, 27 FCC Rcd 5814 (WCB 2012).

<sup>9</sup> “Absent unusual circumstances, this quiet period will end with the release of a Commission order addressing the forbearance petition, or if approved by the Commission, withdrawal of the petition by the petitioner.” *Forbearance Procedures Order*, 24 FCC Rcd at 9561, para. 34.

<sup>10</sup> *Id.* at 9561, para. 33 n.110; 47 C.F.R. § 1.58; 47 C.F.R. § 1.1203.

<sup>11</sup> 47 C.F.R. §§ 1.58, 1.1203. In accordance with the purpose of section 1.58 of the Commission's rules, comments submitted on any Commission blog pages during the quiet period will not be considered by the Commission in finalizing the item under consideration.