



PUBLIC NOTICE

Federal Communications Commission
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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON NSTAR ELECTRIC COMPANY'S REQUEST FOR WAIVER OF THE SUSPENSION OF ACCEPTANCE AND FILING OF CERTAIN APPLICATIONS FOR 470-512 MHz (T-BAND) SPECTRUM

WT Docket No. 12-295

Comment Date: October 22, 2012

Reply Comment Date: October 29, 2012

By this *Public Notice*, comment is sought on the request of NSTAR Electric Company's (NSTAR) for waiver of the current suspension on acceptance and processing of certain applications related to the 470-512 MHz spectrum band (T-Band).¹ NSTAR seeks authorization to add television channel 16 (482-488 MHz) frequencies at six base locations in the Boston area.

NSTAR is involved in the generation and distribution of electricity and natural gas to customers in eastern, central, and southeastern Massachusetts. It utilizes several VHF and UHF land mobile facilities to support its business operations and ensure the safe, efficient, and consistent distribution of electricity and natural gas to its customers. In 2010, NSTAR completed the planning to upgrade its legacy system – in which radios from different NSTAR operating regions were not interoperable and lacked important safety features – to a narrowband UHF system. Applications for narrowband UHF frequencies in central and southeastern Massachusetts were filed and granted in 2010. Due to delays in obtaining required concurrences from affected licensees and completing the frequency coordination process, however, NSTAR's application for narrowband television channel 16 frequencies in eastern Massachusetts was not filed until April 23, 2012.

On April 26, 2012, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau (Bureaus) issued a public notice announcing a limited suspension of the acceptance and processing of certain applications for Part 22 and Part 90 services operating in the 470-512 MHz spectrum band (T-Band)² that could alter the spectrum landscape. The purpose of the suspension is to stabilize the spectral environment while the Commission considers issues surrounding future use of the T-Band and implementation of the Middle Class Tax Relief and Job Creation Act of 2012.³ Specifically, the Bureaus will not accept or process applications for applications that seek to

¹ See NSTAR Electric Company, *Request for Rule Waiver*, FCC File No. 0005174965 (filed September 13, 2012).

² Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, 27 FCC Rcd 4218 (WTB/PSHSB 2012) (*Suspension Notice*).

³ See Pub. L. No. 112-96, 126 Stat. 156 (2012).

modify existing licenses by, *inter alia*, adding frequencies,⁴ which affects NSTAR's application. The *Suspension Notice* provides that applicants may have recourse to the waiver provisions in Section 1.925 to request an exception to the filing and processing suspension.⁵

On September 13, 2012, NSTAR filed a request for waiver of the *Suspension Notice*. NSTAR argues that, under these circumstances, application of the processing suspension would be unduly burdensome, contrary to the public interest, and would leave NSTAR with no reasonable alternative. NSTAR asserts that the requested waiver would result in a minimal increase in the company's spectral footprint in the T-Band on currently authorized channels in the Boston area⁶ but that any potential impact to the stability of the spectral environment is far outweighed by the public interest benefits of granting the waiver. Specifically, NSTAR claims that its planned narrowband UHF system will serve the public interest by (1) improving the reliability of its electric and gas distribution systems, (2) providing the company with a common radio platform, (3) enabling "truck to truck" communications capabilities, and (4) enabling additional key features such as emergency alerts and GPS tracking that were not available on its legacy VHF system.

NSTAR also notes that it has already installed the equipment necessary to complete its planned system upgrades and is already using the upgraded system in two of its three territories. NSTAR states that, if its waiver request is granted, NSTAR will be able to complete these upgrades and meet the Commission's VHF-UHF narrowbanding requirement in a timely fashion. However, if the waiver is not granted, NSTAR will be forced to seek a waiver of the Commission's narrowbanding deadline for its legacy system, and will lose many of the key benefits of the new system.

Procedural Matters

Comments on the request are due **no later than October 22, 2012**. Reply comments are due **no later than October 29, 2012**. All filings should reference the docket number of this proceeding, **WT 12-295**.

This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁷ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

⁴ See *Suspension Notice*, 27 FCC Rcd at 4219.

⁵ *Id.* at 4219 n.4.

⁶ NSTAR currently is licensed for nineteen stations in the Boston area that operate on television channel 16 frequencies.

⁷ See 47 C.F.R. §§ 1.1200(a), 1.1206.

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.

Parties who choose to file by paper must file an original and one copy 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). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

-All hand-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m.

-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, DC 20554.

Parties are requested to 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, DC 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

The request, and comments and reply comments filed in response to this *Public Notice* are available for viewing via ECFS by entering the docket number, **WT 12-295**. The documents also 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, DC 20554. They may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (202) 488-5563, TTY (202) 488-5562, 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 the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to fcc504@fcc.gov.

For further information, contact Paul Powell of the Mobility Division, Wireless Telecommunications Bureau at (202) 418-1613, or via e-mail at paul.powell@fcc.gov.

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

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