



# PUBLIC NOTICE

Federal Communications Commission  
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## WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST BY OP LLC FOR EXTENSION OR WAIVER OF THE CONSTRUCTION DEADLINE CONCERNING ITS 1670-1675 MHZ BAND LICENSE

WT Docket 12-327

Comment Date: December 5, 2012

Reply Comment Date: December 20, 2012

By this *Public Notice*, the Wireless Telecommunications Bureau seeks comment on the request filed by OP LLC (“OP”), an indirect subsidiary of Crown Castle International Corporation (“Crown Castle”), for a limited extension of the deadline for compliance with the construction requirement for its nationwide area license in the 1670-1675 MHz band or, alternatively, a temporary waiver of that “substantial service” construction requirement.<sup>1</sup> Pursuant to Section 27.14(a) of the Commission’s rules, OP is required to make a showing of “substantial service” in its license area within the prescribed license term.<sup>2</sup>

OP seeks a three-year extension, until October 1, 2016, of the substantial service construction requirement for call sign WPYQ831, a nationwide 5 megahertz block at the 1670-1675 MHz band. In 2003 OP obtained the license, which has a ten-year license term, expiring October 1, 2013.<sup>3</sup> In 2007, OP leased its spectrum rights, through a long-term *de facto* transfer spectrum leasing arrangement, to TVCC One Six Holdings LLC, a predecessor of LightSquared.<sup>4</sup> While the spectrum lessee generally assumes primary responsibility for complying with Commission rules when utilizing the spectrum, OP as the

<sup>1</sup> See OP LLC Request for a Limited Extension or Waiver of the Section 27.14 Substantial Service Deadline for the 1670-1675 MHz Band (Request), ULS File No. 0005438821 (filed Oct. 9, 2012). OP states that Crown Castle is one of the country’s largest independent owners and operators of shared wireless infrastructure, and that it owns, operates, and leases communications structures, including approximately 23,800 towers and 10,000 distributed antenna system (DAS) nodes. *Id.* at 2. In its filing, OP uses the term “Crown Castle” when referencing OP, Crown Castle International Corp, and/or other Crown Castle subsidiaries as “Crown Castle.” *Id.* at n.1. Because OP is the licensee making the instant request, we generally use the term OP to reference any of these entities throughout this Public Notice.

<sup>2</sup> 47 C.F.R. § 27.14(a). The 1670-1675 MHz band is one of the Miscellaneous Wireless Communications Services to which Section 27.14 applies. 47 C.F.R. § 27.13. “Substantial service” is defined as service which is sound, favorable and substantially above a level of mediocre service which just might minimally warrant renewal. 47 C.F.R. § 27.14(a).

<sup>3</sup> 47 C.F.R. § 27.13(e).

<sup>4</sup> LightSquared’s affiliate One Dot Six Corporation now holds the lease. See generally Master Agreement by and among Crown Castle MM Holding LLC, OP LLC, and TVCC One Six Holdings LLC (July 16, 2007), ULS File No. 0003108073 (filed July 17, 2007) (Lease ID L000002305, now L000007295).

licensee always retains the responsibility, as a condition of its license, for meeting the construction requirements applicable to the license.<sup>5</sup>

First, OP contends the Commission should grant its Request due to the regulatory uncertainty that surrounds LightSquared's plans to build a nationwide terrestrial wireless broadband network, which as planned would have included use of the leased 1670-1675 MHz spectrum along with certain portions of LightSquared's L-Band spectrum.<sup>6</sup> OP states that the Commission "effectively halted" LightSquared's plans for its terrestrial network deployment earlier this year pending decision on appropriate resolution of the matter.<sup>7</sup> OP further states that until the Commission resolves the issue of whether and how LightSquared can move forward with deploying its terrestrial network, neither LightSquared nor OP will be able to efficiently deploy broadband or other advanced services.<sup>8</sup> Where regulatory uncertainty thwarts a rational buildout plan, OP contends that a buildout extension should be granted.<sup>9</sup> OP further asserts that, although all communications ventures face some regulatory uncertainty, "no one suggests that [OP] could have reasonably foreseen or controlled an outcome [concerning LightSquared's terrestrial network deployment] that caught many by surprise."<sup>10</sup>

Second, OP claims that lack of equipment currently prevents LightSquared and OP from efficiently meeting the substantial service requirement.<sup>11</sup> OP asserts that a number of critical advanced Long Term Evolution (LTE) technologies and technical specifications must be developed in order to make productive use of the 1670-1675 MHz band spectrum as part of LightSquared's venture.<sup>12</sup> OP goes on to state that it "had no responsibility for the complex, ongoing standards and equipment development efforts by third-party equipment vendors or the efforts to address GPS concerns" and asks the Commission to extend its construction deadline so that LightSquared or OP may continue to work with vendors.<sup>13</sup>

Third, OP claims that if the Commission does not grant the requested relief, OP will be forced to invest in a nominal "stop-gap" network to avoid losing its license.<sup>14</sup> OP states that it "made the economically rational and spectrally efficient decision to lease the [1670-1675 MHz band spectrum] to a venture that would bring substantial public interest benefits" and if the Commission grants a three-year

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<sup>5</sup> See 47 C.F.R. 1.9030(d)(5).

<sup>6</sup> See Request at 1-2. In February 2012, the International Bureau asked for public comment on whether to eliminate or modify LightSquared's authorization to provide commercial Ancillary Terrestrial Component (ATC) service due to concerns raised regarding the possibility of interference to certain GPS receivers. *International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver*, Public Notice, IB Docket No. 11-109, 27 FCC Rcd 1596 (IB rel. Feb. 15, 2012).

<sup>7</sup> Request at 3. OP claims that additional regulatory uncertainty exists because on September 28, 2012, LightSquared petitioned the Commission for access to additional spectrum and new rules for its existing spectrum, proposed to surrender the right to use terrestrially the spectrum nearest to the GPS band, and noted that it had filed for bankruptcy. See Request at 3-4.

<sup>8</sup> See Request at 4. OP also notes that LightSquared has proposed using the leased 1670-1675 MHz spectrum in lieu of a portion of its L-band holdings in building out its nationwide broadband network. *Id.* at 2.

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.* at 8.

<sup>11</sup> *Id.* at 9-11.

<sup>12</sup> See *id.* at 9.

<sup>13</sup> Request at 10.

<sup>14</sup> See *id.* at 11.

extension, this would maximize deployment options in the near future, instead of forcing OP or LightSquared to deploy “an inefficient stop-gap buildout that no one wants.”<sup>15</sup>

Finally, OP asks, in the alternative, that the Commission temporarily waive the substantial service construction deadline for three years, if it does not extend the substantial service deadline.<sup>16</sup> OP states that deployment of mobile broadband using the 1670-1675 MHz band promises public interest benefits, as mobile broadband drives innovation and economic growth.<sup>17</sup>

### Procedural Matters

Comments on the request are due **no later than December 5, 2012**. Reply comments are due **no later than December 20, 2012**. All filings should reference the docket number of this proceeding, **WT 12-327**.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>18</sup> 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.

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](mailto: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.

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<sup>15</sup> *Id.* at 11-13.

<sup>16</sup> *Id.* at 13. The Commission may grant a waiver if (1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and that grant of the waiver would be in the public interest, or (2) because of unique or unusual factual circumstances, application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative. 47 C.F.R. § 1.925(b).

<sup>17</sup> *See* Waiver Request at 14.

<sup>18</sup> *See* 47 C.F.R. §§ 1.1200(a); 1.1206.

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.

-Effective December 28, 2009, all hand-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., S.W., Room TW-A325, Washington, D.C. 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. **PLEASE NOTE:** The Commission's former filing location at 236 Massachusetts Ave., N.E. is permanently closed.

-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.

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, D.C. 20554, (800) 378-3160, e-mail [FCC@BCPIWEB.com](mailto:FCC@BCPIWEB.com).

The request, and comments and reply comments filed in response to this *Public Notice* are available for viewing via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, **WT 12-327**. 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, D.C. 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](mailto: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](mailto:fcc504@fcc.gov).

For further information, contact Ms. Becky Schwartz of the Mobility Division, Wireless Telecommunications Bureau at (202) 418-7178, or via e-mail at [Becky.Schwartz@fcc.gov](mailto:Becky.Schwartz@fcc.gov).

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

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