



PUBLIC NOTICE

Federal Communications Commission
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DA 12-926

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WIRELESS TELECOMMUNICATIONS BUREAU, PUBLIC SAFETY AND HOMELAND SECURITY BUREAU AND OFFICE OF ENGINEERING AND TECHNOLOGY SEEK COMMENT ON TELECOMMUNICATIONS INDUSTRY ASSOCIATION PETITION FOR CLARIFICATION AND/OR DECLARATORY RULING REGARDING ORDER WAIVING THE JANUARY 1, 2013 VHF-UHF NARROWBANDING DEADLINE

WT Docket No. 99-87

Comment Date: June 27, 2012

Reply Comment Date: July 2, 2012

By this *Public Notice*, comment is sought on the request of the Telecommunications Industry Association (TIA), filed on May 21, 2012,¹ seeking clarification and/or declaratory ruling regarding the April 26, 2012 *Order*² of the Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau and Office of Engineering and Technology that partially waived the Commission's January 1, 2013 deadline requiring private land mobile radio licensees in the 150-174 MHz and 450-512 MHz bands to operate using channel bandwidth of no more than 12.5 kHz or equivalent efficiency.³ TIA asks whether the April 26, 2012 *Order* waives the ban on 25 kHz (wideband) technologies in the 470-512 MHz band ("T-Band") for equipment authorization applications filed on or after January 1, 2011.

In 2010, the Commission extended the January 1, 2011 deadline for the manufacture or import of wideband-capable equipment to match the January 1, 2013 deadline for Industrial/Business and Public Safety Radio Pool licensees to terminate wideband operations, but specifically declined to extend the January 1, 2011 deadline for certification of new wideband-capable equipment.⁴ In light of subsequent legislation directing the Commission to reallocate spectrum in the 470-512 MHz band, the April 26, 2012

¹ See Petition for Clarification and/or Declaratory Ruling (filed May 21, 2012).

² See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Order*, WT Docket No. 99-87, RM-9332, DA 12-642 (WTB/PSHSB/OET rel. Apr. 26, 2012) (*April 26, 2012 Order*).

³ See 47 C.F.R. § 90.209(b)(5); see also Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004).

⁴ See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Order*, WT Docket No. 99-87, RM-9332, 25 FCC Rcd 8861, 8864 ¶¶ 8-9 (2010).

Order waived the January 1, 2013 deadline for licensees to migrate to 12.5 kHz channel bandwidth or utilize a technology that achieves equivalent efficiency.⁵ It also waived the January 1, 2013 deadline for the manufacture or importation of equipment capable of operating with only one voice path per 25 kHz of spectrum in the T-band, and provided that manufacturers could submit permissive change requests to permit the modification of existing wideband-capable models to enable wideband operation only in the 470-512 MHz band.⁶ The April 26, 2012 *Order* did not specifically address whether permissive change requests will be accepted with respect to narrowband-only equipment already approved, or whether new equipment authorization requests for equipment capable of wideband operation in the 470-512 MHz band will be accepted.

In TIA's view, the April 26, 2012 *Order* is ambiguous regarding the extent to which it waives the ban on the inclusion of 25 kHz technology for the T-Band in new equipment, and may lead to confusion. TIA requests a clarification or declaratory ruling that the ban on the inclusion of wideband capability in the 470-512 MHz band in equipment authorization applications is waived. We seek comments evaluating the petition for clarification and/or declaratory ruling. Commenters should address the conditions under which equipment authorizations should be granted for equipment that is capable of wideband operation in the T-band.

Procedural Matters

Interested parties may file comments and reply comments in response to the waiver request on or before the dates listed on the first page of this *Public Notice*. All pleadings must reference WT Docket No. 99-87. Parties may file comments using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.⁷

- **Electronic Filers:** File comments electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- If multiple docket or rulemaking numbers appear in the caption of this proceeding, ECFS filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers 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, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** 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, filers must submit two additional copies for each additional docket or rulemaking number.

Send filings 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). Address filings to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Deliver hand-delivered or messenger-delivered paper filings to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554 between 8:00 AM and 7:00 PM. Use rubber bands or fasteners to hold deliveries together. Dispose of all envelopes before entering the building.

⁵ See *April 26, 2012 Order* at ¶ 7.

⁶ *Id.* at ¶ 8 & n.19.

⁷ See *Electronic Filing of Documents in Rulemaking Proceedings, Report and Order*, GC Docket No. 97-113, 13 FCC Rcd 11322 (1998).

- Send commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- Send U.S. Postal Service first-class, Express, and Priority mail to 445 12th Street, SW, 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, D.C. 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

Documents in WT Docket No. 99-87 available for viewing on ECFS, <http://www.fcc.gov/cgb/ecfs>, by entering the docket number, WT 99-87. These documents are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, D.C. 20554. The documents are also available for purchase from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com, telephone (202) 488-5300, 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.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁸ 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.

For further information, contact Mr. Melvin Spann of the Wireless Telecommunications Bureau at (202) 418-1333, or via e-mail at Melvin.Spann@fcc.gov; Mr. Roberto Mussenden of the Public Safety and Homeland Security Bureau at (202) 418-1428, or via e-mail at Roberto.Mussenden@fcc.gov; or Mr. Ira Keltz of the Office Of Engineering and Technology at (202) 418-0616, or via e-mail at Ira.Keltz@fcc.gov.

Action by the Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau and Office of Engineering and Technology.

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⁸ See 47 C.F.R. §§ 1.1200(a), 1.1206.