

PUBLIC NOTICE

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DA 13-1733

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON ITRON, INC. REQUEST FOR WAIVERS OF PART 22 RULES TO FACILITATE PROVISION OF NON-PAGING OPERATIONS OVER 931 MHZ LICENSES

WT Docket No. 13-195

Comment Date: September 9, 2013

Reply Comment Date: September 24, 2013

By this *Public Notice*, the Wireless Telecommunications Bureau (Bureau) seeks comment on the request of Itron, Inc. (Itron), for waivers, to the extent necessary, of sections 22.355, 22.515, 22.531, and 22.561 of the Commission's rules¹ to permit use by Itron of paging licenses in the 931 MHz band for non-paging operations.²

Itron reports it is a leading manufacturer and supplier of radio frequency-based automatic meter reading (AMR) devices and other advanced metering infrastructure (AMI) serving electric, gas, and water utility companies nationwide.³ Itron states that its systems are used by hundreds of utilities nationwide, enabling, for example, smart grid operations by allowing utilities to monitor business and residential meters and to control utility operations from remote locations.⁴ Itron seeks to use the paging licenses it won in Auction 87 to support and improve its AMR and AMI services.⁵ Itron submits that allowing it to use its Auction 87 paging licenses to provide data services generally, rather than limiting it to a single type of service (*i.e.*, paging service), would be in keeping with the Commission's policies favoring flexible spectrum use.⁶ Itron contends that permitting licensees in the 931 MHz band more flexible use of their frequencies is particularly appropriate for the Commission because this spectrum might otherwise lie fallow.⁷

¹ 47 C.F.R. §§ 22.355, 22.515, 22.531, and 22.561.

² Itron Request for Waiver, filed Dec. 17, 2012 (Itron Request). In Auction 87, Itron obtained 155 Major Economic Areas licenses in the 931 MHz band. Itron Request at 2. The Itron Request is attached to the ULS record for each of those licenses. *See, e.g.*, the ULS record for call sign WQMX694.

³ Itron Request at 2.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 7.

⁷ *Id.* at 8.

A. Proposed Half-Duplex Operations

Itron seeks waiver of sections 22.561 and 22.515 of the Commission's rules⁸ to the extent necessary to permit it to use half-duplex operations. It appears to us that section 22.561 does not apply to Itron's requested waiver, since that rule section does not apply to 931 MHz band paging operations. However, it does appear that Itron might require a waiver of section 22.531 in order to conduct its half-duplex operations, and we therefore will treat Itron's filings as seeking a waiver of section 22.531 (instead of section 22.561) to the extent necessary. Section 22.531 provides that "[t]he following channels [specifically including 931 MHz frequencies] are allocated for assignment to base transmitters that provide paging service . . .,"⁹ which may be interpreted to permit only one-way operation. Section 22.515 provides that "[m]obile stations may communicate only with and through base stations. Base stations may communicate only with mobile stations and receivers on land or surface vessels."¹⁰

Itron asserts that its proposed non-paging operations arguably are consistent with the limitations imposed by sections 22.531 and 22.515.¹¹ Itron explains that, at any point in time, each transmission path on Itron's system will be inactive or will be used to send messages in only a single direction either (a) from a fixed or mobile reader to a fixed customer premises end point or repeater or (b) from a fixed customer premises end point or repeater to a fixed or mobile reader.¹² However, to the extent the Commission deems it necessary, Itron seeks a waiver of sections 22.531 and 22.515 to permit its proposed half-duplex, non-paging operations. Itron asserts that grant of the requested waivers, if needed, would serve the public interest by enabling utilities to conduct time and frequency synchronization of their systems, improve control of the overall system, conduct on-demand reads, and communicate with hard-to-reach customer premises end points, and otherwise make it possible for Itron to provide smart grid services in support of utilities.¹³

We seek comment on whether Itron's planned use of channels in the 931 MHz band for its proposed non-paging operations requires a waiver of section 22.531 or section 22.515. If a commenter believes a waiver of either or both rule sections is required, it should also address whether such waiver should be granted. Parties that oppose grant of a waiver of section 22.531 and/or section 22.515 should provide the specific technical basis for their opposition. Similarly, parties supporting grant of a waiver of either or both rule sections should provide the technical basis for their support.

B. Proposed Non-Paging Data Services

Itron asserts that, even absent a waiver, it should be permitted to use its frequencies in the 931 MHz Band to provide non-paging data services because neither section 22.531 of the Commission's rules¹⁴ nor the Commission's Table of Frequency Allocations expressly prohibits the assignment of these channels to stations that do not provide paging services.¹⁵ Section 22.531 provides that "the channels in the 931 MHz band identified therein are "allocated for assignment to ... paging [stations]."¹⁶ In the event

⁸ 47 C.F.R. §§ 22.561, 22.515.

⁹ 47 C.F.R. § 22.531.

¹⁰ 47 C.F.R. § 22.515.

¹¹ Itron Request at 5.

¹² *Id.* Itron states that its network includes customer premises end points located on utility meters and readers that are used to collect information from the customer premises end points and relay information to them. *Id.* at 3-4.

¹³ *Id.* at 5-6.

¹⁴ 47 C.F.R. § 22.531.

¹⁵ Itron Request at 7.

¹⁶ 47 C.F.R. § 22.531.

it is determined that, absent a waiver, assignments of channels under this section are limited to paging stations, Itron requests a waiver of these provisions to the extent necessary to use frequencies in the 931 MHz band to provide non-paging services.¹⁷ Itron states that grant of a waiver of section 22.531 would be in keeping with the Commission's policies favoring flexible use of spectrum, including the Part 22 paging spectrum, and where the spectrum might otherwise lie fallow.¹⁸

We seek comment on whether a waiver of section 22.531 is needed for Itron to conduct non-paging operations in the 931 MHz band. If a commenter believes such a waiver is needed, it should also address whether that waiver should be granted.

C. Proposed Frequency Tolerance

Itron seeks a waiver of section 22.355 of the Commission's rules¹⁹ so that its customer premises end points and readers employing frequencies in the 931 MHz band would be subject to a frequency tolerance limit of 5 ppm.²⁰ Section 22.355 requires that, as relevant to Itron's proposed 931 MHz band operations, the carrier frequency of each transmitter must satisfy a frequency tolerance limit of 1.5 ppm.²¹

Itron asserts that its need for this waiver arises from certain system design constraints and the requirements of its utility customers.²² Itron notes that for a large percentage of time, Itron's customer premises end points and readers will satisfy the 1.5 ppm standard.²³ Itron contends that certain technical factors would mitigate any potential adverse impact from grant of the requested waiver, including the narrow bandwidth used by the customer premises end points and readers and their low power levels (less than two watts Effective Radiated Power).²⁴

We seek comment on whether we should waive section 22.355 so that Itron's devices operating in the 931 MHz band would be subject to a frequency tolerance limit of 5 ppm. Parties that oppose such a waiver should provide the specific technical basis for their opposition. Similarly, parties that support such a waiver should provide technical basis for their support.

D. Prospective Waiver Application

Because it may later acquire similar licenses, Itron asks that any waivers granted in response to its Request extend not only to the 931 MHz band licenses it currently holds but also to any such licenses that it may acquire in the future.²⁵ We seek comment on that request.

E. Procedural Matters

Interested parties may file comments and reply comments on or before the dates indicated on the first page of this *Public Notice*. All comments or other pleadings must reference WT Docket No. 13-195.

¹⁷ Itron Request at 7.

¹⁸ *Id.* at 7-8.

¹⁹ 47 C.F.R. § 22.355.

²⁰ Itron Request at 9.

²¹ 47 C.F.R. § 22.355.

²² Itron Request at 9.

²³ *Id.* at 10.

²⁴ *Id.* Itron provides a Technical Statement in support of its request for waiver of section 22.355.

²⁵ *Id.* at 4-5. Itron also asks that any such waivers granted regarding its licenses in the 931 MHz Band automatically be applied to any licenses in the 929 MHz Band that it may now have or later acquire. Because it does not appear Itron has yet obtained any such licenses in the 929 MHz Band, we think it premature to seek comment on such a request.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS)²⁶ or the Federal Government's eRulemaking Portal or by hand delivery to the Commission.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight 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 or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

Parties are requested to send one copy of their comments, reply comments, or other pleadings 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.

Also, parties are requested to send a copy of each comment or other pleading to: (1) Kathy Harris, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, FCC, 445 12th Street, SW, Washington, DC 20554; e-mail: Kathy.Harris@fcc.gov; and (2) Allen Barna, Senior Attorney, Mobility Division, Wireless Telecommunications Bureau, FCC, 445 12th Street, SW, Washington, DC 20554; e-mail: Allen.Barna@fcc.gov.

Documents in WT Docket No. 13-195 are available for viewing on ECFS, <http://www.fcc.gov/cgb/ecfs>, by entering the docket number, WT Docket No. 13-195. These documents are also 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, DC 20554. The documents are also available for purchase from Best Copy and Printing, Inc., telephone (800) 378-3160, e-mail FCC@BCPIWEB.com, facsimile (202) 488-5563, TTY (202) 488-5562.

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This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.²⁷ 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

²⁶ See Electronic Filing of Documents in Rulemaking Proceedings, *Report and Order*, GC Docket No. 97-113, 13 FCC Rcd 11322 (1998).

²⁷ See 47 C.F.R. §§ 1.1200(a), 1.1206.

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 section 1.1206(b) of the Rules.²⁸ Participants in this proceeding should familiarize themselves with the *ex parte* rules.

For further information, contact Kathy Harris, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-0609, or via e-mail at Kathy.Harris@fcc.gov, or Allen Barna, Senior Attorney, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-1536 or via e-mail at Allen.Barna@fcc.gov.

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

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²⁸ 47 C.F.R. § 1.1206.