



PUBLIC NOTICE

Federal Communications Commission
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DA 13-1838

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUESTS OF MOBILE RELAY ASSOCIATES FOR WAIVERS TO PERMIT PART 90 USE OF CHANNELS ON THE BAND EDGES BETWEEN PART 90 AND PART 95 SPECTRUM

WT Docket No. 13-212

Comment Date: September 30, 2013

Reply Comment Date: October 15, 2013

By this *Public Notice*, comment is sought on the requests of Mobile Relay Associates (MRA) for waiver of Sections 2.106 and 90.35 of the Commission's Rules. MRA seeks waivers to operate on frequency pairs 462/467.5375 MHz and 462/467.7375 MHz at multiple locations in the Los Angeles,¹ Denver,² Las Vegas,³ and Miami⁴ metropolitan areas.⁵ Frequencies 462.5375, 462.7375, 467.5375, and 467.7375 MHz are allocated for land mobile operations,⁶ but currently are not designated for use by the Industrial/Business Pool or any other Commission service.⁷ Rather, they are on the band edges between Industrial/Business Pool spectrum and General Mobile Radio Service spectrum.

MRA seeks assignment of these frequencies with a 4 kHz emission designator, which it contends will present no risk of harmful interference because its requested channels will not overlap any designated frequencies on either side, in light of the implementation of narrowbanding (maximum 12.5 kHz channel bandwidth or equivalent efficiency)⁸ by private land mobile radio (PLMR) licensees in the 150-174 MHz

¹ See FCC File No. 0005877470 (filed July 30, 2013 and amended Aug. 1, 2013 and Aug. 21, 2013).

² See FCC File No. 0005895551 (filed Aug. 14, 2013 and amended Aug. 19, 2013).

³ See FCC File No. 0005895553 (filed Aug. 14, 2013 and amended Aug. 19, 2013).

⁴ See FCC File No. 0005898064 (filed Aug. 16, 2013).

⁵ MRA filed a near-identical waiver request with each application. See, e.g., Request for Rule Waiver (filed July 30, 2013) (Waiver Request).

⁶ See 47 C.F.R. § 2.106 (United States Table of Frequency Allocations).

⁷ See 47 C.F.R. § 90.35 (Industrial/Business Pool Frequency Table).

⁸ See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, WT Docket No. 99-87, RM-

and 421-470 MHz bands.⁹ (We note, however, that Industrial/Business Pool frequency 462.750 MHz is exempt from narrowbanding¹⁰ and that 25 kHz narrowband-equivalent operation is permitted on Industrial/Business Pool frequencies 462.525, 467.525, and 467.750 MHz.¹¹)

Further, MRA contends there is widespread and increasing congestion in the metropolitan areas in which it seeks relief.¹² It states that UHF spectrum is particularly scarce in the Los Angeles and Miami areas in light of the current freeze on new applications in the 470-512 MHz band.¹³

We seek comment on MRA's waiver requests. Commenters should address whether the public interest would be served by granting the requested waivers. Commenters should also address whether a waiver may be warranted only in part, *e.g.*, only on certain frequencies or in certain markets. In particular, we seek comment from parties whose operations could be impacted by grant of the waiver.

Procedural Matters

Interested parties may file comments and reply comments in response to the waiver requests on or before the dates listed on the first page of this *Public Notice*. All pleadings must reference WT Docket No. 13-212. 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.¹⁴

9332, 18 FCC Rcd 3034 (2003) (*Second R&O*); Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Third Memorandum Opinion and Order, Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004) (*Third MO&O*); Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Order*, WT Docket No. 99-87, RM-9332, 25 FCC Rcd 8861 (2010) (*Narrowbanding Waiver Order*); *see also* 47 C.F.R. §§ 90.203(j), 90.209(b). Specifically, the narrowbanding deadlines apply to frequencies in the 150.8-162.0125 MHz, 173.2-173.4 MHz, and 421-512 MHz bands, but the Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology have waived the January 1, 2013 deadline for PLMR licensees in the 470-512 MHz band. *See* Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Order*, WT Docket No. 99-87, RM-9332, 27 FCC Rcd 4213, *on recon.*, *Order on Reconsideration*, 27 FCC Rcd 14770 (WTB/PSHSB/OET 2012).

⁹ *See* Waiver Request at 3.

¹⁰ *See* Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-470 MHz Bands, *Public Notice*, 27 FCC Rcd 14896, 14898 (WTB/PSHSB/OET 2012) (citing 47 C.F.R. § 90.35(c)(29)).

¹¹ *See* 47 C.F.R. § 90.209(b)(5).

¹² *See* Waiver Request at 3.

¹³ *See* Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and Part 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, WT Docket No. 99-87, 27 FCC Rcd 4218 (WTB/PSHSB 2012).

¹⁴ *See* Electronic Filing of Documents in Rulemaking Proceedings, *Report and Order*, GC Docket No. 97-113, 13 FCC Rcd 11322 (1998).

- 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.
- 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 two copies of each filing.

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.
- 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.

The requests, 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), <http://www.fcc.gov/cgb/ecfs>, by entering the docket number, WT 13-212. 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.

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.¹⁵ 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

¹⁵ See 47 C.F.R. §§ 1.1200(a), 1.1206.

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.

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

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