



Federal Communications Commission
Washington, D.C. 20554

October 2, 2015

DA 15-1122

Robert Vitanza, Esq.
AT&T Services, Inc.
1120 20th Street, NW, Suite 1000
Washington, DC 20036

RE: Request by AT&T Services, Inc. for Interim Waiver of 47 C.F.R. § 22.913 to Permit the Use of a Power Spectral Density Model for Certain Cellular Service Operations in Four Missouri Markets (WT Docket No. 15-86)

Dear Mr. Vitanza:

1. This letter responds to the request filed on April 9, 2015, by AT&T Services Inc.¹ on behalf of AT&T, Inc. and its subsidiaries (AT&T)² for an interim waiver of Section 22.913 of the Commission's rules.³ Section 22.913 sets forth power limits for the Cellular Radiotelephone (Cellular) Service in terms of effective radiated power (ERP) of base transmitters and Cellular repeaters.⁴ To the extent described herein, we grant the Waiver Request in part, and otherwise deny it, to permit AT&T to use the power spectral density (PSD) model at a maximum ERP level of 125 Watts/MHz for the following four Missouri Cellular Market Areas (CMAs): CMA 504 (KNKN533); CMA 505 (KNKN376); CMA 513 (KNKN508); and CMA 515 (KNKN825) (collectively, the Missouri Stations).⁵ AT&T may increase the power to 250 Watts/MHz in non-rural areas and 500 Watts/MHz in rural areas (increased power limits) at the Missouri Stations subject to certain conditions, described below. Further, on our own motion, we grant AT&T an interim waiver of Sections 22.911, 22.912, and 22.953 to the extent necessary to enable AT&T to file an alternative Cellular Geographic Service Area (CGSA) determination for: the Missouri Stations; and the following stations previously granted waiver relief in Florida and Vermont (FCC Call Signs KNKA264, KNKA225, KNKN793, and KNKA797).⁶

¹ AT&T Services, Inc., Request for Rule Waiver (filed Apr. 9, 2015) (Waiver Request) (under cover letter from Robert Vitanza, Gary Phillips, and Lori Fink, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, and attaching a technical study dated November 19, 2014 (November 2014 Study)).

² We note that the licenses subject to the Waiver Request are licensed under New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, which is a wholly owned subsidiary of AT&T, Inc.

³ See 47 C.F.R. § 22.913.

⁴ See *id.* (establishing the current ERP maximum of 500 Watts for base transmitters and Cellular repeaters, with a maximum of 1000 Watts ERP when operating in rural counties a certain distance from international borders).

⁵ The following systems are licensed on Cellular Block A: CMA 504 (KNKN533); CMA 505 (KNKN376); CMA 513 (KNKN508). The following system is licensed on Cellular Block B: CMA 515 (KNKN825).

⁶ The Mobility Division (Division), Wireless Telecommunications Bureau previously granted two AT&T waiver requests to allow AT&T to operate using the PSD model in certain Florida and Vermont markets. See Interim Waiver of 47 C.F.R. § 22.913 to Permit the Use of a Power Spectral Density Model for Certain Cellular Service Operations in Three Florida Markets, WT Docket No. 13-202, 29 FCC Rcd 11638 (2014) (Florida Waiver); Interim Waiver of 47 C.F.R. § 22.913 to Permit the Use of a Power Spectral Density Model for Certain Cellular Service Operations for Cellular Market 248-Burlington, VT, WT Docket No. 14-107, 29 FCC Rcd 11632 (2014) (Vermont Waiver). The Division did not explicitly address the CGSA determination procedure under those waiver grants and we take the opportunity to do so here.

I. BACKGROUND

2. In 2007 and 2008, the Commission revised the radiated power rules for various wireless services, including PCS and certain AWS,⁷ the 700 MHz Commercial Service,⁸ and 700 MHz public safety broadband operations,⁹ implementing a PSD model (among other related technical rule modifications).¹⁰ In the Streamlining 3d R&O the Commission declined to revise the Cellular ERP rules, primarily because of significant restructuring (800 MHz rebanding) ongoing in the immediately adjacent frequencies, which are used by public safety entities.¹¹ The Commission also noted a lack of industry support and the need for more time to assess the potential impact of using the PSD model in the Cellular band.¹² After filing a petition for rulemaking to modify Section 22.913,¹³ AT&T sought interim waiver relief to use the PSD model for Cellular systems in southern Florida¹⁴ and Burlington, VT.¹⁵ The Wireless Telecommunications Bureau (Bureau) sought comment on both waiver requests.¹⁶

⁷ See Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27 and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, *Third Report and Order*, WT Docket No. 03-264, 23 FCC Rcd 5319 (2008) (Streamlining 3d R&O) (revising §§ 24.232 and 27.50(d)).

⁸ See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 06-150, 22 FCC Rcd 8064 (2007).

⁹ See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, *Second Report and Order*, 22 FCC Rcd 15289 (2007).

¹⁰ More recently, the Commission adopted the PSD model for the 600 MHz band, AWS-3, H Block and AWS-4, all of which are not immediately adjacent to public safety operations. See, e.g., Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and Order*, GN Docket No. 12-268, 29 FCC Rcd 6567, 6684-85 (2014) (PSD in 600 MHz band); Amendment of the Commission's Rules With Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands, *Report and Order*, GN Docket No. 13-185, 29 FCC Rcd 4610, 4642-43 (2014) (PSD in AWS-3 bands); Service Rules for Advanced Wireless Services H Block – Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands, *Report and Order*, WT Docket No. 12-357, 28 FCC Rcd 9483, 9504-05 (2013) (PSD in H Block); Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands, *Report and Order and Order of Proposed Modification*, WT Docket Nos. 04-356 and ET Docket No. 10-142, 27 FCC Rcd 16102, 16156 (2012) (PSD in AWS-4 bands).

¹¹ See Streamlining 3d R&O, 23 FCC Rcd at 5321, 5341. See also Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, 19 FCC Rcd 14969, 15074 (2004) (other captions and docket numbers omitted), clarified by Improving Public Safety Communications in the 800 MHz Band, *Memorandum Opinion and Order*, WT Docket No. 02-55, 22 FCC Rcd 9818, 9819-21 (2007).

¹² See Streamlining 3d R&O, 23 FCC Rcd 5319, 5338.

¹³ See AT&T Services, Inc., Petition for Expedited Rulemaking and Request for Waiver of Section 22.913 of the Commission's Rules (filed February 29, 2012) (AT&T Petition). A technical study dated February 14, 2012, similar to the November 2014 Study, was attached to the AT&T Petition at Appendix A. The Commission has initiated a rulemaking procedure in which it is considering changes to the Cellular radiated power limits. See Amendments of Parts 1 and 22 of the Commission's Rules with Regard to Cellular Service, Including Changes in Licensing of Unserved Area; Amendment of the Commission's Rules Governing Radiated Power Limits for the Cellular Service [other captions omitted], *Notice of Proposed Rulemaking and Order*, WT Docket No. 12-40, RM No. 11510, 27 FCC Rcd 1745 (2012). See Amendments of Parts 1 and 22 of the Commission's Rules with Regard to Cellular Service, Including Changes in Licensing of Unserved Area; Amendment of the Commission's Rules Governing Radiated Power Limits for the Cellular Service [other captions omitted], *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 12-40, RM No. 11510, RM No. 11660, 29 FCC Rcd 14100 (2014) (Cellular Power Reform FNPRM). See 47 C.F.R. § 22.913.

¹⁴ AT&T Services, Inc., Request for Rule Waiver (filed July 22, 2013) (under cover letter from William Roughton, Esq., General Attorney, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, and attaching a technical study (continued...))

3. AT&T filed the July 9, 2014 *Ex Parte* Letter in support of the Florida Waiver Request, stating that on June 19, 2014, and June 24, 2014, AT&T and representatives from Miami-Dade county, the State of Florida, Palm Beach County and Harris Corporation performed PSD power limit testing at three previously agreed upon AT&T sites located in Miami, FL, using 125 Watts/MHz ERP.¹⁷ In the AT&T July 9, 2014 *Ex Parte* Letter, AT&T states that the testing resulted in no interference to the Public Safety Radio Network,¹⁸ and Miami-Dade County filed an *ex parte* letter confirming this and stating, as a result, that they do not object to a waiver grant. No comments were filed in response to the Vermont Public Notice and no public safety entities requested testing.

4. In September 2014, the Mobility Division (Division), Wireless Telecommunications Bureau granted in part, the Florida Waiver Request and granted the Vermont Waiver Request.¹⁹ Specifically, in the Florida Waiver, the Division permitted AT&T to utilize the PSD model at an ERP level of 125 Watts/MHz,²⁰ which corresponds with the parameters of the joint test plan conducted by AT&T with public safety entities in Florida.²¹ In the Vermont Waiver, the Division permitted AT&T to use higher power levels than in Florida (250 Watts/MHz in non-rural areas and 500 Watts/MHz in rural areas),²² because there are no public safety entities with base stations in the Vermont CMA and no public safety licenses objected to the waiver request.²³

5. In its Waiver Request, AT&T seeks authority, as an alternative to complying with the current Cellular ERP rule, to use a PSD model for certain station operations in Missouri pending the outcome of the pending rulemaking to modify the rule.²⁴ The Waiver Request seeks authority to operate under a PSD model with ERP limits of 250 Watts/MHz in non-rural areas and 500 Watts/MHz in rural areas for AT&T stations in the following Missouri counties:²⁵ Nodaway, Gentry, Atchison, Holt, and

(Continued from previous page) _____
dated March 21, 2013 (March 2013 Study)). The Waiver Request was supplemented on December 5, 2013, and again on July 9, 2014. *See* Letter from Jeanine Poltronieri, Esq., Assistant Vice President for External Affairs, AT&T Services, Inc., dated Dec. 5, 2013, to Marlene Dortch, Secretary, FCC (AT&T Supplement); *Ex Parte* Letter from Linda Vandeloop, Director-Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC (July 9, 2014) (AT&T July 9, 2014 *Ex Parte* Letter) (Florida Waiver Request).

¹⁵ AT&T Services, Inc., Request for Rule Waiver (filed July 1, 2014) (under cover letter from William Roughton, Esq., General Attorney, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, and attaching a technical study dated May 14, 2014 (May 2014 Study)) (Vermont Waiver Request).

¹⁶ *See* Wireless Telecommunications Bureau Seeks Comment on AT&T Request for Waiver to Permit Power Spectral Density Model for 800 MHz Cellular Operations in Three Florida Markets, *Public Notice*, WT Docket No. 13-202, 28 FCC Rcd 12584 (WTB 2013). *See* Wireless Telecommunications Bureau Seeks Comment on AT&T Request for Waiver to Permit Power Spectral Density Model for 800 MHz Cellular Operations in Vermont Market, *Public Notice*, WT Docket No. 14-107, 29 FCC Rcd 8336 (WTB 2014).

¹⁷ AT&T July 9, 2014 *Ex Parte* Letter at 1.

¹⁸ *Id.* at 2.

¹⁹ *See generally* Florida Waiver. *See generally* Vermont Waiver.

²⁰ *See* Florida Waiver at 7.

²¹ Although AT&T requested a waiver to use power limits of 250 Watts/MHz for both its Cellular A and B Block licenses in Florida, AT&T conducted tests at 125 Watts/MHz on the Cellular B Block only. *See id.* at 6.

²² *See* Vermont Waiver at 5.

²³ *See id.* at 4.

²⁴ *See* Waiver Request at 2. *See generally* Cellular Power Reform FNPRM.

²⁵ AT&T states that the main counties comprising the Cellular Geographic Service Area (CGSA) for each licensed area are rural. *See* Waiver Request at n.4. *See also id.*, Appendix A.

Worth (CMA 504);²⁶ Grundy, Harrison, and Mercer (CMA 505);²⁷ Camden, Polk, Benton, Dallas, and Hickory (CMA 513);²⁸ and Pulaski, Phelps, Crawford, Dent, Maries (CMA 515).²⁹

6. AT&T states that a grant of the Waiver Request is in the public interest since it will permit AT&T to more quickly and efficiently deploy high speed wireless broadband services, such as Long Term Evolution (LTE) over its Cellular spectrum, which will allow it to maintain high-quality service for its customers as data usage continues to soar, without increasing the potential for interference.³⁰ AT&T argues that a waiver grant will remove “disparities between radio services” and will eliminate the “penalty on wideband emissions [that] dilutes and potentially precludes deployment of the most up-to-date, efficient wideband technologies.”³¹ Further, AT&T states that this conclusion is supported by the grant of similar waiver requests in Florida and Vermont.³²

7. AT&T submitted with its Waiver Request the November 2014 Study, purporting to show that shifting to PSD-based power limits for the Missouri Stations would not cause harmful interference to public safety licensees in adjacent frequency bands.³³ AT&T argues that under its proposed ERP limits using a PSD model, “the power injected into neighboring receivers either in adjacent areas or co-located sites does not increase but remains the same” as under the current rule, because AT&T will maintain “the existing total power levels at its sites.”³⁴ AT&T claims that future deployments of 2X2 Multiple Input Multiple Output (MIMO) LTE in the Cellular band under a PSD limit would maintain the *status quo* with public safety services.³⁵ Moreover, AT&T asserts, the risk of interference from the use of PSD is further reduced by existing Commission rules designed to minimize interference to non-cellular 800 MHz licensees.³⁶ AT&T further states that the proposed ERP limits would maintain the *status quo* in the radio frequency environment in CGSAs of neighboring Cellular licensees.³⁷

8. In an *ex parte* letter filed September 1, 2015, AT&T explains why use of the PSD model is particularly necessary in the Missouri markets.³⁸ AT&T states that the current authorized power limits result in reduced coverage, which is particularly disadvantageous in rural counties, such as those covered by the Missouri markets, where base stations are more widely dispersed.³⁹ Further, AT&T states that it does not have paired 700 MHz spectrum, over which carriers are authorized to operate using PSD, in

²⁶ See FCC license for KNKN533 (available in the Commission’s Universal Service Licensing System (ULS)).

²⁷ See FCC license for KNKN376 (available in ULS).

²⁸ See FCC license for KNKN508 (available in ULS).

²⁹ See FCC license for KNKN825 (available in ULS).

³⁰ See Waiver Request at 3-4.

³¹ *Id.* at 4-5.

³² See *id.* at 5.

³³ See *id.* at 6 (describing its November 2014 Study).

³⁴ Waiver Request at 7-8.

³⁵ See *id.* at 6-7.

³⁶ Specifically, AT&T cites to Commission rules, 47 C.F.R. §§ 22.970-22.973 and 90.672-90.675. See *id.* at 7.

³⁷ Waiver Request at 8.

³⁸ *Ex Parte* Letter from AT&T (unsigned) to Marlene H. Dortch, Secretary, FCC (Sept. 1, 2015) (AT&T Sept. 1, 2015 *Ex Parte* Letter).

³⁹ *Id.* at 1.

these markets to deploy LTE.⁴⁰ Therefore, its customers in the Missouri markets can only receive the benefits of LTE if it is deployed over the Cellular systems.⁴¹

9. In April 2015, the Bureau sought comment on the Waiver Request, particularly with respect to any potential adverse impact on public safety operations and Cellular licensees.⁴² The National Public Safety Telecommunications Council (NPSTC) filed comments.⁴³ NPSTC recommends that the Commission address changes to Cellular Service power limit rules through the pending rulemaking,⁴⁴ and if the Commission grants the Waiver Request, it should include explicit conditions.⁴⁵ Specifically, NPSTC argues that the Commission should require AT&T to: (1) investigate and resolve interference complaints from Part 90 licensees;⁴⁶ (2) notify the Commission of any interference complaints received pursuant to the Cellular rules;⁴⁷ and (3) compensate public safety entities for costs incurred from investigation and resolution of interference.⁴⁸

10. AT&T filed reply comments stating that NPSTC's concerns are generalized and not specific to AT&T and waiting for resolution of the Cellular Power Reform FNPRM would unjustifiably delay benefits to its customers.⁴⁹ Further, AT&T addressed each of NPSTC's proposed conditions.⁵⁰ AT&T agrees with NPSTC that Part 90 interference complaints should be expeditiously resolved, as already dictated by Commission rule 22.972.⁵¹ In response to the second condition, AT&T states that requiring additional notice of interference complaints should be addressed by rulemaking and that the information would be limited, as notice of interference is not equivalent to notice that AT&T is the cause of such interference.⁵² Finally, AT&T claims that NPSTC has not justified why AT&T should have an obligation to compensate public safety for dealing with interference complaints, as it is not part of existing Part 22 or Part 90 interference rules⁵³ and identifying and mitigating interference is a shared responsibility between Part 22 and Part 90 licensees.⁵⁴

11. In May 2015, AT&T filed an *ex parte* letter reiterating its commitment to working with public safety to address interference issues and urging the Commission to grant the Waiver Request

⁴⁰ *Id.* at 2.

⁴¹ *Id.*

⁴² See Wireless Telecommunications Bureau Seeks Comment on AT&T Request for Waiver to Permit Power Spectral Density Model for 800 MHz Cellular Operations in Four Missouri Markets, *Public Notice*, WT Docket No. 15-86, 30 FCC Rcd 2949 (Apr. 10, 2015).

⁴³ See Comments of NPSTC (filed Apr. 30, 2015) (NPSTC Comments).

⁴⁴ See NPSTC Comments at 1. As noted above, a rulemaking proceeding in which the Commission is considering changes to the Cellular Service power rules is pending. *Supra* n.24.

⁴⁵ See NPSTC Comments at 1.

⁴⁶ See NPSTC Comments at 5.

⁴⁷ See *id.* at 6. See 47 C.F.R. §§ 22.970-22.973.

⁴⁸ See NPSTC Comments at 6.

⁴⁹ See Reply Comments of AT&T (filed May 11, 2015) (AT&T Reply Comments) at 2.

⁵⁰ See *id.* at 3-4.

⁵¹ See *id.* at 3. See 47 C.F.R. § 22.972(b).

⁵² See AT&T Reply Comments at 3.

⁵³ See generally 47 C.F.R. §§ 22.1 *et seq.*, 90.1, *et seq.*

⁵⁴ See AT&T Reply Comments at 3-4.

without certain conditions that were imposed in the Florida Waiver and Vermont Waiver.⁵⁵ AT&T requests that the Commission grant the Waiver Request without the following conditions: (1) notice to public safety of the antenna radiation center and beam tilt at the sites subject to the waiver; (2) establishment of an 800 number that is monitored 24 hours per day/7 days per week; and (3) immediate suspension of PSD operations upon receipt of a public safety interference complaint.⁵⁶

II. DISCUSSION

12. Under Section 1.925 of the Commission's rules, a waiver may be granted if the applicant demonstrates that: (i) the underlying purpose of the rule would not be served or would be frustrated by its application to the instant case and that grant of the requested waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁵⁷

13. We have weighed the potential public interest benefits against potential adverse effects and believe it is in the public interest to grant the Waiver Request in part, as described below, and find that it serves the public interest to permit AT&T to operate the Missouri Stations at 125 Watts/MHz subject to certain conditions described below. Further, AT&T may operate the Missouri Stations at the increased power limits, subject to additional conditions also delineated below. Specifically, we conclude it is in the public interest to foster the development of advanced technologies in the Cellular Service, thereby allowing AT&T to launch LTE, offering its subscribers access to these valuable wireless broadband services.

14. We find it persuasive that AT&T and several public safety entities previously conducted successful tests using the PSD model,⁵⁸ and that no public safety licensees have raised objections specific to AT&T's proposed PSD model for the Missouri Stations or requested testing. Further, the conditions we impose will help ensure that public safety systems and neighboring Cellular licensees will be protected from increased harmful interference from AT&T's operations using the PSD model. Based on the totality of the circumstances, we find that permitting AT&T to operate the Missouri Stations using the PSD model better serves the public interest than strict application of the current Cellular radiated power rules.

15. We also conclude that the underlying purpose of Section 22.913, to prevent harmful interference from a Cellular licensee to public safety and adjacent channel and neighboring co-channel Cellular licensees, will not be frustrated by a grant of the Waiver Request. AT&T has completed successful testing in Florida demonstrating that operation at 125 Watts/MHz did not cause interference to the public safety entities that participated in the test.⁵⁹ Further, none of the adjacent channel or neighboring co-channel Cellular licensees in or neighboring the four Missouri markets raised an objection to the Waiver Request.

16. Accordingly, we grant in part, AT&T's request and will permit AT&T to utilize the PSD model at the Missouri Stations at an ERP level of 125 Watts/MHz, which is the power limit used for

⁵⁵ *Ex Parte* Letter from AT&T (unsigned) to Marlene H. Dortch, Secretary, FCC (May 21, 2015) (AT&T May 21, 2015 *Ex Parte* Letter); *See* Florida Waiver at 7; *See* Vermont Waiver at 5-6.

⁵⁶ *See* AT&T May 21, 2015 *Ex Parte* Letter at 1-2.

⁵⁷ 47 C.F.R. § 1.925.

⁵⁸ *See* Florida Waiver at 5-6.

⁵⁹ *See id.*

successful testing in Florida.⁶⁰ AT&T's operation under this waiver is subject to change if necessary to prevent interference to public safety or to resolve interference resolution disputes, subject to the outcome of the pending Cellular Power Reform FNPRM. AT&T's use of a PSD model is limited to a maximum ERP limit of 125 Watts/MHz using LTE as described in AT&T's Waiver Request and only applies to those Missouri Stations operating as follows: CMA 504 (KNKN533); CMA 505 (KNKN376); CMA 513 (KNKN508); and CMA 515 (KNKN825). Further, this waiver grant is conditioned on the following:

- 1) Before deploying a base station with power specified in terms of PSD under this waiver, AT&T shall provide a minimum of thirty (30) days written advance notice to any public safety⁶¹ licensee authorized in the frequency range 806-824 MHz/851-869 MHz with a base station located within a radius of 113 km of the AT&T base station to be deployed. The written notice shall specify: (a) a description of the area(s) where the base stations are located; (b) the timeframe within which the base station(s) will be activated; and (c) contact information, including a telephone number and email, to notify AT&T of any resulting interference. A public safety licensee may request that AT&T provide additional relevant technical information, such as the coordinates/addresses of each base station, the height above ground level of the radiation center of the base station(s) antenna(s) and the amount of beam tilt, if any, and AT&T's written notice shall inform public safety licensees of this right.
- 2) If AT&T receives a report that such base station(s) is/are causing harmful interference to a public safety licensee, it shall immediately remedy the interference, or suspend operation under this waiver until the interference has been successfully mitigated (in cases where AT&T base stations are found to be the cause of the interference). This condition shall remain in effect until further action of the Commission, and is in addition to, not a replacement for, AT&T's obligations pursuant to 47 C.F.R. §§ 22.971 and 22.972.

17. AT&T may operate at the increased power limits at the Missouri Stations subject to the following conditions:

- 1) At all times while operating at the increased power limits, AT&T must have express written consent or non-objection from all public safety⁶² licensees authorized in the frequency range 806-824 MHz/851-869 MHz with a base station(s) located within a radius of 113 km of the AT&T base station to be deployed at the higher power level.
- 2) Before operating at the increased power limits, AT&T shall provide a minimum of thirty (30) days written advance notice to any public safety licensee authorized in the frequency range 806-824 MHz/851-869 MHz with a base station(s) located within a radius of 113 km of the AT&T base station to be deployed. The written notice shall specify: (a) that AT&T intends to operate pursuant to a waiver of the FCC's base station power rules in order to provide wireless broadband service; (b) that the public safety licensees may file an objection within the next thirty (30) days: (1) notifying AT&T in writing; and (2) filing a written objection with the Commission in WT Docket No. 15-86; (c) a description of the area(s) where the base stations are located; (d) the timeframe within which the base station(s) will be activated at the higher power level; and (e) contact

⁶⁰ AT&T July 9, 2014 *Ex Parte* Letter at 1.

⁶¹ Public safety licensees are defined for purposes of this waiver relief as licensees authorized under the following ULS radio service codes: GE, GF, GP, YE, YF and YP.

⁶² *See id.*

information, including a telephone number and email, to notify AT&T of any resulting interference. A public safety licensee may request that AT&T provide additional relevant technical information, such as the coordinates/addresses of each base station, the height above ground level of the radiation center of the base station(s) antenna(s) and the amount of beam tilt, if any, and AT&T's written notice shall inform public safety licensees of this right. AT&T may operate at the increased power limits prior to the expiration of the thirty (30) days if all public safety licensees authorized in the frequency range 806-824 MHz/851-869 MHz with a base station(s) located within a radius of 113 km of the AT&T base station to be deployed have provided express written consent.

- 3) Any public safety licensee authorized in the frequency range 806-824 MHz/851-869 MHz located within a radius of 113 km may file an objection to AT&T's use of the increased power limits: (1) notifying AT&T in writing; and (2) filing a written objection with the Commission in WT Docket No. 15-86.
- 4) If AT&T receives an objection or notice from a public safety licensee authorized in the frequency range 806-824 MHz/851-869 MHz demonstrating that an AT&T base station operating at the increased power limits is causing harmful interference to a public safety licensee, it shall immediately remedy the interference or suspend operation under this waiver until the interference has been successfully mitigated or it has been determined that AT&T base stations are not the cause of the interference. This condition shall remain in effect until further action of the Commission, and is in addition to, not a replacement for, AT&T's obligations pursuant to 47 C.F.R. §§ 22.971 and 22.972.
- 5) AT&T must coordinate with adjacent channel and neighboring co-channel Cellular licensees prior to commencing operation under this waiver and may not cause harmful interference to such licensees.

III. SAB EXTENSION AND ALTERNATIVE CGSA DETERMINATION

18. We also grant on our own motion,⁶³ a waiver of Sections 22.911(b), 22.912, and 22.953(b)⁶⁴ of the Commission's rules to the extent necessary to enable AT&T to calculate its Service Area Boundary (SAB) extension and CGSA using the process described below for the Missouri Stations and the stations subject to the Florida Waiver and Vermont Waiver (FCC call signs KNKA264, KNKA225, KNKN793 and KNKA797).⁶⁵ We find that this waiver grant is in the public interest in order to allow AT&T to effectively implement PSD in these markets.

19. AT&T shall use an industry-accepted predictive mode, rather than the formula provided in Section 22.911(a)⁶⁶ of the Commission's rules, for the purpose of determining its SAB⁶⁷ extension and CGSA. If the predictive model yields an SAB extension comprising more than 130 contiguous square kilometers (50 contiguous square miles), regardless of whether the CGSA departs $\pm 20\%$ in the service

⁶³ See 47 C.F.R. §§ 1.3, 1.925(a).

⁶⁴ See 47 C.F.R. §§ 22.911(b), 22.912, and 22.953(b). Licensees seeking to modify an existing Cellular system must file an application for major modification using Form 601. See 47 C.F.R. § 22.953(b).

⁶⁵ See *supra* n.6.

⁶⁶ See 47 C.F.R. § 22.911(a).

⁶⁷ AT&T must define the SAB in terms of distances from the cell sites to the 32 dBuV/m contour along the eight cardinal radials. The distances used for the cardinal radials must be representative of the coverage within the 45° sectors.

area of any cell,⁶⁸ AT&T must submit an alternative CGSA determination, pursuant to Section 22.911(b) of the Commission's rules. AT&T must file an application for major modification of the CGSA, using FCC Form 601, and, as an attachment AT&T, must file a depiction of the CGSA, created using an industry-accepted predictive model.

20. If the predictive model results in calculations that depict an SAB extension comprising less than 130 contiguous square kilometers (50 contiguous square miles), AT&T shall not file an application for major modification. Instead AT&T may provide service in the extension area on a secondary basis only.

IV. CONCLUSION

21. We conclude that the relief we grant today strikes an appropriate balance in the public interest. Permitting AT&T to deploy LTE using PSD at the Missouri Stations will allow A&T to make more effective use of the spectrum by providing enhanced product offerings to consumers, while also protecting public safety licensees and adjacent and neighboring co-channel Cellular licensees from increased risk of harmful interference.

V. ORDERING CLAUSES

22. Accordingly, IT IS ORDERED that pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925, the request filed by AT&T Services, Inc. on behalf of AT&T, Inc. and its subsidiaries is HEREBY GRANTED IN PART TO THE EXTENT DESCRIBED HEREIN AND OTHERWISE DENIED and SUBJECT TO the pending rulemaking (WT Docket No. 12-40; RM-11510, RM-11660).

23. IT IS FURTHER ORDERED that pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Sections 1.3 and 1.925(a) of the Commission's rules, 47 C.F.R. § 1.3, 1.925(a) we grant, on our own motion, a waiver of Sections 22.911(b), 22.912, and 22.953(b), 47 C.F.R. §§ 22.911(b), 22.912, and 22.953(b), to the extent necessary as described herein.

24. These actions are taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331.

Sincerely,

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau

⁶⁸ See 47 C.F.R. § 22.911(b).