



PUBLIC NOTICE

Federal Communications Commission
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**MEDIA BUREAU RESUMES SEEKING COMMENT ON OTARD PETITION FOR
DECLARATORY RULING FILED BY THE SATELLITE BROADCASTING &
COMMUNICATIONS ASSOCIATION, DIRECTV LLC, AND DISH NETWORK L.L.C.**

CSR-8624-O

MB Docket No. 20-284

Comment Date: October 1, 2020

Reply Comment Date: October 16, 2020

The Satellite Broadcasting & Communications Association (SBCA), DIRECTV LLC, and DISH Network L.L.C., filed a Petition for Declaratory Ruling (Petition) with the Federal Communications Commission on April 19, 2012, challenging satellite dish antenna restrictions adopted by the City of Chicago, Illinois (Chicago Ordinance).¹ The Chicago Ordinance seeks to limit installation of visible satellite dish antennas.² The Petition contends that the Chicago Ordinance violates the Commission's Over-the-Air Reception Devices rule (OTARD Rule)³ because it improperly restricts the location of satellite dish antennas in areas of exclusive use. The Petition argues that these restrictions would unreasonably delay, prevent, or increase the cost of installation, maintenance, or use of satellite dish antennas, or preclude reception of an acceptable signal.

On April 23, 2012, the Media Bureau (Bureau) sent SBCA a letter accepting its Petition for filing and staying enforcement of the Chicago Ordinance while the Petition is pending.⁴ On April 26, 2012, the Bureau placed the Petition on Public Notice.⁵ However, on May 3, 2012, SBCA and the City of Chicago filed a joint motion with the Commission to stay the public comment period prescribed in the Public Notice until after the Commission renders a decision in the proceeding involving SBCA's challenge to a

¹ Chicago Petition at 1. The Petition was filed in response to the City's March 14, 2012, adoption of Chicago Zoning Ordinance, Ch. 17-9-0203, Satellite Dish Antennas (Ordinance), which amended Title 17, Chapter 9, section 0203 of the Chicago Zoning Ordinance.

² Specifically, the ordinance limits installation of satellite dishes that are visible from the street adjacent to the property and between a building façade and the street.

³ 47 CFR § 1.4000.

⁴ Letter from John B. Norton, Deputy Division Chief, Policy Division, Media Bureau, FCC, to Lisa Volpe McCabe, Director, Public Policy & Outreach, Satellite Broadcasting & Communications Association (Apr. 23, 2012).

⁵ *Media Bureau Seeks Comment on Petition for Declaratory Ruling that an Ordinance of the City of Chicago, Illinois is Preempted by the Commission's Over-the-Air Reception Devices Rule*, Public Notice, 27 FCC Rcd 4348 (MB 2012).

similar ordinance enacted by the City of Philadelphia (Philadelphia Ordinance).⁶ On May 14, 2012, the Bureau granted the parties' request to stay the comment period in the Chicago proceeding and cancelled the Public Notice given the similarity of the issues presented by both the Chicago and Philadelphia petitions and the potential for a decision on the Philadelphia petition to narrow or resolve the Chicago dispute.⁷

The Bureau subsequently issued a declaratory ruling on the Philadelphia petition, agreeing with SBCA that certain specific provisions of the Philadelphia Ordinance violate the OTARD Rule, and are therefore prohibited.⁸ Since then, the Bureau contacted the parties to this Petition, to ascertain whether a dispute over the Chicago Ordinance still exists.⁹ Because the parties have indicated that the issues raised in the Petition require resolution, we now resume seeking comment on the Petition. We note that while not identical, the Philadelphia and Chicago Ordinances are similar. We ask that commenters opposing the Petition be mindful of the Bureau's *Philadelphia Declaratory Ruling* and address why the Chicago Ordinance should be distinguished from the Philadelphia Ordinance, and why the Chicago Ordinance does not similarly violate the OTARD Rule.

GENERAL INFORMATION

Filing Requirements. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- 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 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.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.U.S.

⁶ In October 2011, the City of Philadelphia adopted an antenna ordinance that limited the placement of antennas and satellite dishes. On November 8, 2011, before the City of Chicago adopted its ordinance, SBCA filed a Petition for Declaratory Ruling challenging the legality of the Philadelphia Ordinance. Philadelphia Petition at 1.

⁷ *Satellite Broadcasting & Communications Association; Petition for Declaratory Ruling Under 47 C.F.R. § 1.4000*, Request for Stay of Public Comment Period, 27 FCC Rcd 5195 (MB 2012).

⁸ See *Satellite Broadcasting & Communications Association; Petition for Declaratory Ruling Under 47 C.F.R. § 1.4000*, Declaratory Ruling, 33 FCC Rcd 2797 (MB 2018) (*Philadelphia Declaratory Ruling*). Similar to the Chicago Ordinance, the Philadelphia Ordinance sought to limit the placement of satellite dish antennas on the front façades of homes and buildings. The Philadelphia Ordinance also imposed requirements for certification, notification, painting, and removal of satellite dish antennas and established legal obligations for television access providers and installers as well as penalties.

⁹ See, e.g., Letter from Maria Mullarkey, Chief, Policy Division, Media Bureau, FCC, to Jared Policicchio, Assistant Corporation Counsel, City of Chicago Law Department (Apr. 27, 2020).

- Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Ex Parte Rules. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁰ 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.

Additional Information. For additional information on this proceeding, contact Kenneth Lewis of the Policy Division, Media Bureau, at Kenneth.Lewis@fcc.gov or (202) 418-2122.

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¹⁰ 47 CFR §§ 1.1200 *et seq.*