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November 5, 2019

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: ***Request for Waiver of the Citizens Broadband Radio Service Transition
Deadline
WT Docket No. 18-353***

Notice of Ex Parte Communication

Dear Ms. Dortch:

On November 1, 2019, on behalf of the Wireless Internet Service Providers Association (“WISPA”), the Utilities Technology Council (“UTC”) and the Edison Electric Institute (“EEI”), the undersigned, Brett Kilbourne, and Aryeh Fishman, respectively, participated in a meeting and spoke via conference call with Paul Powell, Becky Schwartz, and Jessica Quinley of the Federal Communications Commission (“FCC”)’s Wireless Telecommunications Bureau (“Bureau”). The purpose of the meeting was to urge the Commission to grant the Petition for Waiver¹ that WISPA and UTC jointly filed requesting an extension of the April 17, 2020 deadline by which existing Part 90 3650-3700 MHz Service licensees are required under Section 90.1307(c) and (d) and Sections 90.1338(a) and (b) of the Commission’s Rules to complete the transition of their operations to comply with the Part 96 Citizens Broadband Radio Service (“CBRS”) rules.

Consistent with WISPA’s May 3, 2019 ex parte letter,² WISPA, UTC and EEI stated that an extension of the deadline is necessary because licensees lack sufficient time to acquire, test and install certified Part 96 compliant equipment, which has only recently become commercially available. In addition, licensees have been unable to acquire commercially available software that would allow their Part 90 equipment to communicate with the Spectrum Access System (“SAS”) database. It was also stated that the upcoming winter months will make hardware change-outs more challenging, if not prohibitive, in many areas of the country. Therefore, WISPA, UTC and EEI asked the Commission to act quickly to grant the Petition for Waiver.

UTC and EEI emphasized that electric companies need to ensure that their critical infrastructure communications systems have the reliability and security to deliver essential

¹ Public Notice, *Wireless Telecommunications Bureau Seeks Comment on Wireless Internet Service Providers Association and Utilities Technology Council Request for Waiver of the Citizens Broadband Radio Service Transition Deadline*, DA 18-1206, WT Docket No. 18-353 (rel. Nov. 27, 2018).

² Letter from Stephen E. Coran, Counsel to WISPA, to Marlene H. Dortch, FCC Secretary, WT Docket No. 18-353 (filed May 3, 2019).



Letter to Marlene H. Dortch
Page 2 of 3

energy services and therefore electric companies need additional time to test equipment that is upgraded to Part 96 equipment and rules. UTC and EEI predicted that if the Commission did not grant the Petition for Waiver, that individual electric utilities using Part 90 equipment in the band would be forced to begin filing individual petitions for waiver with the FCC, which would add to the administrative burden of addressing these requests from similarly-situated licensees.

We also discussed with Bureau staff an important factual development that the FCC did not anticipate when it adopted the April 17, 2020 deadline to transition Part 90 equipment to the CBRS Part 96 rules. In 2015, the FCC believed that the rules it had adopted to enable that transition should allow 3650-3700 MHz Service licensees to use their existing base stations and other legacy network equipment existing.³ Notably, at that time, the FCC stated that “[t]he vast majority of equipment deployed in the 3650-3700 MHz band uses the WiMAX technology standard.”⁴ The FCC found that this standard “defines network management interfaces that allow for operator control of network operating parameters,” and these interfaces provide software ‘hooks’ that can enable deployment of a network proxy controller” that would allow the legacy network to communicate with the SAS.⁵ Therefore, the FCC “defin[ed] a CBSD in a flexible way to encompass a network of base stations [that] should allow legacy network equipment to interact with the SAS at relatively low cost, through the addition of a proxy controller device.”⁶

By contrast, much of the equipment that UTC, EEI and WISPA members use in their networks relies on proprietary air interfaces that does not use WiMAX or LTE-based technology that is software-upgradeable to Part 96 standards. As a matter of fact, WiMAX technology is no longer favored by the industry and there is little, if any, new equipment that is compatible with WiMAX equipment installed prior to April of 2015 when the Commission adopted the CBRS rules and transition deadline. In addition, as UTC and WISPA explained in Reply Comments, “a domain proxy is more likely to be useful for large mobile networks whose eNodeBs are built to use mobile industry standard interfaces; these are not found on most radios used in the 3.65 GHz band under Part 90.”⁷ Therefore, the majority of base stations and subscriber units that UTC, EEI and WISPA members use cannot transition to Part 96 rules via software “hooks,” but rather require hardware change-outs and truck rolls. At the present time, there is a limited amount of companies with certified Part 96 equipment and the supply chain of that equipment has not

³ *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550-3700 MHz Band*, Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 3959, 4075, para. 397-399 (2015).

⁴ *Id.* at 4075, para. 398.

⁵ *Id.*

⁶ *Id.*

⁷ UTC and WISPA Reply Comments at 13.



Letter to Marlene H. Dortch
Page 3 of 3

sufficiently evolved. Fixed devices currently subject to registration in ULS under Part 90⁸ will have to be re-registered with a SAS by a Certified Professional Installer (“CPI”), and because CBRS has stringent requirements for both azimuth and elevation accuracy of the registered location, many existing consumer premises equipment installations, which do not generally have Global Positioning System capabilities, are likely to require a field visit to verify their position.

In conclusion, for many, if not the vast majority of existing Part 90 3650-3700 MHz Service licensees, the transition to Part 96 CBRS rules will require them to replace their base stations and other legacy network equipment. Consequently, this will require them to compete with others to hire tower-climbers and technicians, install new equipment at the base station and the customers’ premises, ensure that the equipment complies with the CPI procedures and begin commercial operations under the control of the SAS and the Environmental Sensing Capability. All of this will necessarily take much more time than the current transition period allows.

Pursuant to Section 1.1206 of the Commission’s Rules, this letter is being filed in ECFS in above-referenced docket. Please contact the undersigned with any questions.

Respectfully submitted,

/s/ Louis Peraertz

Louis Peraertz, Vice President of Policy

cc: Paul Powell
Becky Schwartz
Jessica Quinley
Brett Kilbourne
Aryeh Fishman

⁸ 47 C.F.R. § 90.1307(a).