

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Wireless Telecommunications Bureau Seeks)	WT Docket No. 18-353
Comment on Wireless Internet Service)	
Providers Association and Utilities)	
Technology Council Request for Waiver of)	
Citizens Broadband Radio Service Transition)	
Deadline)	

COMMENTS OF FEDERATED WIRELESS, INC.

Federated Wireless, Inc. (“Federated Wireless”) offers these comments in response to the Wireless Internet Service Providers Association (“WISPA”) and Utilities Technology Council (“UTC”) petition for waiver of sections 90.1307(c) and (d) and sections 90.1338(a) and (b) of the Commission’s rules (“Petition”). WISPA and UTC ask the Commission to extend until January 8, 2023 the deadline by which Grandfathered Wireless Broadband Licensees (“GWBLs”) must transition from their current Part 90 operations to Part 96 Citizens Broadband Radio Service (“CBRS”) operations.¹ Federated Wireless understands that some GWBLs may need a waiver and an extended deadline, and the Commission may choose to grant such waivers after good cause is shown by those GWBLs. But the relief requested by WISPA and UTC is too far reaching and will unduly impair significant amounts of the 3650-3700 MHz band for a period of years. Federated Wireless therefore requests that the Commission direct GWBLs to instead take advantage of the standard waiver process to seek individualized relief based on the specific circumstances necessitating an extension of a particular GWBL’s transition deadline. This

¹ See WISPA UTC, Petition for Waiver of Sections 90.1307 (c) and (d) and Sections 90.1338(a) and (b) of the Commission’s Rules, File No. ____ (filed Oct. 4, 2018) (“Petition”).

approach will ensure that CBRS spectrum is made available for commercial use as broadly and as soon as possible while targeting relief where it is actually needed.

I. GRANTING A THREE-YEAR BLANKET WAIVER FOR ALL GWBL OPERATIONS, WOULD UNNECESSARILY RESTRICT THE DEVELOPMENT AND DEPLOYMENT OF CBRS SERVICES.

Federated Wireless agrees with WISPA and UTC that the Commission must act expeditiously to facilitate widespread commercial access to CBRS, building on the significant investment in the band that already has been made by the Commission, all CBRS stakeholders, and GWBLs. Federated Wireless also agrees with WISPA and UTC that the certification of Spectrum Access System (“SAS”) administrators and Environmental Sensing Capability operators has taken longer than the Commission and industry expected and, as a result, has delayed the commercial availability of CBRS spectrum. This delay may have compressed the transition timelines for certain GWBL operators, and extension of the transition deadline may be necessary for some GWBLs in order to allow sufficient time to transition to CBRS operations.

However, this delay—which constitutes, perhaps, one year beyond the industry and Commission’s expectations for SAS certification and commercial launch²—and the other issues raised in the Petition do not justify a blanket three-year extension of the GWBL transition deadline for *all* GWBLs, as requested by WISPA and UTC. Instead, Federated Wireless

² The Commission conditionally certified the first wave of SAS administrators in December 2016. *See Wireless Telecommunications Bureau and Office of Engineering and Technology Conditionally Approve Seven Spectrum Access System Administrators for the 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, DA 16-1426 (WTB/OET 2016). Following conditional certification, the industry expectation was that SAS administrator laboratory and field testing would be completed, and final certifications issued, in the first half of 2018. *See, e.g.*, Letter from Ross Vincenti, Chief Legal Officer, Federated Wireless, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 17-258, 15-319 (filed Dec. 5, 2017) (emphasizing the importance of issuing final SAS certifications and enabling commercial launch by June 30, 2018 to meet industry expectations and demand for commercial use of CBRS spectrum). Final SAS administrator certifications and the commencement of commercial CBRS operations are now expected in the first half of 2019, roughly one year beyond initial industry expectations.

encourages GWBLs whose particular circumstances would warrant an extension of their transition deadline to avail themselves of the Commission's longstanding and well-known waiver standard, making a specific showing of their need for relief from the existing deadline.³ Such an approach would better target those GWBLs who have a legitimate need for an extension, which Federated Wireless would support. While individual waiver requests may impose some additional administrative burden on the GWBLs requesting an extension, that burden is far outweighed by the fact that the requested blanket extension would tie up crucial CBRS spectrum in areas throughout the country regardless of a particular GWBL's ability to meet its existing deadline.

Pursuant to the CBRS rules, where a GWBL is currently registered within 150 kilometers of a grandfathered fixed-satellite service ("FSS") earth station operating in the 3650-3700 MHz band, the SAS must enforce a 150 kilometer Exclusion Zone around the earth station until all GWBL licenses within the protection contour have expired.⁴ Only then may the SAS begin administering the dynamic protection regime the Commission established for the CBRS.⁵ There are currently GWBLs with registered links within the 150 kilometer protection contour for all but one grandfathered FSS earth station, which is located in Guam. In addition, the Commission's methodology for Grandfathered Wireless Protection Zones ("GWPZ") requires that the SAS protect the GWPZ as though all 50 MHz are in use, regardless of whether that is actually the

³ See 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

⁴ 47 C.F.R. § 96.21(c); see also 47 C.F.R. § 90.1331(a)(1) (unless previously coordinated with FSS operators, "base and fixed stations may not be located within 150 km of any grandfathered satellite earth station operating in the 3650-3700 MHz band").

⁵ 47 C.F.R. § 96.21(c).

case.⁶ The practical effect of the requested blanket extension is thus to encumber huge swaths of CBRS spectrum until 2023 by: (1) requiring that 150 kilometer Exclusion Zones be enforced around every grandfathered FSS earth station in the continental U.S.; and (2) reserving all 50 MHz of spectrum to the GWBL in every GWPZ in the country. Weighed against these costs, it is clear that targeted relief granted to GWBLs through individual showings of need would better serve the public interest, by a significant margin, than the broad, lengthy blanket extension requested in the Petition.

A. The Justifications Proffered for Long-Term Blanket Relief for All GWBLs Should Be Closely Examined.

In the Petition, WISPA and UTC request blanket relief for all GWBLs by reference to a number of issues that they view as broadly affecting all GWBLs' ability to satisfy their transition obligations. However, WISPA and UTC's membership comprises a diverse array of users of the 3650-3700 MHz band that support a number of unique applications, as the Petition highlights, including "fixed wireless broadband in rural areas, utility management and communications, enterprise broadband service, municipal and governmental networks, private networks, and resorts."⁷ The considerations applicable to each GWBL currently using the 3650-3700 MHz band to support these use cases are unique to that GWBL's individual circumstances. These include the existing use to be transitioned, the applicable transition deadline, and the degree to which the combination of these unique considerations inform whether and for how long a specific GWBL requires an extension of its deadline. Indeed, Federated Wireless is working

⁶ See *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce Methodology for Determining the Protected Contours for Grandfathered 3650-3700 MHz Band Licensees*, GN Docket No. 12-354, Public Notice, DA 16-946 (WTB/OET 2016) (declining to require GWBLs to "identify the specific frequencies that are in operation on each sector and, instead, base the protected range of frequencies on what licensees have already registered").

⁷ Petition at 2.

with many GWBLs to prepare for the commencement of commercial CBRS operations in the near future, all of whom share the industry-wide excitement about the impending commercial launch and are in the process of working with vendors, testing integration with a SAS, and engaging in network planning in anticipation of that launch. There is no single issue, or combination thereof, impeding *all* GWBLs' ability to timely complete the transition to CBRS devices.

For instance, while many GWBLs must transition to CBRS operations by the April 17, 2020 deadline referenced in the Petition, a significant number of GWBLs need not transition until 2021, 2022, or even 2023. The Petition sets forth no support for the proposition that GWBLs with these later transition dates require any relief from their current deadlines.

In addition, the Petition presupposes that GWBLs will have to replace or upgrade their existing equipment to complete the transition to CBRS operations.⁸ This assumption underlies the majority of the arguments presented in the Petition—that, given the delay in the commercial availability of CBRS spectrum and equipment: (1) GWBLs will only have one “construction season” to transition to CBRS operations by the April 17, 2020 deadline; (2) smaller GWBLs may not have the capital resources to replace or upgrade Part 90 equipment in a single year; and (3) the amount of certified CBRS equipment is not sufficient to replace existing Part 90 infrastructure by the deadline.⁹

However, as the Petition acknowledges,¹⁰ in establishing the CBRS, the Commission took a number of steps to preserve GWBLs' investment in their existing Part 90 infrastructure

⁸ *See id.* at 8 (“As a simple matter of logistics and personnel, it may simply be physically impossible for Licensees to replace the necessary number of devices in such a short time frame.”).

⁹ *Id.* at 5-8.

¹⁰ *Id.* at 3.

and provide them the ability to transition to CBRS operations without replacing their existing equipment. In particular, the Commission adopted technical rules for Category B Citizens Broadband Service Devices that would accommodate existing Part 90 deployments, exempted GWBL equipment from the band-wide operability requirement, and, of particular note, authorized proxy controllers to enable the SAS to administer CBRS operations on legacy Part 90 equipment.¹¹ In authorizing the use of proxy controller devices, the Commission observed that:

The vast majority of equipment deployed in the 3650-3700 MHz band uses the WiMAX technology standard. We note that this standard, like most carrier-grade managed network technologies, defines network management interfaces that allow for operator control of network operating parameters. These interfaces provide software “hooks” that can enable deployment of a network proxy controller that intermediates between the legacy network and the SAS, effectively translating between the SAS and network management layer to ensure compatibility with our Part 96 rules.¹²

Most GWBLs therefore do not need to replace their existing equipment, but rather to deploy middleware as a Domain Proxy in accordance with the protocols specified in Release 1 of the baseline CBRS specifications issued by the Wireless Innovation Forum on January 30, 2018.¹³ The deployment of Domain Proxy solutions requires neither the time nor the expense associated with replacing existing Part 90 devices, and thus does not justify a request for long-term blanket relief from the GWBL transition deadline for all GWBLs.

¹¹ See 47 C.F.R. §§ 96.3, 96.39(b) (defining “Citizens Broadband Service Device” to include “networks” of fixed stations to enable the use of proxy controllers and exempting GWBL equipment from the band-wide operability requirement); *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, GN Docket No. 12-354, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 15-47, at ¶¶ 396-98 (2015) (“*CBRS Order*”).

¹² *CBRS Order* at ¶ 398.

¹³ See Wireless Innovation Forum, *Signaling Protocols and Procedures for Citizens Broadband Radio Service (CBRS): Spectrum Access System (SAS) – Citizens Broadband Radio Service Device (CBSD) Interface Technical Specification*, Document WINNF-TS-0016 (Jan. 30, 2018).

Moreover, even where GWBLs may have to replace some equipment because “it will not meet the strict emission standards of CBRS, and equipment installed prior to 2015 may be too old for vendor support, or nearing the end of its economic lifespan, necessitating replacement,” the reasons proffered in the Petition to support the request for an extension will not be universally true for all such GWBLs.¹⁴ As noted above, many GWBLs already have transition deadlines later than April 17, 2020, and as a result the argument in the Petition that there will be just one “construction season” to complete the transition is inapplicable to these GWBLs. In addition, while the constraint of a single construction season to replace legacy Part 90 equipment may present a valid concern valid for GWBLs operating, for instance, in the Northeast, it provides less justification for extending the deadline for GWBLs who have deployed in the Southwest that are less constrained by seasonal considerations. And, of course, the argument that smaller GWBLs may not have the ability to allocate sufficient capital to complete the transition in a single year on its face does not apply to larger GWBLs who have been on notice of the transition requirement since 2015 and have been—or should have been—accounting for the transition requirement in their multiyear capital planning for the last several years. Finally, where a GWBL may have to replace its existing equipment, the Petition does not provide any support for the proposition that the amount of certified equipment in the supply chain is insufficient for all GWBLs to successfully transition to CBRS operations by the relevant deadline.

In light of the above, WISPA and UTC’s requested long-term, blanket waiver for all GWBLs is overly broad. The requested blanket waiver must be weighed against the cost of impairing a significant amount of 3650-3700 MHz spectrum throughout the country for an

¹⁴ Petition at 5.

additional three years. Federated Wireless agrees, however, that the concerns of particular GWBLs to timely transition to CBRS operations should be considered by the Commission. To the extent a particular GWBL is unable to meet its deadline due to logistical, capital, or supply chain constraints beyond its control, that GWBL should request individualized relief based on a showing of its specific circumstances in accordance with the Commission's standard waiver procedures. Doing so will appropriately balance that GWBL's need for relief with the public interest in making CBRS spectrum available for commercial use as broadly and expeditiously as possible.

B. Commission Precedent Does Not Support a Lengthy Three-Year Extension for All GWBLs.

The examples WISPA and UTC cite in support of the three-year extension exceed the relief the Commission has granted in the limited circumstances in which an industry-wide extension of a compliance deadline was found to be warranted.

For example, in the E911 proceeding cited in the Petition, the Commission extended a compliance deadline by an additional eight months to a year for carriers to take advantage of imminent technological advancements that would facilitate compliance with the Commission's E911 requirements.¹⁵ SAS administrator certification and the widespread commercial availability of CBRS spectrum and devices are likewise expected in the very near term, in early 2019. The requested three-year extension would almost certainly exceed the additional time needed to allow certain GWBLs that need extra time to transition to CBRS operations.

¹⁵ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Fourth Memorandum Opinion and Order, FCC 00-326, at ¶ 4 (2000).

Likewise, in the Part 90 narrowbanding proceeding cited in the Petition, it is of particular note that the Commission granted a two-year extension of the compliance deadline, declining to grant the request for a four-year extension in order to avoid creating an “impediment” to licensees’ transition to more efficient operations.¹⁶ The blanket three-year extension requested in the Petition would similarly forestall GWBLs’ transition to the more efficient, SAS-administered sharing regime the Commission has established for the CBRS band.

In view of the fact that Commission precedent does not support the request for a lengthy, industry-wide three-year extension of the GWBL transition deadline for all GWBLs, the Commission should deny the Petition. But the Commission should direct GWBL licensees who may not be able to meet their current deadlines to seek relief tailored to their specific situations through the standard waiver process, and Federated Wireless supports this approach.

II. CONCLUSION.

Although a three-year extension of the transition deadline is not justified for all GWBLs, and would impair valuable CBRS spectrum in areas throughout the country for years, the Commission should consider waiver requests from particular GWBLs that have a legitimate need for extension. This approach will best ensure that GWBL transitions continue apace, provide

¹⁶ *Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies*, WT Docket No. 99-87, RM-9332, Order, FCC 10-119, at ¶ 11 (2010).

relief to the GWBLs who need it for the appropriate length of time, and facilitate maximum access to CBRS spectrum throughout the country.

Respectfully submitted,

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December 12, 2018