

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Expanding the Economic and Innovation) GN Docket No. 12-268
Opportunities of Spectrum Through Incentive)
Auctions)

**OPPOSITION OF CTIA – THE WIRELESS ASSOCIATION®
TO PETITION FOR RECONSIDERATION**

I. INTRODUCTION.

CTIA – The Wireless Association® (“CTIA”) hereby opposes the Petition for Reconsideration¹ filed by GE Healthcare in response to the Commission’s *Second Order on Reconsideration* asking the Commission to adopt additional protections for Channel 37 operations.² As explained herein, the Commission should reject the GE Petition because:

- The GE Petition relies on arguments that have been fully considered and rejected by the Commission *twice* in this proceeding and, therefore, has not met the legal requirements for a petition for reconsideration; and
- The rules adopted by the Commission more than adequately protect Channel 37 incumbents, and indeed the Commission made several concessions to ensure Wireless Medical Telemetry Service (“WMTS”) would be protected. Thus, any additional limitations placed upon 600 MHz licensees are unwarranted and unnecessary.

CTIA urges the Commission to move quickly to reject GE Healthcare’s unnecessary and repeated requests to alter the framework of Channel 37 operations in a manner that would hinder the development of a robust wireless ecosystem in the 600 MHz band.

¹ Petition for Reconsideration of GE Healthcare, GN Docket No. 12-268, at 1 (filed July 28, 2015) (“GE Healthcare Second Petition” or “GE Petition”).

² *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Second Order on Reconsideration, 30 FCC Rcd 6746 (2015) (“*Second Order on Reconsideration*”).

II. THE COMMISSION SHOULD REJECT THE GE HEALTHCARE PETITION FOR RELYING ON ARGUMENTS THAT HAVE BEEN FULLY CONSIDERED AND REJECTED BY THE COMMISSION.

The GE Petition represents the second time that GE Healthcare has sought reconsideration of technical protections for WMTS devices operating on TV Channel 37 from 600 MHz licensed operations.³ Not only are additional protections unnecessary, as explained further below, but in making its request GE Healthcare fails to satisfy the Commission's requirements for petitions for reconsideration. The Commission's rules clearly state that petitions for reconsideration may be dismissed or denied if parties merely recast arguments already made and addressed in a Commission proceeding.⁴ The GE Petition relies on arguments already considered and rejected by the Commission, and does not raise any new fact or argument that the Commission has not previously considered. Accordingly, the GE Petition should be rejected.

In its first petition for reconsideration, GE Healthcare argued that the Commission made technical mistakes in calculating the separation distance between WMTS and 600 MHz base stations and sought additional protections, noting that building penetration losses could be less than the 20 dB figure used by the Commission in its assumptions.⁵ In the *Second Order on Reconsideration*, the Commission agreed with some of GE Healthcare's technical changes but nonetheless affirmed its conclusion that a three megahertz guard band between 600 MHz operations and Channel 37, together with out-of-band emission limits, would adequately protect

³ See Petition for Reconsideration of GE Healthcare, GN Docket No. 12-268 (filed Sept. 15, 2014) ("GE Healthcare First Petition").

⁴ 47 C.F.R. § 1.429(l)(3) (stating that petitions that "[r]ely on arguments that have been fully considered and rejected by the Commission within the same proceeding" "plainly do not warrant consideration by the Commission.").

⁵ GE Healthcare First Petition at 10-11.

WMTS facilities.⁶ And, notably, in reaching this decision the Commission found that its analysis was “worst case,” and that in most installations one or more of the assumed technical parameters would provide additional protection to WMTS.⁷

Now, in its second petition, GE Healthcare argues that the current FCC technical limits for 600 MHz base station operations would not fully protect WMTS equipment from harmful interference.⁸ Specifically, GE Healthcare argues that: (1) the Commission’s analysis was not “worst case,” and underestimated the potential for interference by assuming an improper value for building penetration loss and (2) new field testing demonstrated that stricter separation requirements would be needed to protect WMTS.⁹ Neither of these arguments is new or unanswered by the previous Commission decision. In the *Second Order on Reconsideration*, the Commission did not assert that building penetration loss, the sole value that GE argues was misapplied, would be the only parameter that could affect its analysis.¹⁰ Rather, the Commission indicated that numerous parameters could provide additional protection – including, but not limited to, lower transmitter power and lower out-of-band emissions.¹¹ In adopting the *Second Order on Reconsideration*, the Commission was fully cognizant that building penetration loss could vary among buildings, but found that many other mitigating factors – which they modeled very conservatively – would alleviate any concerns regarding harmful interference.¹²

⁶ *Second Order on Reconsideration* ¶¶ 113-119.

⁷ *Id.* ¶ 119.

⁸ *Id.* at 1-2.

⁹ GE Healthcare Second Petition at 2-6.

¹⁰ *Second Order on Reconsideration* ¶¶ 118-119.

¹¹ *Id.* ¶¶ 116-119.

¹² *Id.* ¶ 119.

Thus, because GE Healthcare has not raised any new fact or argument in its latest petition, and because all its arguments have been considered and rejected by the Commission twice in this proceeding, the GE Petition should be summarily dismissed.

III. THE COMMISSION’S TECHNICAL RULES FOR 600 MHZ LICENSED SERVICES SUFFICIENTLY PROTECT CHANNEL 37 INCUMBENTS.

As indicated above, by the Commission’s own rules, the GE Petition may be summarily dismissed without addressing its merits. In addition, the record still reflects that the Commission has provided more than adequate protection for WMTS facilities. Indeed, the protections provided by the Commission are extensive, and any additional limitations on 600 MHz licensees are unnecessary.

By way of background, WMTS was established in 2000 with *no* spectral separation between WMTS operations on Channel 37 and adjacent television station operations on Channels 36 and 38.¹³ At that time, the Commission noted that “WMTS providers can design equipment to provide sufficient protection from adjacent channel interference as is current practice.”¹⁴ In other words, responsibility for interference protection fell to WMTS operators, not adjacent licensees, and TV broadcasters on Channels 36 and 38 were not required to adopt any interference prevention measures.¹⁵

However, when the Commission reallocated broadcast television spectrum for wireless and adopted rules for the 600 MHz band, it made numerous concessions to ensure that WMTS operations would be protected from 600 MHz operations. Specifically, operations adjacent to WMTS were required either to remain as television spectrum or be limited to wireless downlink,

¹³ *Amendment of Parts 2 and 95 of the Commission’s Rules to Create a Wireless Medical Telemetry Service*, Report and Order, 15 FCC Rcd 11206 (2000).

¹⁴ *Id.* ¶ 19.

¹⁵ *Id.*

or both, to eliminate the possibility of mobile devices transmitting on frequencies in close proximity to WMTS.¹⁶ WMTS operators were also provided a three megahertz guard band between Channel 37 and any 600 MHz base station operation.¹⁷ In creating this guard band, the Commission stated its intent to ensure that out-of-band emissions from nearby wireless base stations would not significantly raise the noise floor in Channel 37 and that overload interference would not result.¹⁸ The Commission reaffirmed these findings in the *Second Order on Reconsideration*.¹⁹

Because the Commission has provided extensive protections for WMTS operations on Channel 37, any additional limitations placed upon 600 MHz licensees are unwarranted, unnecessary, and would hinder the development of a robust wireless ecosystem in the 600 MHz band. In taking steps to protect Channel 37 incumbents, the Commission has already allocated as guard bands either three or six megahertz of spectrum that could have been licensed to 600 MHz providers to provide highly demanded mobile services.²⁰ Any additional limitations would further decrease the amount of spectrum to be made available for bidding in the 600 MHz forward auction – an action that would contravene Congressional intent to limit guard bands to

¹⁶ Indeed, should the incentive auction clear less than 84 megahertz of spectrum, the spectral environment around Channel 37 will remain the same. *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, ¶ 291 (2014) (“*Incentive Auction Report and Order*”).

¹⁷ *Id.* ¶ 289.

¹⁸ *Id.* ¶ 290.

¹⁹ *Second Order on Reconsideration* ¶ 113.

²⁰ The band plan for the 600 MHz spectrum will be determined by the forward auction. Should 84 megahertz be cleared for mobile broadband services, a three megahertz guard band is created between 600 MHz base stations and TV Channel 37. Should more than 84 megahertz be cleared for mobile broadband services, a total of six megahertz would be set aside as guard bands (three megahertz above and below Channel 37 operations). *Incentive Auction Report and Order* ¶ 290.

sizes no larger than technically reasonable²¹ – without any concomitant benefit. In addition, to protect WMTS operations, 600 MHz base stations are already required to comply with out-of-band emission limits that the Commission found “will adequately protect WMTS facilities while providing flexibility for new 600 MHz licensees to deploy their systems.”²² And, finally, the Commission has asked that new 600 MHz licensees be cognizant of the presence of WMTS facilities when designing their networks and, to the extent possible, take measures to minimize energy directed toward WMTS.²³

As noted above, 600 MHz wireless licensees will already be required to make numerous concessions to protect WMTS. Any additional operating restrictions on 600 MHz base stations would effectively place impairments on affected 600 MHz licenses. CTIA strongly opposes the creation of any additional impairment on licensed mobile broadband spectrum and opposes any WMTS-protecting concessions beyond those already adopted by the Commission. Indeed, the intent of Congress was to have as much 600 MHz spectrum as possible reallocated from broadcast television to licensed mobile broadband systems. Any further protections for WMTS would run afoul of this Congressional mandate, and would undermine the public interest.

IV. CONCLUSION.

Because the GE Petition merely advances arguments previously considered and rejected by the Commission, the Commission can and should summarily dismiss it for failing to satisfy the requirements of a petition for reconsideration. However, the record also contains ample support for the Commission to deny the GE Petition on its merits. The Commission has adopted

²¹ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6407(b).

²² *Second Order on Reconsideration* ¶ 119.

²³ *Id.*

numerous technical rules that will adequately protect WMTS operations on Channel 37, and need not take any additional action. Further, any additional impairments on 600 MHz wireless licenses would undermine the public interest and the intent of Congress in establishing the framework for the broadcast television incentive auction.

Respectfully submitted,

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Dated: November 9, 2015

CERTIFICATE OF SERVICE

I, Patricia Destajo, hereby certify that on November 9, 2015, I caused a true and correct copy of the foregoing to be served by first-class mail on the following:

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