

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

In the Matter of)
)
PCS Partners, L.P.)
) WT Docket No. 16-149
Petition for Waiver of 47 C.F.R. § 90.353(b),)
And Request for Extension of Time and for)
Expedited Treatment)

COMMENTS OF INOVONICS WIRELESS CORPORATION

Inovonics Wireless Corporation (“Inovonics”)¹ opposes grant of the Petition for Waiver and Extension of Time requested by PCS Partners (“PCSP”).² PCSP fails to justify its request, and it is not in public interest for the Federal Communications Commission (the “Commission”) to allow PCSP’s licenses to remain unused until 2022, especially given the adverse impact of continued regulatory uncertainty on other users of the band.

DISCUSSION

PCSP seeks waiver of the authorized multilateration and location monitoring service (“M-LMS”) rules and an extension of build-out timelines. Waiver of the Commission’s rules may be granted only when it is in the public interest to do so, or when application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or when there is no

¹ Inovonics, a subsidiary of Roper Technologies, Inc., manufactures radio devices for the unlicensed 902-928 MHz band. Inovonics serves three important markets – security, senior care, and water submetering. Inovonics’ products are used by local and federal government entities to protect public officials and buildings; by hospitals, school systems, banks, and movie theaters for security and emergency duress needs; and by seniors living in assisted living facilities to call for help, among other uses. Most Inovonics radio products are 25-channel frequency hopping spread spectrum systems that transmit one-way at 0.05 watts peak output power and employ FSK modulation.

² *PCS Partners, L.P., Petition for Waiver of 47 C.F.R. § 90.353(b), and Request for Extension of Time and for Expedited Treatment*, WT Docket No. 16-149 (filed April 15, 2016) (“Waiver Request”).

reasonable alternative.³ Here, PCSP fails to make any of these showings. PCSP proffers no reason why it cannot deploy any currently-available technologies, and instead has focused on a business plan that requires waiting for the development of a new technology to provide services already available, including by Part 15 systems operating in the same band. Further, PCSP provides no reason why it requires six years after grant of the waiver to complete build-out in thirty-one markets. Given its history of failing to meet the Commission’s build-out deadlines, it does not appear likely that PCSP will ever actually use these long-held licenses. It is not in the public interest for the Wireless Telecommunications Bureau (“Bureau”) to grant PCSP six more years to warehouse its spectrum without putting it to commercial use.

Almost two years ago, the Bureau directed M-LMS licensees to meet their mid-term construction requirements by September 4, 2016, and their final construction deadlines by September 4, 2018.⁴ This last and final extension of the M-LMS construction deadlines⁵ made clear that “lack of available equipment [will not] be considered as a basis for a further extension” and that the Bureau “will not consider future requests for waiver or extension of either the interim or end-of-term construction deadline based on claims related to lack of equipment.”⁶ The Bureau further stated that **“it would be contrary to the public interest to grant extension requests in perpetuity where our build-out requirements have not been met.”**⁷ Yet this is

³ 47 C.F.R. § 1.3 and § 1.925(b).

⁴ *Requests by FCR, Inc., Progeny LMS, LLC, PCS Partners, L.P. and Helen Wong-Armijo for Waiver and Limited Extension of Time*, Order, 29 FCC Rcd. 10361 (2014) (“Final M-LMS Extension Order”).

⁵ In 2008, the Bureau granted M-LMS licenses significant extensions of their build-out requirement (to July 19, 2014, for final build-out). Final M-LMS Extension Order at ¶ 6.

⁶ *Id.* at ¶¶ 17-18.

⁷ *Id.* (emphasis added).

exactly what PSCP seeks – additional time to meet build-out requirements so equipment can be developed and certified.⁸

This situation is similar to others in which Commission determined that it would not allow spectrum warehousing. For example, in the Fibertower decision, the Bureau denied an extension of time to Fibertower when the “[e]xtension Requests are substantively identical to the extension and waiver requests which both the Bureau and the Commission have denied,” and the Commission and Bureau previously denied “substantively identical to the extension and waiver requests.”⁹ Like Fibertower, PCSP is seeking what the Bureau has already denied (and also what is pending on reconsideration) – a long build-out timeline that is necessary because equipment must be developed. In 2014, the Bureau denied a build-out timeline almost the same as what PCSP now seeks.¹⁰ The Waiver Request is an attempt to circumvent both that Order and the Commission’s reconsideration process. The Bureau should deny the extension of time, and terminate PCSP’s licenses if it cannot meet the September deadline.

The requested waiver of the M-LMS service rules is equally objectionable. The M-LMS rules were carefully crafted to ensure that the service could co-exist with unlicensed (and other) users, with the goal of establishing protections to “provide certainty to all users of the band.”¹¹ PCSP’s proposed use of 3GPP LTE, especially operating at a 56 percent duty cycle, may likely

⁸ See Waiver Request at 12 (seeking “to achieve the benefits attainable through *the development and deployment of commercially viable equipment* utilizing its spectrum”) (emphasis added). According to PCSP’s proposed implementation schedule, FCC equipment certification will not be obtained for at least one year.

⁹ *Fibertower Spectrum Holdings LLC, Debtor-in-Possession*, Memorandum Opinion and Order, 29 FCC Rcd. 4955, 4962 (2014).

¹⁰ In 2012, PCSP requested additional time, to July 18, 2019 and July 18, 2024, to meet its construction deadlines, which the Bureau rejected in favor of the current (and final) 2016 and 2018 deadlines. Final M-LMS Extension Order at ¶ 8.

¹¹ *Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems*, Order, 10 FCC Rcd 4695, 4695 (1995) (“M-LMS R&O”).

cause unacceptable interference to Part 15 devices operating on the same frequencies.¹² The lack of technical specificity in the Waiver Request leaves insufficient information for both unlicensed users and the Bureau to understand the impact of the proposal. Unlicensed users should not have to wait two years, and go through the expense of joint testing, to learn that PCSP's technology is incompatible with unlicensed use.

There are hundreds of millions of Part 15 devices presently deployed in the 902-928 MHz band, many of which already provide for the same Internet of Things capabilities that PCSP seeks to offer. It is in the public interest for these unlicensed users to have regulatory certainty, after nearly twenty years of uncertainty, with regard to the potential presence of M-LMS licenses in the band. Manufacturers need to know what types of licensed devices they must design around, and users must know the likely interference potential from M-LMS licensees when they roll-out unlicensed systems. Further extensions of time for PCSP, or for any other M-LMS licensee, to build their networks may impede product development in what is arguably one of the most successful unlicensed bands.

¹² While as a general rule unlicensed devices must accept interference from other users, M-LMS licenses are required to show through field testing that their systems will not cause unacceptable levels of interference to unlicensed devices. 47 C.F.R. § 90.353(d). The Waiver Request is not particularly clear about which version of the 3GPP LTE standard it will employ, or the technical characteristics of the technology, so the potential for unacceptable interference is unknown.

CONCLUSION

Inovonics respectfully requests that the Bureau deny the Waiver Request and terminate PCSP's licenses if it cannot meet the 2016 deadline.

Respectfully submitted,

A handwritten signature in blue ink that reads "Laura Stefani". The signature is written in a cursive style with a prominent initial "L".

Laura Stefani
FLETCHER, HEALD & HILDRETH, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, VA 22209
(703) 812-0440
Counsel for Inovonics Wireless Corporation

May 24, 2016