PUBLIC NOTICE

Federal Communications Commission
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FCC 09-73
September 10, 2009

COMMISSION REVISES APPLICABLE EX PARTE PROCEDURES FOR WIRELESS INNOVATION AND INVESTMENT NOTICE OF INQUIRY (FCC 09-66) AND EXTENDS COMMENT AND REPLY COMMENT DEADLINES

SEP 24 2009

GN Docket No. 09-157

GN Docket No. 09-51

Revised Comment Deadline: September 30, 2009

Revised Reply Comment Deadline: October 15, 2009

With this Public Notice, we modify the Wireless Innovation and Investment Notice of Inquiry (NOI)[1] in two respects. First, we provide that all *ex parte* presentations made in this proceeding shall be subject to "permit-but-disclose" requirements in accordance with the Commission's *ex parte* rules. Second, we extend the comment and reply comment filing deadlines.

A. *Ex Parte* Presentations

On August 27, 2009, the Commission issued the Wireless Innovation and Investment Notice of Inquiry, which provided that, for purposes of the *ex parte* rules, this was an "exempt" proceeding in which *ex parte* presentations need not be disclosed.[2] We find, however, that the *ex parte* procedures here should be conformed to the "permit-but-disclose" procedures applicable in the National Broadband Plan docket, GN Docket No. 09-51, in which comments to this NOI must also be filed. Further, it is in the public interest to treat this NOI as a permit-but-disclose proceeding because of the broad policy implications of the proceeding. Therefore, we now provide that the inquiry this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[3] Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.[4] Other requirements pertaining to presentations are set forth in section 1.1206(b) of the Commission's rules.[5]

Further, it is the intent of the Commission that contacts with the Commission pursuant to this NOI also

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[1] Fostering Innovation and Investment in the Wireless Communications Market, GN Docket No. 09-157, A National Broadband Plan For Our Future, GN Docket No. 09-51, *Notice of Inquiry*, FCC 09-66 (rel. Aug. 27, 2009) (*NOI*).

[2] *See NOI* at ¶ 69.

[3] 47 C.F.R. §§ 1.200 *et seq.*

[4] *See* 47 C.F.R. § 1.1206(b)(2).

[5] 47 C.F.R. § 1.1206(b).

comply with the March 20, 2009 White House Memorandum for the Heads of Executive Agencies: Ensuring Responsible Spending of Recovery Act Funds ("Memorandum").[6] Under the Memorandum, an executive department or agency official shall not consider the view of a lobbyist registered under the Lobbying Disclosure Act of 1995, 2 U.S.C. § 1601 *et seq.*, concerning particular projects, applications, or applicants for funding under the Recovery Act unless such views are in writing. An executive department or agency official may communicate orally with registered lobbyists concerning general Recovery Act policy issues, provided that such oral communications shall not extend to or touch upon particular projects, applications, or applicants for funding, and further that the official must contemporaneously or immediately thereafter document in writing: (i) the date and time of the contact on policy issues; (ii) the names of the registered lobbyists and the official(s) between or among whom the contact took place; and (iii) a short description of the substance of the communication. This written summary will be posted publicly on the Commission's website within 3 business days of the communication. Any registered lobbyists requesting meetings should identify themselves as such at the time of requesting meetings.

B. Comment and Reply Comment Filing Deadlines

The NOI provided that comments were due on September 28, 2009, and that reply comments were due on October 12, 2009.[7] We hereby extend the comment date to **September 30, 2009**, and the reply comment date to **October 15, 2009**, to help ensure development of a more complete record.

Pursuant to sections 1.415 and 1.419 of the Commission's rules,[8] interested parties may file comments and reply comments regarding the Notice on or before the dates indicated on the first page of this document. **All filings related to this Notice of Inquiry should refer to GN Docket No. 09-157 and GN Docket No. 09-51**. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Commenters desiring confidential treatment of their submissions should request that their submission, or specific parts thereof, be withheld from public inspection pursuant to the Commission's rules.[9]

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://www.fcc.gov/cgb/ecfs/ or the Federal eRulemaking Portal: http://www.regulations.gov. Filers should follow the instructions provided on the website for submitting comments.
- ECFS filers must transmit one electronic copy of the comments for both **GN Docket No. 09-157** and **GN Docket No. 09-51**. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C.

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[6] *See* http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-20-09/ (last visited Sept. 3, 2009).

[7] *See NOI.*

[8] 47 C.F.R. §§ 1.415, 1.419 (2008).

[9] 47 C.F.R. § 0.459. *See also* Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, *Report and Order*, 13 FCC Rcd 24816 (1998), *Order on Reconsideration*, 14 FCC Rcd 20128 (1999).

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- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.
- Parties should send a copy of their filings to Peter Trachtenberg, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, or by e-mail to peter.trachtenberg@fcc.gov; and Jamison Prime, Office of Engineering and Technology, Federal Communications Commission, 445 12th Street, Washington, D.C. 20554, or by e-mail to jamison.prime@fcc.gov. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.
- Documents in GN Docket No. 09-157 and GN Docket No. 09-51 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

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For additional information, contact Peter Trachtenberg at (202) 418-7369 or Peter.Trachtenberg@fcc.gov.

Action taken by the Commission on September 9, 2009: Chairman Julius Genachowski and Commissioners Michael J. Copps, Robert M. McDowell, Mignon L. Clyburn and Meredith A. Baker.

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