PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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Internet: http://www.fcc.gov
TTY: 1-888-835-5322

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February 18, 2010

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON PETITION FOR RULEMAKING REGARDING 700 MHz BAND MOBILE EQUIPMENT DESIGN AND PROCUREMENT PRACTICES

RM No. 11592

Comments Due: [30 days after publication in the Federal Register]
Reply Comments Due: [60 days after publication in the Federal Register]

On September 29, 2009, an alliance comprised of four Lower 700 MHz Band A Block licensees (Petitioners) filed a petition for rulemaking, asking the Commission to "assure that consumers will have access to all paired 700 MHz spectrum that the Commission licenses, to act so that the entire 700 MHz band will develop in a competitive fashion, and to adopt rules that prohibit restrictive equipment arrangements that are contrary to the public interest."[1] Specifically, the Petitioners ask the Commission to require that all mobile units for the 700 MHz band be capable of operating over all frequencies in the band.[2] The Petitioners further request "an immediate freeze on the authorization of mobile equipment that is not capable of operation on all paired commercial 700 MHz frequencies."[3] The Wireless Telecommunications Bureau seeks comment on the Petition.[4]

[1] 700 MHz Block A Good Faith Purchaser Alliance Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, filed Sept. 29, 2009 (Petition), at 1. The Alliance is a "joint venture" consisting of Cellular South Licenses, Inc.; Cavalier Wireless, LLC; Continuum 700, LLC; and King Street Wireless, L.P., each of which is currently the licensee of Lower 700 MHz Band A Block spectrum. *Id.*

[2] Petition at iii, 12.

[3] Petition at 1-2.

[4] We note that several parties have already filed comments in various proceedings that discuss either the Petition or substantially similar issues. *See, e.g.*, Cellular South Comments, WT Docket No. 09-66 (filed Sept. 30, 2009) at 8-15; Verizon Wireless Reply Comments, WT Docket No. 09-66 (filed Oct. 22, 2009), at 85-92; AT&T, Inc. Reply Comments, WT Docket No. 09-66 (filed Oct. 22, 2009) (AT&T Reply Comments), at 70-72; Verizon Wireless *Ex parte*, WT Docket No. 09-66;GN Docket No. 09-157 (filed Dec. 18, 2009) (Verizon *Ex parte*); Qualcomm *Ex parte*, WT Docket No. 09-66;GN Docket No. 09-157 (filed Jan. 25, 2010); Motorola Comments, RM-11592 (filed Feb. 12, 2010).

AT&T and Verizon Wireless have indicated that they are pursuing 700 MHz Long Term Evolution (LTE) mobile devices that operate over the 700 MHz spectrum blocks associated with some or all of their own respective 700 MHz band licenses but that do not include the Lower 700 MHz Band A Block (A Block).[5] The Petitioners assert that these "equipment design and procurement practices contravene the public interest," arguing that, if the equipment offered by these large carriers does not operate over A Block, mobile 700 MHz "equipment needed by [A Block] licensees in smaller volumes will likely be available only later in time and at considerably higher price points."[6] The Petitioners also argue that such practices "are unjustly discriminatory and anticompetitive" in violation of Sections 201(b) and 202(a) of the Communications Act (Act), and that they are in conflict with other provisions of the Act, including the universal service goals of Section 254(b)(3) and the license application review criteria of Section 307(b).[7]

The Wireless Telecommunications Bureau seeks comment on relevant technical, legal, economic, and policy issues involving the Petitioners' request that the Commission commence a rulemaking proceeding. We note, for instance, that devices capable of operating in the A Block will be using spectrum adjacent to the full-power DTV broadcasting operations on Channel 51, and to the Lower 700 MHz Band E Block, which may be used for higher-powered mobile services under Commission rules.

Procedural Matters

Interested parties may file comments on or before **[30 days after publication in the Federal Register]**, and reply comments on or before **[60 days after publication in the Federal Register]**. All filings should refer to **RM No. 11592**. 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 Fed. Reg. 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://fjallfoss.fcc.gov/ecfs2/ or the Federal eRulemaking Portal: http://www.regulations.gov.

- 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. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

  - Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.

  - 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 must be addressed to 445 12th Street, SW, Washington DC 20554.

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[5] *See* AT&T Reply Comments at 72; Verizon Wireless *Ex parte* at 7.

[6] Petition at 2, 4.

[7] Petition at 7-9.

- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (Voice), 202-418-0432 (TTY).

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. 20554. Documents in **RM No. 11592,** including a copy of the petition, are 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.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. *See* 47 C.F.R. §§ 1.1200, 1.1206. 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. *See* 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

For further information about this Public Notice, please contact Won Kim, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, at (202) 418-1368.

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