

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

In the Matter of

)	
)	
LightSquared Technical Working)	IB Docket No. 11-109
)	DA 12-214
Group Report)	
)	
and)	
)	
LightSquared Subsidiary LLC)	File No. SAT-MOD-20101118-00239
Request for Modification of its)	
Authority for an Ancillary Terrestrial)	
Component)	

MOTION FOR EXTENSION OF TIME

LightSquared Subsidiary, LLC (“LightSquared”), by its attorneys and pursuant to 47 C.F.R. § 1.46 of the Rules of the Federal Communications Commission (“FCC” or “Commission”), respectfully moves for a brief extension of time, until March 30, 2012, to file comments in the above-captioned proceeding.

LightSquared has been engaged in intensive efforts and has committed tremendous resources to launch the first-ever wholesale, nationwide 4G-LTE wireless broadband network integrated with satellite coverage. The operation of LightSquared’s network will significantly benefit consumers by enhancing competition among wireless broadband providers, spurring innovation in mobile devices and applications, providing wireless broadband access to 260 million Americans by 2015, and creating tens of thousands of private-sector jobs. LightSquared has invested nearly \$4 billion in the design and construction of its network. When brought into service, LightSquared’s network will represent more than \$14 billion in total new private-sector investment.

On February 14, 2012, the National Telecommunications and Information Administration (“NTIA”) submitted a letter to the Commission regarding the compatibility of commercially available Global Positioning System (“GPS”) receivers with the LightSquared network.¹ Significantly, NTIA does not assert that there would be any impact on the signals transmitted by GPS satellites. Rather, the *NTIA Letter* asserts that the operation of LightSquared’s network would “impact” certain GPS receivers. As LightSquared has previously documented, this asserted “impact” is self-inflicted by the manufacturers of GPS receivers: commercially available GPS receivers have been built in a manner such that they pick up radio signals in portions of the spectrum that (i) are not allocated for GPS, (ii) have been licensed to LightSquared for many years, and (iii) were approved for use by LightSquared’s 4G LTE network both by NTIA and through final FCC orders many years ago.

The *NTIA Letter* and exhibits total more than 300 pages, consisting of highly-technical analyses, predictions, and test parameters and results. Before this letter was even uploaded into the docket of the relevant FCC proceeding, the Commission already had released a prepared statement,² and then the next day released a *Public Notice*, tentatively concluding that materials cited in the *NTIA Letter*, combined with those already submitted into the current record, “indicate that it is highly unlikely that LightSquared will, in any reasonable period of time, be able to satisfy the requirements of the *Conditional Waiver Order* for providing commercial ATC service

¹ Letter from Lawrence E. Strickling, Assistant Secretary for Communications and Information, U.S. Dep’t of Commerce, to Julius Genachowski, Chairman, FCC (dated Feb. 14, 2012) (“NTIA Letter”).

² See FCC, “Statement from FCC Spokesperson Tammy Sun on Letter from NTIA Addressing Harmful Interference Testing Conclusions Pertaining to LightSquared and Global Positioning Systems” (rel. Feb. 14, 2012).

in the 1525-1559 MHz band.”³ The *Public Notice* thus proposes to vacate the *Conditional Waiver Order* previously adopted in this proceeding. Furthermore, evidently accepting the conclusions in the *NTIA Letter* uncritically and at face value, the Bureau also has proposed to go even further to modify LightSquared’s license so as to “suspend indefinitely” the 2004 authorization (as modified) that permits LightSquared to operate an “Ancillary Terrestrial Component” service, or “ATC.”⁴

The proposed rush to judgment in the *Public Notice* to effectively rescind not only the *Conditional Waiver Order* but also LightSquared’s underlying ATC authorization is inappropriate and unprecedented. Fundamental considerations of fair notice and proper administrative process require that LightSquared and other commenters be given adequate time to respond to the *NTIA* materials and the Bureau’s proposed actions. Under the Administrative Procedure Act and Due Process Clause of the United States Constitution, the Commission must provide a “reasonable” amount of time for interested parties to respond to proposed administrative action.⁵ The brief comment period provided for LightSquared to address the issues in the *Public Notice* is wholly inadequate, particularly considering the depth and volume of the new information contained in the *NTIA Letter*.

The *NTIA Letter* introduces hundreds of pages of new and highly-technical studies and evaluations into the record. *NTIA* took several months to complete its study. The Bureau has afforded LightSquared just nine business days to respond. In that time, LightSquared must work

³ *Public Notice*, “International Bureau Invites Comment on *NTIA Letter* Regarding LightSquared Conditional Waiver, IB Docket No. 11-109, DA 12-214 (rel. Feb. 15, 2012) (“*Public Notice*”).

⁴ *Id.*, 4.

⁵ *Winton v. Nat’l Transp. Safety Bd.*, 358 F. App’x 183, 184 (D.C. Cir. 2009).

with technical experts to evaluate the *Letter's* contentions and draft a response that explains why (i) the NTIA's analysis is fundamentally flawed, (ii) there is no reason to rescind the Conditional Waiver, and (iii) there is no reason to otherwise modify LightSquared's ATC authorization. In short, the proposed response period is wholly inadequate to allow LightSquared to comment in a meaningful manner to the three hundred pages of new information in the record, on which the *Public Notice* bases the proposal to take the imminent action of effectively revoking LightSquared's ATC authority.

In these circumstances, with the stakes as high as the Commission has set them, additional time to comment is amply warranted, and indeed, required. The Commission frequently grants extensions of time where important issues are at stake, and where there is need for thorough development and consideration of the issues in the record.⁶ Indeed, under the Communications Act, public notice periods are routinely a minimum of 30 days where an

⁶ See, e.g., *In the Matter of Petition of AT&T Inc. for Settlements Stop Payment Order on the U.S.-Tonga Route*, 24 FCC Rcd 14324 (Dec. 4, 2009) (30-day extension due to complexity of issues involved); *In the Matter of Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*; 23 FCC Rcd 10163 (June 26, 2008) (75-day extension granted to "allow[] parties to discuss the complex issues at stake, develop consensus approaches where possible, and prepare thorough comments while ensuring that the proceeding is expeditiously resolved"); *In the Matter of Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service; Feasibility of Reduced Orbital Spacing for Provision of Direct Broadcast Satellite Service in the United States*, 22 FCC Rcd 125 (rel. Jan. 8, 2007) (two-week extension granted "to provide a more complete record for review in this proceeding, which raises important policy and technical issues"); *In the Matter of Qualcomm Incorporated Petition for Declaratory Ruling*, 20 FCC Rcd 3594 (Feb. 15, 2005) (21-day extension granted, noting that "[s]uch extensions may be warranted when, among other things, a proceeding raises complex substantive matters, comments may prove to be voluminous, or the parties would not have sufficient time to analyze and respond to comments," and that proceeding raised "complex technical and legal questions").

entity's fundamental license is placed at risk of revocation or modification.⁷ All of these conditions pertain here: The technical and policy issues raise in this proceeding are complex, and the Commission has proposed putting billions of investment dollars in jeopardy and including for the first time the suggestion that LightSquared's fundamental ATC authorization is at risk.

Moreover, the fact that LightSquared is entitled to a 30-day period to protest any proposed order of modification arising out of the *Public Notice*⁸ does not excuse the inadequacy of the current comment period. LightSquared must be permitted to make its case fully now that such modifications proposed in the *Public Notice* simply are not appropriate based on the *NTIA Letter* and the current administrative record. If the *NTIA Letter* and associated data are to become the linchpin that causes the Commission to pursue radical alternation of LightSquared's license, then LightSquared and other parties must be afforded the opportunity to evaluate this material thoroughly. It would be an arbitrary and unjust result if the commencement of a license modification proceeding based on this new information were pre-ordained by the agency.

Finally, no party will be prejudiced by the requested extension in this proceeding because LightSquared's terrestrial operations remain non-operational. Therefore, there can be no objection to allowing LightSquared additional time to address these contentions. There is no imminent threat to GPS operations that warrants precipitous action by the Commission.

LightSquared thus respectfully requests that the deadline for comments on the issues raised in the *Public Notice* be extended until March 30, 2012.

⁷ See 47 U.S.C. §§ 312, 316.

⁸ *Public Notice*, n.20.

Respectfully submitted,

-/s/-

Jeffrey J. Carlisle
Executive Vice President, Regulatory Affairs
and Public Policy
LIGHTSQUARED INC.
10802 Parkridge Boulevard
Reston, VA 20191
703-390-2001

February 23, 2012