

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Progeny LMS, LLC	)	
	)	WT Docket No. 11-49
Petition for Waiver of the Rules	)	
And Request for Expedited Treatment	)	

**THE PART 15 COALITION  
REQUEST FOR EXTENSION OF COMMENT  
AND REPLY COMMENT DEADLINES**

The Part 15 Coalition hereby submits this request for an extension of the comment and reply comment deadlines, currently set for December 11, 2012 and December 21, 2012, regarding test results submitted in the above-captioned proceeding.<sup>1</sup> Additional time is necessary so that all interested parties, especially those not involved in the test process, have sufficient time to review, analyze and interpret the technical data contained in the hundreds of pages of test results and underlying data recently submitted to the Federal Communications Commission (“FCC” or “Commission”) regarding the interference effects of Progeny on unlicensed device users, and to formulate comments that will contribute to the record. The Part 15 Coalition requests that comments be due no later than December 21, 2012 and Reply Comments be due no later than January 21, 2013.

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<sup>1</sup> *In the Matter of Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules, Joint Itron-Progeny Testing, WT Docket No. 11-49 (filed Oct. 31, 2012) (“Itron Test Report”); In the Matter of Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules, Joint Landis+Gyr-Progeny Testing, WT Docket No. 11-49 (filed Oct. 31, 2012) (“L+G Test Report”); In the Matter of Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules, Joint WISPA-Progeny Testing, WT Docket No. 11-49 (filed Oct. 31, 2012) (“WISPA Test Report”).*

## DISCUSSION

The Part 15 Coalition (“Coalition”) is composed of entities that manufacture, use, and/or represent users of unlicensed Part 15 devices that operate in the 902-928 MHz band.<sup>2</sup> These devices are used in numerous critical infrastructure operations on which the safety of the public depends, such as energy production, railroad control, and water and other utility systems. They also include technologies that better the daily lives of many Americans, such as broadband access, cordless phones, home security, home audio and video equipment, and medical implants and other medical devices, as well as new RFID devices.

On December 20, 2011, the Wireless Telecommunications Bureau and the Office of Engineering and Technology granted Progeny a waiver of the Multilateration Location and Monitoring Service (“M-LMS”) rules to allow Progeny to construct a system without meeting all of the M-LMS technical construction requirements and without providing primary vehicle location services.<sup>3</sup> The *Progeny Waiver* requires Progeny, prior to commencing operations, to engage in field testing of its system with Part 15 devices and to demonstrate that its system “will not cause unacceptable levels of interference to Part 15 devices that operate in the 902-928 MHz band.”<sup>4</sup> If Progeny receives authority to operate, unlicensed users will have no recourse regarding interference from its transmissions.

Upon the request of Commission staff, Itron, Inc., the Wireless Internet Service Providers Association (WISPA”), and Landis+Gyr Company each conducted separate tests with Progeny to determine the effects of the Progeny system on certain Part 15 devices. Results of this testing were filed with the Commission on October 31, 2012. On November 20, 2012, the Commission issued a Public Notice providing for twenty days to

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<sup>2</sup> See Attachment A for a list of Part 15 Coalition members.

<sup>3</sup> *In the Matter of Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules*, Order, 2011 FCC Lexis 5263, WT Docket No. 11-49 (rel. Dec. 20, 2011) (“*Progeny Waiver*”).

<sup>4</sup> *Progeny Waiver* at ¶ 35; see also 47 C.F.R. § 90.353(d).

submit comments and ten days to submit reply comments on these test results.<sup>5</sup> Additionally, on the same day, the Commission issued a Protective Order adopting procedures to allow other parties access to redacted confidential documents filed in the proceeding.<sup>6</sup> The Protective Order provides for a five-business-day period for interested parties to obtain access to confidential information.<sup>7</sup>

This proceeding presents complex technical questions regarding the interference effects of an M-LMS licensee on 902-928 MHz unlicensed devices. Among the three test reports, the record contains hundreds of pages of test results and underlying data. Those entities that have not been part of the test process require a sufficient opportunity to obtain and review the test data and prepare detailed comments that will aid the Commission in its decision-making. The Commission and all interested parties, including Progeny, have a strong interest in providing enough time so that technical staff may thoroughly study and interpret the test results, and provide meaningful comments.

In addition, the Commission must be certain that it makes accurate findings. Before it authorizes Progeny to operate, the Commission should be absolutely certain that those operations will not result in unacceptable levels of interference. The stakes for all parties – Part 15 users and Progeny – are too high for the Commission to make a decision based on a rushed analysis that may lack sufficient analytical rigor simply because the Commission would not extend a deadline. The Part 15 Coalition appreciates the desire to reach a decision, but urges that a sufficient technical record not be sacrificed simply to expedite the decision process.

The issuance of the Public Notice on the eve of Thanksgiving, coupled with the five-day time frame for obtaining information under the terms of the Protective Order,

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<sup>5</sup> Public Notice, *The Wireless Telecommunications Bureau and the Office of Engineering and Technology Seek Comment on Progeny's Joint M-LMS Field Testing Reports*, WT Docket No. 11-49 (rel. Nov. 20, 2012).

<sup>6</sup> *In the Matter of Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules*, Protective Order, WT Docket No. 11-49 (rel. Nov. 20, 2012) (“Protective Order”).

<sup>7</sup> Protective Order at ¶3 and ¶ 5.

creates a situation in which parties essentially will lose ten of the twenty days provided for comment, and will effectively be left with only seven business days to review materials and prepare comments. Given the complexity and volume of the data and importance of the FCC's decision in this proceeding – one that would open the door for all other M-LMS licensees to follow – an extension of time is necessary and would be in the public interest.

The Commission previously has granted requests for extensions of time when required, as in this instance, to ensure that the Commission receives informed responses and that all affected parties have a full and fair opportunity to submit to the record.<sup>8</sup> The Commission should follow these examples and grant the extension of time requested herein.

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<sup>8</sup> See *In the Matter of LightSquared Subsidiary LLC, Request for Modification of Its Authority for an Ancillary Terrestrial Component*, Order, SATMOD-20101118-00239, 25 FCC Rcd 16267 (2010) (granting one-week extension due to Thanksgiving weekend); *Wireless Telecommunications Bureau Grants Extension of Time to File Reply Comments on Commercial Mobile Radio Services Market Competition*, Public Notice, WT Docket No. 09-66, DA 09-1419 (WTB rel. June 24, 2009) (granting 14-day extension for “development of a complete record on the issues”); *In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS; Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Narrowband PCS*, Order, 15 FCC Rcd 10925 (2000) (granting 30-day extension).



Attachment A

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