



NEW AMERICA
FOUNDATION

November 29, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: WT Docket No. 11-49 – Request to Extend Comment and Reply Comment Deadlines

Dear Ms. Dortch:

The undersigned hereby submit this *ex parte* comment in support of an extension of the comment and reply comment deadlines regarding field test results submitted in the above-captioned proceeding.¹ We concur with the Request for Extension filed by the Part 15 Coalition.² The comment and reply comment deadlines, currently set for December 11, 2012 and December 21, 2012, do not allow adequate time for consumer advocates and other nonprofit groups representing users of unlicensed devices in the 900 MHz band to examine test results, discuss them with the relevant parties, and file comments.

Such a short timeline on a proceeding with such potentially devastating consequences for unlicensed use of the only contiguous unlicensed band currently available in superior propagation frequencies below 1 GHz would prevent thoughtful consideration and comment from users who have not been privy to the testing by the companies contending in this proceeding. In fact, although the December 21 comment deadline requested by the Part 15

¹ *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”).

² The Part 15 Coalition, Request for Extension of Comment and Reply Comment Deadlines, *In the Matter of Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules*, WT Docket No. 11-49 (filed Nov. 26, 2012).

Coalition may be sufficient for the companies directly involved in the testing, an even longer period – with a deadline after the year-end holiday period – would be far more reasonable for user groups and nonprofit advocates concerned about the outcome of this proceeding. This is particularly true given delay associated with the Protective Order for interested parties desiring to obtain access to confidential information related to the Field Testing Reports.³

We believe the test results and underlying data deserve closer scrutiny and analysis than would be possible for outside parties within the current comment deadlines. It is our understanding that the testing completed to date, although not comprehensive in scope, indicates that Progeny's system, due to its proposed power levels and duty cycle, would cause harmful interference to well-established consumer uses of 900 MHz unlicensed devices and effectively remove 4 MHz (of 26 MHz) of spectrum from unlicensed use in the 902-928 MHz band. If true, this would set the precedent for other M-LMS licensees to seek similar waivers, raising the potential of removing an additional 8 or more MHz spectrum from unlicensed use. Any such outcome would be contrary to the band plan the Commission created when adding the M-LMS service. Progeny LMS, LLC and other potential commercial users of the 902-928 MHz band have been on notice since the *M-LMS Recon Order* "that LMS systems are not operated in such a manner as to degrade, obstruct or interrupt Part 15 devices to such an extent that Part 15 operations will be negatively affected."⁴

For the reasons stated above, we believe it is squarely in the public interest to extend the comment and reply comment periods on the Progeny M-LMS Field Testing Reports to at least December 21, 2012 and January 21, 2013.

Respectfully submitted,

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cc: Renee Wentzel Gregory

³ *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).

⁴ *First M-LMS R&O*, 10 FCC Rcd at 4737; *see also*, *In the Matter of Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems*, Order on Reconsideration, 11 FCC Rcd 16907, 16911-12 (1996) ("*M-LMS Recon Order*").