



PUBLIC NOTICE

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

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**WIRELESS TELECOMMUNICATIONS BUREAU, PUBLIC SAFETY AND HOMELAND
SECURITY BUREAU AND OFFICE OF ENGINEERING AND TECHNOLOGY SEEK
COMMENT ON MOTOROLA REQUEST FOR LIMITED WAIVER OF SECTION 90.203(J)(10)
OF THE COMMISSION'S RULES**

WT Docket No. 99-87

Comment Date: December 17, 2012

Reply Comment Date: December 26, 2012

By this *Public Notice*, comment is sought on the Request for Limited Waiver filed by Motorola Solutions, Inc. (Motorola) on November 29, 2012.¹ Motorola seeks a limited waiver of Section 90.203(j)(10) of the Commission's Rules, which provides that, after January 1, 2011, Part 90 equipment in the 150-174 MHz and 421-512 MHz band that operates with a maximum channel bandwidth greater than 12.5 kHz shall not be manufactured in, or imported into, the United States. In 2010, the Commission temporarily waived this requirement until January 1, 2013 in order to avoid any disruption to licensees operating in a 25 kHz mode between January 1, 2011 and the Commission's January 1, 2013 deadline for migrating to narrowband technology.² The proponents of the temporary waiver argued that it would be contrary to the public interest to prevent licensees from keeping 25 kHz systems in full working order until they complete the migration to narrowband technology.³

Motorola, a Part 90 equipment manufacturer, requests that the deadline for manufacture or importation of equipment capable of operating with a maximum channel bandwidth greater than 12.5 kHz be further extended to allow the continued manufacture and importation of 25 kHz-capable equipment for marketing and sale to those licensees granted waivers of the Commission's January 1, 2013 narrowbanding deadline. It states that grant of the requested limited waiver will serve the public interest by ensuring that those licensees maintain essential system interoperability and reliability during their narrowbanding transition. Motorola contends that new 25 kHz-capable equipment will need to be

¹ See Request of Limited Waiver (filed November 29, 2012).

² See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Order*, WT Docket No. 99-87, 25 FCC Rcd 8861 (2010) (*Order*). The January 1, 2013 deadline for converting to 12.5 kHz technology has been waived for licensees in the 470-512 MHz segment of the UHF band (the T-Band). See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Order*, WT Docket No. 99-87, 27 FCC Rcd 4213 (WTB/PSHSB/OET 2012), *on reconsideration*, *Order on Reconsideration*, DA 12-1743 (WTB/PSHSB/OET rel. Nov. 30, 2012).

³ See *Order*, 25 FCC Rcd at 8864 ¶ 8.

manufactured after January 1, 2013 to ensure that the systems of waiver recipients remain in full working order until their migration to narrowbanding technology is complete, because a necessary component of maintaining essential system reliability is the ability of a licensee to purchase customized, newly-manufactured equipment when current equipment fails. Motorola claims that strict application of the manufacturing ban would hinder the ability of licensees, who received waiver requests, to procure the necessary equipment during the migration to narrowband technology and could interrupt critical public safety communication needs. It proposes the following limited waiver of Section 90.203(j)(10): (a) the waiver will apply to all manufacturers of 25 kHz-capable equipment in 150-174 MHz and 421-470 MHz bands, (b) only those licensees who have been granted a waiver would be able to purchase newly-manufactured or -imported 25 kHz-capable equipment, (c) the length of the waiver on the manufacture and importation of equipment to meet the requirement of a waiver recipient would be the same as the duration of the waiver from the narrowbanding deadline for that entity, and (d) the limited waiver would not affect the prohibition on the manufacture and importation of 25 kHz-capable equipment for licensees that did not receive a narrowbanding waiver.

We seek comment on Motorola's waiver request. Commenters should address whether the public interest would be served by granting a limited waiver to allow the continued manufacture and importation of 25 kHz-capable equipment for the marketing and sale to those licensees granted a waiver of the Commission's January 1, 2013 narrowbanding deadline. We also ask commenters to discuss whether a blanket waiver is the best means of providing the necessary relief, or whether relief should instead be requested on a case-by-case basis by licensees granted waivers of the narrowbanding deadline that encounter difficulty procuring needed 25 kHz-capable equipment. In addition, commenters should discuss what steps the Commission can take to ensure that, if granted, such a waiver allowing the manufacture and importation of 25 kHz-capable equipment beyond January 1, 2013 does not prolong the transition of licensees to narrowband technology. For example, should it be a condition of any waiver that 25 kHz-capable equipment manufactured or imported after January 1, 2013 be rendered incapable of operation by the end user in the 25 kHz mode after the expiration of the licensee's narrowbanding waiver?

Procedural Matters

Interested parties may file comments and reply comments in response to the waiver request on or before the dates listed on the first page of this *Public Notice*. All pleadings must reference WT Docket No. 99-87. Parties may file comments using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.⁴

- **Electronic Filers:** File comments 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.
- In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking 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 two copies of each filing.

Send filings 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). Address filings to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

⁴ See Electronic Filing of Documents in Rulemaking Proceedings, *Report and Order*, GC Docket No. 97-113, 13 FCC Rcd 11322 (1998).

- Deliver hand-delivered or messenger-delivered paper filings to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554 between 8:00 AM and 7:00 PM. Use rubber bands or fasteners to hold deliveries together. Dispose of all envelopes before entering the building.
- Send commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- Send U.S. Postal Service first-class, Express, and Priority mail to 445 12th Street, SW, Washington DC 20554.

Parties are requested to send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

The request, and comments and reply comments filed in response to this Public Notice are available for viewing via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, **WT 99-87**. The documents also will be available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail FCC@BCPIWEB.com.

Documents in WT Docket No. 99-87 are available for viewing on ECFS, <http://www.fcc.gov/cgb/ecfs>, by entering the docket number, WT 99-87. These documents are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, D.C. 20554. The documents are also available for purchase from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail FCC@BCPIWEB.com, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to fcc504@fcc.gov.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.⁵ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

For further information, contact Mr. Melvin Spann of the Wireless Telecommunications Bureau at (202) 418-1333, or via e-mail at Melvin.Spann@fcc.gov or Mr. Roberto Mussenden of the Public

⁵ See 47 C.F.R. §§ 1.1200(a), 1.1206.

Safety and Homeland Security Bureau at (202) 418-1428, or via e-mail at Roberto.Mussenden@fcc.gov or Mr. Ira Keltz of the Office Of Engineering and Technology at (202) 418-0616, or via e-mail at Ira.Keltz@fcc.gov.

Action by the Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau and Office of Engineering and Technology.

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