

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Request of Progeny LMS, LLC for Waiver of) WT Docket No. 11-49
Certain Multilateration Location and Monitoring)
Service Rules)
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**COMMENTS OF
LANDIS+GYR COMPANY**

Landis+Gyr Company (“L+G”) (formerly known as Cellnet Technology, Inc.)¹ submits these comments in response to the Public Notice issued in the above-referenced docket on November 20, 2012.² The Public Notice solicits comments on the reports filed October 31, 2012, by Progeny LMS, LLC (“Progeny”) on the joint tests conducted by Progeny, L+G, Itron, Inc. (“Itron”) and the Wireless Internet Service Provider Association (“WISPA”) in August 2012. Those tests, conducted pursuant to 47 C.F.R. § 90.353(d) of the Commission’s rules, were

¹ L+G is a leading provider of integrated energy management solutions tailored to energy company needs. With a global presence and a reputation for quality and innovation, L+G is unique in its ability to deliver true end-to-end advanced metering solutions. Using a combination of Part 101 Multiple Address System licenses and unlicensed spread spectrum Part 15 devices, L+G has deployed a low-cost, private internal telemetry services network that allows it to transmit and receive data for the remote monitoring and control of devices, primarily utility meters.

² *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, DA 12-1873 (November 20, 2012). The Public Notice set a deadline for initial comments of December 11, 2012. Subsequently, the Chief, Wireless Telecommunications Bureau, and Chief, Office of Engineering and Technology, extended the deadline for initial comments to December 21, 2012. Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules, WT Docket No. 11-49, *Order*, DA 12-1930 (November 30, 2012).

designed to provide a factual basis on which the Commission could decide whether Progeny's Multilateration Location and Monitoring Service ("M-LMS") network system will cause unacceptable levels of interference to unlicensed Part 15 devices operating in the 902-928 MHz band.

While all four of the parties involved in these tests engaged in detailed negotiation as to the Progeny system that would be used as the test bed, and the general scope of testing that would be accomplished, each of L+G, Itron and WISPA conducted separate testing with Progeny to determine the impact of the Progeny system on its particular system operations. Progeny's tests with each party took place at different times in Santa Clara County, California, where to date Progeny has completed the most extensive build-out of a prototype system.

Because L+G does not have an operating automatic meter infrastructure ("AMI") system in Santa Clara County, L+G was required to bring in samples of a couple of types of the many varieties of its field equipment that might be impacted by a Progeny network. The tests of the L+G equipment were conducted at various distances from Progeny beacons in Santa Clara County, with results measured when the Progeny beacons were turned on and when the Progeny beacons were turned off in order to determine what impact, if any, Progeny's operations would have on the data throughput of the L+G devices.

It must be remembered that Progeny's waiver was granted because Progeny claimed that its system would be built to minimize the potential for interference to unlicensed users "so as to maintain the coexistence of the many varied users in the band."³ While the results of the tests included in the October 31 Joint Progeny – L+G test report can speak for themselves, in L+G's view, the tests demonstrate that operation of the Progeny beacons in the prototype Santa Clara

³ *In the Matter of Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules*, Order, 26 FCC Rcd 16878 (2011) at ¶ 26.

County system degraded the packet throughput of the L+G Part 15 equipment in several test configurations. Of course, these results may not represent the impact of a more mature, densely populated Progeny network operating in an environment in which L+G devices are also more densely populated, so the potential for even greater degradation remains a real threat to the Part 15 community.

Contrary to Progeny's suggestion,⁴ Progeny's burden was not to demonstrate that the tested Part 15 devices already operate in a noisy environment. Gratuitous suggestions that these devices do not achieve 100% throughput at all times and/or have been designed to mitigate the noisy environment in which they operate do not meet Progeny's burden of proof. Those facts have never been in dispute; to the contrary, it is well recognized that the Part 15 community consists of millions, if not tens of millions of devices regularly operating efficiently and effectively in admittedly "noisy" consumer, commercial and industrial environments. And these devices do so because their manufacturers recognize the "shared" nature of the band and design accordingly, even as various new devices are regularly added to that mix for extremely valuable purposes, without seriously degrading the performance of the incumbent base.

Progeny was instead obligated to demonstrate, as Progeny's letter acknowledges, "that its M-LMS network does not cause unacceptable levels of interference to Part 15 devices in the 902-928 MHz band."⁵ Given the results of the tests among a limited number of devices in a

⁴ See Letter from Bruce Olcott, counsel to Progeny, to Marlene Dortch, Secretary, FCC, November 19, 2012, WT Docket No. 11-49.

⁵ *Id.*, at page 1. Interestingly, the Progeny letter cites the definition of "harmful" interference in the letter (at page 5): "the definition of "harmful" interference, seriously degrades, obstructs or repeatedly interrupts" the functioning of a device." Although it is clear that Progeny's burden in satisfying the waiver condition was to prove that even a lesser impact would not occur to Part 15 devices, the FCC could well determine based on the results already reported that harmful interference is a real threat to existing Part 15 devices.

limited test-bed Progeny system, the Commission must seriously question whether even greater degradation to Part 15 equipment would occur in Progeny systems that are fully built-out with additional beacons to maximize the utility of Progeny's proposed commercial position location services. And this interference may occur not only to the types of devices tested, but also to the myriad of other consumer and commercial products that utilize this band. Unless and until the Commission can determine that such interference will not occur on a wide scale basis, Progeny simply has not met its burden of proof in this case, and commercial operation of its systems should not be authorized.

Respectfully submitted,

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December 21, 2012