

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

Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Seek Comment on Options for 470-512 MHz (T-Band) Spectrum) **PS Docket No. 13-42**)

**TO: Chief, Wireless Telecommunications Bureau
Chief, Public Safety and Homeland Security Bureau**

**COMMENTS OF
NSTAR ELECTRIC COMPANY**

In response to the Public Notice released by the Federal Communications Commission (“Commission”) on February 11, 2013 regarding the 470-512 MHz band (“T-Band”),¹NSTAR Electric Company (“NSTAR”), by its attorneys, hereby submits these Comments urging the Commission to permit non-public safety licensees to remain authorized to operate in the T-Band either as currently licensed or by consolidating non-public safety licensees within a single segment of contiguous T-Band spectrum.

I. INTRODUCTION

NSTAR is an operating company and an indirect subsidiary of Northeast Utilities. NSTAR is engaged in the transmission and distribution of electricity to customers in Eastern and Southeastern Massachusetts, including the city of Boston. NSTAR transmits and delivers electricity to 1.1 million electric customers in 81 communities.

To support its distribution system as well as the personnel deployed within its service area, NSTAR operates a UHF land mobile communications system using channels from both the

¹*Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau seek Comment on Options for 470-512 MHz (T-Band) Spectrum*, Public Notice, DA 13-187, February 11, 2013 (*T-Band Public Notice*).

450-470 MHz band and the T-Band.² NSTAR personnel rely on this system to support a multitude of tasks and promote the safe, efficient and uninterrupted distribution of electricity to its customers.

Until recently, NSTAR operated a legacy wideband VHF system in addition to its UHF/T-Band system. In 2010, NSTAR's joint Union Management Safety Committee identified the company's legacy VHF land mobile system as a "potential safety concern" to the company's workers, customers and general public. The equipment was antiquated and in need of replacing before January 1, 2013 to comply with the Commission's narrowbanding rules.³ In addition, because a portion of NSTAR's service territory was covered by the VHF system and another portion covered by a UHF system, equipment incompatibilities required crews to change radio equipment based on the location to which they were dispatched. An additional safety concern was that the VHF equipment did not enable truck-to-truck communications. As a result, crews often missed dispatch communications, which led to confusion regarding switching orders – quite a problem considering that NSTAR's employees work on electrical lines carrying 13,000-345,000 volts.

The company researched various alternatives and, in May 2010, completed planning and engineering to consolidate the area previously covered by the VHF system into the company's UHF system. The company's UHF system relies heavily on T-Band spectrum and complies with the Commission's narrowband mandate. The company invested approximately \$7 million to

² NSTAR currently holds more than a dozen active T-Band licenses.

³ 47 C.F.R. § 90.205(b)(5).

complete the system upgrade, which required the company to purchase and deploy new equipment and modify existing UHF and T-Band licenses to add channels at new locations.⁴

This substantial investment already has paid dividends, as the system represents a significant upgrade over the company's legacy wideband VHF system and provides the company with a common radio platform, eliminating the need to change radios when moving between service territories. The upgraded system also promotes the safety of NSTAR's personnel with enhanced "emergency alert" and "GPS tracking" features. Finally, the system helps ensure that NSTAR complies with regulatory requirements that field workers be able to call for assistance in an emergency in under 5 minutes and is a critical tool in maintaining electric service.

II. T-BAND BACKGROUND AND REALLOCATION

The Commission allocated T-Band spectrum to relieve spectrum congestion in urban centers⁵ and permit licensees to operate compatible equipment between the UHF and T-Bands.⁶ NSTAR's system demonstrates how successful this allocation has been on both fronts. As discussed above, the company operates a hybrid UHF/T-Band system with compatible equipment throughout its congested service territory in and around Boston. NSTAR would be unable to deploy the same system in the VHF band or the 450-470 MHz band due to lack of channel availability.

Last year, Congress passed the Middle Class Tax Relief and Job Creation Act of 2012 ("Act"). The Act requires the Commission to reclaim and auction the T-band spectrum currently

⁴One of these modification applications included a request to waive the Commission's T-Band licensing freeze. This application was granted by the Commission on December 18, 2012. *See*, FCC File No. 0005174965.

⁵"Various land mobile radio services needed additional radio frequency spectrum in order to relieve existing congestion and to provide for anticipated growth of land mobile communications ." *In Re Spectrum Space for Land Mobile Services*, *See also*, *In Re Land Mobile Radio Services*, First Report and Order, 23 FCC 2d 325 at ¶ 4 (May 21, 1970).

⁶"Essentially the same type of equipment as is now used in the [UHF band] is also capable of being employed in the [T-Band]." *Pacific Broadcasting Corp. v. Riddell*, Notice of Further Proposed Rulemaking, 27 FCC Rcd 2d 371 at ¶ 3 (Jan. 28, 1971).

used by public safety entities by 2021 and relocate public safety entities within two years following the auction.⁷As the Commission noted in the *T-Band Public Notice*, the Act “does not address the status of non-public safety licensees in the T-Band, nor does it require their relocation to other spectrum.”⁸

III. THE COMMISSION SHOULD CONSOLIDATE NON-PUBLIC SAFETY LICENSEES INTO A PORTION OF THE T-BAND

In the *T-Band Public Notice*, the Commission asked whether it should consider relocating non-public safety licensees out of the T-Band in order to clear larger contiguous blocks of T-Band spectrum for auction.⁹The Commission also sought comment on whether it should consolidate non-public safety licensees within a single segment of contiguous T-Band spectrum in order to clear the remaining T-Band spectrum for auction in contiguous blocks.¹⁰

NSTAR urges the Commission to permit non-public safety licensees to remain in the T-Band in the Boston area. The Act does not require the Commission to relocate non-public safety licensees from the T-Band. More importantly, such a relocation is not possible as no comparable replacement spectrum is available to which to relocate affected licensees. The National Public Safety Telecommunications Council (“NPSTC”) recently released a comprehensive report that documents use of the T-Band (“NPSTC Report”).¹¹The NPSTC Report concluded that Boston is one of five saturated metropolitan areas in which sufficient replacement spectrum is not available

⁷ Pub. L. No. 112-96, 126 Stat. 156, §6103 (2012).

⁸*T-Band Public Notice* p. 3.

⁹*T-Band Public Notice* pp. 3-4

¹⁰*T-Band Public Notice* p. 4.

¹¹ A NPSTC Public Safety Communications Report, T-Band Report, (rel. March 15, 2013), available at http://www.npstc.org/download.jsp?tableId=37&column=217&id=2678&file=T_Band_Report_20130315.pdf (last visited May 6, 2013).

for displaced Public Safety T-Band licensees.¹² Business/Industrial users, which are not eligible for licenses in the Public Safety 700 MHz narrowband allocation, are in an even more dire position than Public Safety. There is no place for licensees such as NSTAR to go.

As demonstrated above, NSTAR has invested millions of dollars to upgrade its UHF system. The system relies heavily on more than a dozen active T-Band licenses. Given this substantial investment, the critical nature of the traffic carried by this system and the lack of alternate spectrum, NSTAR urges the Commission to permit non-public safety entities to remain T-Band licensees.

NSTAR supports the consolidation of non-public safety T-Band licensees into a single segment of contiguous T-Band spectrum if the Commission's goal is to maximize the contiguous blocks of T-Band Spectrum to be offered at auction. Under this scenario, NSTAR urges the Commission to ensure non-public safety licensees that are consolidated into a portion of the T-Band are provided an amount of spectrum in the consolidated band that is at least equal to the amount currently licensed to these entities in the existing T-Band. NSTAR also urges the Commission to ensure non-public safety licensees receive the same exclusivity and interference protection in the consolidated portion of the T-Band as currently available to these licensees in the existing T-Band. Accommodation should be made for relocation expenses. Given the critical public service and public safety function of NSTAR's operations, any loss of spectrum would have a severe detrimental effect on the communities served by NSTAR.

If current Business/Industrial licensees such as NSTAR are permitted to remain in the T-Band, NSTAR would also support the Commission's proposal to require such licensees to

¹² NPSTC Report p. 4.

narrowband their operations.¹³ In April 2012, the Commission issued an Order waiving the January 1, 2013, deadline for private land mobile licensees in the T-Band to migrate to narrowband technology.¹⁴ The Commission waived this requirement after it determined that requiring T-Band licensees to narrowband “could force many licensees in the band to invest in narrowband systems that may subsequently have to be relocated.”¹⁵ If the Commission permits non-public safety licensees to remain in the T-Band, the agency’s concerns would be alleviated and licensees should be required to comply with the narrowbanding rules.

IV. CONCLUSION

Based on the foregoing, NSTAR respectfully requests that the Commission permit non-public safety licensees to remain in the T-Band either as currently licensed or through a consolidation within a single segment of contiguous spectrum within the T-Band.

Respectfully Submitted,

/s/

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¹³*T-Band Public Notice* p. 4.

¹⁴*In re Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies*, Order, DA 12-642 (Apr. 26, 2012).

¹⁵*Id.*