



PUBLIC NOTICE

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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

Comment Date: May 13, 2013

Reply Comment Date: June 11, 2013

By this Public Notice, the Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau (Bureaus) seek comment to inform the Bureaus in their recommendations to the Commission relating to its implementation of Section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012 (Act) as it applies to the 470-512 MHz band (T-Band).¹ Section 6103 provides that, not later than nine years after the date of enactment, the Commission shall (1) “reallocate the spectrum in the 470-512 MHz band ... currently used by public safety eligibles,” and (2) “begin a system of competitive bidding under Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new initial licenses for use of the spectrum.”² It provides that “relocation of public safety entities from the T-Band Spectrum” shall be completed not later than two years after completion of the system of competitive bidding, and that proceeds from the auction of T-Band spectrum “shall be available to the Assistant Secretary [of Commerce for Communications and Information] to make grants in such sums as necessary to cover relocation costs for the relocation of public safety entities from the T-Band spectrum.”³

On April 26, 2012, the Bureaus announced a limited suspension of the acceptance and processing of certain applications for Part 22 and Part 90 services operating in the T-Band that could alter the spectrum landscape.⁴ The Bureaus took this action to stabilize the spectral environment “while the Commission considers issues surrounding future use of the T-Band, solicits input from interested parties, and works to implement the directives of the Act.”⁵ In a subsequent *Notice of Proposed Rulemaking*

¹ Pub. L. No. 112-96, 126 Stat. 156 (2012).

² *Id.* § 6103(a).

³ *Id.* § 6103(b), (c).

⁴ Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, 27 FCC Rcd 4218 (WTB/PSHSB 2012). The Bureaus issued a further clarification of the suspension on June 7, 2012. Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Clarify Suspension of the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, 27 FCC Rcd 6087 (WTB/PSHSB 2012).

⁵ *Suspension Notice* at 1-2.

regarding other aspects of the Act, the Commission stated that T-Band issues would be addressed in a forthcoming Public Notice “to advance the record on issues related to the technical, financial, administrative, legal, and policy implications of the Act for T-Band licensees.”⁶ This Public Notice initiates these next steps. This Public Notice does not propose any change to the current Commission rules regarding T-Band. Its purpose is to gather information in order to inform the Bureaus in their recommendations to the Commission concerning when, how, and under what circumstances it is most appropriate to reallocate the T-Band and relocate incumbent T-Band users as required by Section 6103.

We encourage commenters to present specific proposals for implementing the provisions of Section 6103, including the technical, financial, administrative, legal, and policy implications of each option. To further guide public input on these issues, we seek specific comment on the questions presented below, but also invite more general comment:

- How many licensees of all types use T-Band?
- What is the approximate percentage split between public safety licensees and non-public safety licensees on T-Band?
- How many base station/repeaters, mobile radios, and portable radios operate on T-Band frequencies?
- What is the approximate percentage split between the types of systems that these licensees use? For example: analog/digital, conventional/trunked, voice/data. What is the average cost, age, and useful life of these systems?
- What are the main “use cases” for T-Band systems (e.g., dispatch, field communications, command-and-control) and how much system capacity do these uses require?
- Can responses to the above questions be broken down with respect to each of the T-Band urbanized areas?⁷
- What additional information regarding incumbent T-Band users, apart from that contained in the Commission’s Universal Licensing System (ULS) records, should the Commission consider in its deliberations?

Section 6103 requires reallocation of T-Band spectrum “currently used by public safety eligibles” within nine years of enactment and “relocation of public safety entities” from the T-Band not later than two years after the completion of competitive bidding. This section further provides that the Assistant Secretary of Commerce for Communications and Information (Assistant Secretary) will “make grants in such sums as necessary to cover relocation costs for the relocation of public safety entities from the T-Band spectrum.” We seek comment on the following issues in connection with these provisions:

- What alternative spectrum bands are potentially available for relocation of T-Band public safety licensees? Could T-Band licensees relocate to other UHF-VHF spectrum bands, or to public safety spectrum in the 700 MHz or 800 MHz bands? Should spectrum bands that are not currently allocated for public safety use be considered?
- What is the future feasibility of T-Band public safety licensees migrating their operations to the 700 MHz public safety broadband spectrum by becoming users of the FirstNet public safety broadband network once that network becomes operational? Which use cases (e.g.,

⁶ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Notice of Proposed Rulemaking*, Docket 12-268, 27 FCC Rcd 12357, 12365 ¶ 19 (2012).

⁷ See 47 CFR § 90.303(b) for list of urbanized areas.

dispatch) are most easily migrated to a broadband data network? What capabilities must be developed in the FirstNet network (e.g., mission-critical voice capability) in order for T-Band relocation to the network to be feasible, and how long will it take for the FirstNet network to develop these capabilities?

- How much time is appropriate under Section 6103 to reallocate T-Band spectrum and relocate public safety licensees? Should the Commission take the maximum period of years allowed under the statute for these steps? What factors should be relevant in making this assessment? If the Commission were to take these steps earlier than the statutory maximum, what would be an appropriate timeline?
- What relocation costs are T-Band licensees likely to incur to relocate out of T-Band? To what extent will relocation costs vary depending on what spectrum band is used for relocation? Recognizing that under the statute, the Assistant Secretary ultimately has the responsibility to administer the relocation grants, would it be appropriate to assume a compensation regime similar to those previously adopted by the Commission for other relocation obligations? For example, should we assume that the compensation regime would provide for recovery of all costs associated with relocation, including planning and administrative costs, or only the cost of retuning and/or replacing equipment? How should the Commission address these issues to minimize costs?
- Should we assume that the compensation regime would provide for recovery of the cost of retuning or replacing equipment acquired since the enactment of Section 6103? Or should we assume that such recovery would be conditioned on demonstrating that such acquisition has not increased the licensee's relocation costs over what they would have been otherwise? How should the Commission address these issues to minimize costs?
- Should the Commission encourage voluntary migration by T-Band public safety licensees prior to the reallocation and relocation required by Section 6103? Are there incentives that the Commission could implement to encourage voluntary relocation? Would licensees who relocate voluntarily be entitled to recover their relocation costs from T-Band auction proceeds? If so, would the delay in receiving such grants until after the auction be likely to make critical services unavailable in the interim?
- Are there potential incentives or requirements that would help facilitate T-Band relocation by making more efficient use of replacement spectrum or reducing relocation costs? For example, would consolidating adjacent T-Band public safety systems into larger regional systems enable them to use replacement spectrum more efficiently or reduce relocation costs? Are there potential costs or burdens associated with consolidation that would outweigh the potential benefits? If consolidation would facilitate implementation of Section 6103, what steps should the Commission take to encourage or require it?
- Some state and local government agencies that are public safety-eligible also use non-public safety frequencies in the T-Band for non-public safety activities. In addition, some public safety entities operate on non-public safety T-Band frequencies pursuant to waivers. Should the Commission treat these licensees as "public safety eligibles" for purposes of relocation to alternative spectrum pursuant to Section 6103(c)?

Section 6103 does not address the status of non-public safety licensees in the T-Band, nor does it require their relocation to other spectrum. We seek comment on whether the Commission should consider options for relocating non-public safety T-Band licensees in conjunction with the relocation of public safety licensees required by Section 6103.

- Should the Commission consider relocating non-public safety as well as public safety licensees out of T-Band in order to clear larger contiguous blocks of T-Band spectrum for

auction that would be likely to generate higher bids? Alternatively, should the Commission consider consolidating non-public safety licensees within a single segment of contiguous T-Band spectrum (e.g., TV Channel 14 at the bottom of the band) in order to clear the remaining T-Band spectrum for auction in contiguous blocks?

- What alternative spectrum bands are potentially available for relocation of T-Band non-public safety licensees? Do T-Band non-public safety licensees require replacement narrowband spectrum or could they relocate their operations to commercial broadband spectrum, either by operating their own broadband networks or becoming customers on existing commercial broadband networks?
- A limited amount of T-Band spectrum is designated for Part 22 use, but this spectrum does not appear to be subject to the same level of use as Part 90 T-Band frequencies. Do incumbent Part 22 systems in T-Band require replacement spectrum, or is existing Part 22 spectrum outside of T-Band sufficient to accommodate these operations?
- If the Commission were to relocate non-public safety licensees from T-Band, should it use the same timetable applicable to relocation of public safety licensees or a different timetable?
- Are there potential incentives or requirements that would help facilitate T-Band relocation or consolidation by non-public safety licensees, if needed? For example, if the Commission were to consolidate all non-public safety T-Band licensees into a single T-Band segment, could the Commission expand the current T-Band geographic limitations or relax other restrictions as incentives?
- While Section 6103 does not authorize use of auction proceeds to pay for relocation of non-public safety licensees, are there other mechanisms available that would enable non-public safety licensees to recover some or all of their relocation costs?
- In light of the enactment of Section 6103, T-Band licensees have been granted a waiver of the January 1, 2013 narrowbanding deadline.⁸ If, as mentioned above, the Commission consolidates non-public safety licensees into a single segment of contiguous T-Band spectrum or relocates them out of the T-Band, should the Commission require those licensees to narrowband as a condition of receiving replacement spectrum? For T-Band licensees that have not already narrowbanded, would narrowbanding on replacement spectrum be any more costly than narrowbanding on their current channels?

We seek comment on what, if any, interim actions the Commission should take with respect to T-Band incumbents prior to implementing the reallocation and relocation provisions of Section 6103:

- As noted above, the Bureaus have suspended the processing and filing of T-Band applications for new or expanded operations while the Commission considers issues surrounding future use of the T-Band. Should the Commission continue this suspension until reallocation and relocation are implemented, even if this does not occur until the maximum period of years allowed by Section 6103?
- Should the Commission consider modifying the suspension to allow certain additional types of modifications? For example, should frequency replacements be permitted within the same TV channel or within TV channels already designated in a given urbanized area for PLMR use? Should Part 22 applications for Part 22 frequencies continue to be suspended? Should the Commission process applications that were pending prior to the announcement of the suspension and are currently being held in abeyance?

⁸ See 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*, WT Docket No. 99-87, RM-9332, 27 FCC Rcd 4213 (WTB/PSHSB/OET 2012).

- Should the Commission consider other measures to restrict changes to T-Band incumbent systems that would increase their relocation costs?

This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁹ 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.

Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Interested parties may file comments using: (1) the Commission’s Electronic Comment Filing System (ECFS), or (2) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). **Commenters should refer to the docket number and the DA number on the front page of this Public Notice when filing comments.**

- Electronic Filers: Interested parties may file comments electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

⁹ 47 C.F.R. §§ 1.1200 *et seq.*

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Interested parties may view documents filed in this proceeding on the Commission's Electronic Comment Filing System (ECFS) using the following steps: (1) Access ECFS at <http://www.fcc.gov/cgb/ecfs>. (2) In the introductory screen, click on "Search for Filings." (3) In the "Proceeding Number" box, enter the numerals in the docket number. (4) Click on the box marked "Search for Comments." A link to each document is provided in the document list. The public may inspect and copy filings and comments during regular business hours at the FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. The public may also purchase filings and comments from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160, or via e-mail to fcc@bcpweb.com. The public may also download this Public Notice from the Commission's web site at <http://www.fcc.gov/>.

By the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau.

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