



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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**WIRELESS TELECOMMUNICATIONS BUREAU AND PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEK COMMENT ON PETITION FOR RULEMAKING FILED BY LAND MOBILE COMMUNICATIONS COUNCIL REGARDING INTERIM ELIGIBILITY FOR 800 MHZ EXPANSION BAND AND GUARD BAND FREQUENCIES**

**RM-11719**

**Comments Due: May 27, 2014**

**Reply Comments Due: June 11, 2014**

On March 27, 2014, the Land Mobile Communications Council (LMCC) filed a petition for rulemaking asking the Commission to modify Section 90.617 of the Commission's Rules<sup>1</sup> governing eligibility for frequencies in the 800 MHz Expansion Band (EB) and Guard Band (GB) to allow 800 MHz incumbent licensees in a market a six-month period in which to apply for EB/GB frequencies before making them available to applicants for new 800 MHz systems.<sup>2</sup> With this *Public Notice*, we seek comment on LMCC's petition for rulemaking.

As part of the rebanding of the 800 MHz band to resolve interference between commercial and public safety systems, the Commission created the Expansion (815-816/860-861 MHz) and Guard (816-817/861-862 MHz) Bands in order to provide spectral separation between commercial licensees operating in the enhanced Specialized Mobile Radio band operating above 817/862 MHz and public safety licensees operating below 815/860 MHz.<sup>3</sup> EB/GB channels become available for licensing when the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau (the Bureaus) announce that the required level of clearing has been achieved in a National Public Safety Planning Advisory Committee (NPSPAC) region.<sup>4</sup>

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<sup>1</sup> 47 C.F.R. § 90.617.

<sup>2</sup> Land Mobile Communications Council, Petition for Rulemaking Regarding Interim Eligibility for the 800 MHz Expansion Band (860-861/815-816 MHz) and Guard Band (861-862/816-817 MHz) (filed March 27, 2014) (Petition).

<sup>3</sup> See Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, 19 FCC Rcd 14969, 15053-55 ¶¶ 154-58 (2004).

<sup>4</sup> See Improving Public Safety Communications in the 800 MHz Band, *Order*, WT Docket No. 02-55, 23 FCC Rcd 15966, 15972-73 ¶ 17 (2008). To date, EB/GB channels have been made available for licensing in only eleven, generally less populated, NPSPAC regions. See Public Safety and Homeland Security Bureau and Wireless

LMCC states that spectrum for incumbent 800 MHz systems in urban areas to expand is urgently needed but sparsely available.<sup>5</sup> It argues that a limited opportunity for expansion of incumbent systems would serve the public interest because those licensees had to undergo the disruptive rebanding process without deriving any economic benefit, and use of EB/GB frequencies to expand existing systems' capacity would promote spectral efficiency.<sup>6</sup> LMCC therefore proposes that the Commission modify its rules to provide a six-month window for incumbent 800 MHz licensees in the market to acquire EB/GB channels to expand existing systems before accepting applications from new entrants.<sup>7</sup>

We seek comment on LMCC's petition for rulemaking. Commenters should address whether the public interest would be served by allowing 800 MHz incumbents temporary priority to apply for EB/GB frequencies. They should also address whether six months is an appropriate period, and whether any limits should be imposed in order to preserve the availability of EB/GB frequencies for new systems. Finally, we ask whether, pending resolution of the petition, the Bureaus should defer declaring rebanding to be complete in any additional NPSAC regions.

### **Procedural Matters**

Interested parties may file comments and reply comments in response to the waiver requests on or before the dates listed on the first page of this *Public Notice*. All pleadings must reference RM-11719. 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.<sup>8</sup>

- **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](mailto: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.

- Deliver hand-delivered or messenger-delivered paper filings to FCC Headquarters at 445 12<sup>th</sup> 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.

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Telecommunications Bureau Announce the Completion of 800 MHz Band Reconfiguration in Certain NPSAC Regions, *Public Notice*, WT Docket No. 02-55, 27 FCC Rcd 14775, 14780 (PSHSB/WTB 2012).

<sup>5</sup> See Petition at 3-5.

<sup>6</sup> *Id.* at 5-6.

<sup>7</sup> *Id.* at 6.

<sup>8</sup> See Electronic Filing of Documents in Rulemaking Proceedings, *Report and Order*, GC Docket No. 97-113, 13 FCC Rcd 11322 (1998).

- 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 12<sup>th</sup> 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](mailto:FCC@BCPIWEB.com).

The requests, 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), <http://www.fcc.gov/cgb/ecfs>, by entering the rulemaking number, 11719. 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](mailto: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](mailto:fcc504@fcc.gov).

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>9</sup> 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, Mobility Division, (202) 418-1333, [Melvin.Spann@fcc.gov](mailto:Melvin.Spann@fcc.gov) or Brian Marengo of the Public Safety and Homeland Security Bureau, Policy Division, (202) 418-0838, [Brian.Marengo@fcc.gov](mailto:Brian.Marengo@fcc.gov).

Action by the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau.

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<sup>9</sup> See 47 C.F.R. §§ 1.1200(a), 1.1206.