



PUBLIC NOTICE

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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

Comment Date: December 11, 2012

Reply Comment Date: December 21, 2012

On October 31, 2012, Progeny LMS, LLC (Progeny) filed three test reports in WT Docket No. 11-49, with results of testing undertaken by Progeny on a joint basis with three parties, Itron Inc. ("Itron"), Landis+Gyr Company ("Landis+Gyr"), and the Wireless Internet Service Providers Association ("WISPA"). The three reports are as follows: Joint Itron-Progeny Testing, July 23-August 1, 2012 (Oct. 26, 2012),¹ Joint Landis+Gyr-Progeny Testing, August 7-8, 2012 (Oct. 26, 2012),² and Joint WISPA-Progeny Testing, September 25 to 27, 2012 (Oct. 26, 2012)³ (collectively, the "Joint Testing Reports"). Also on October 31, 2012, Progeny filed a letter that provides its "initial overview" of the Part 15 test results associated with these reports.⁴ The Wireless Telecommunications Bureau and the Office of

¹ The Joint Itron-Progeny Testing is attached to the Letter from Bruce A. Olcott, Counsel to Progeny LMS, LLC and Laura Stefani, Counsel for Itron, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, Progeny LMS, LLC & Itron, Inc., Request for Confidential Treatment, Part 15 Joint Test Report, WT Docket No. 11-49 (filed October 31, 2012) ("Progeny-Itron Letter").

² The Joint Landis+Gyr-Progeny Testing is attached to the Letter from Bruce A. Olcott, Counsel to Progeny LMS, LLC and Lawrence J. Movshin, Counsel for Landis+Gyr Company to Marlene H. Dortch, Secretary, Federal Communications Commission, Progeny LMS, LLC & Landis+Gyr Company, Request for Confidential Treatment, Part 15 Joint Test Report, WT Docket No. 11-49 (filed October 31, 2012) ("Progeny-Landis+Gyr Letter").

³ The Joint WISPA-Progeny Testing is attached to the Letter from Bruce A. Olcott, Counsel to Progeny LMS, LLC and Stephen E. Coran, Counsel for WISPA to Marlene H. Dortch, Secretary, Federal Communications Commission, Progeny LMS, LLC & Wireless Internet Service Providers Association, Part 15 Joint Test Report, WT Docket No. 11-49 (filed October 31, 2012) ("Progeny-WISPA Letter").

⁴ Letter from Bruce A. Olcott, Counsel to Progeny LMS, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission, Progeny LMS, LLC, Demonstration of Compliance with Section 90.353(d) of the Commission's Rules, WT Docket No. 11-49 (filed October 31, 2012) ("October 31 Letter"). The October 31 Letter is attached to the Letter from Bruce A. Olcott, Counsel to Progeny LMS, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission, Progeny LMS, LLC, Request for Confidential Treatment, Ex Parte Letter on Part 15 Joint Test Reports, WT Docket No. 11-49 (filed October 31, 2012).

Engineering and Technology seek comment on the Joint Testing Reports and on Progeny's October 31 Letter.

On December 20, 2011, the Wireless Telecommunications Bureau and the Office of Engineering and Technology released its Waiver Order which granted Progeny's request for limited waiver of two rules, but which did not revise other interference-related requirements applicable to M-LMS licensees in the 902-928 MHz band.⁵ We noted that Section 90.353(d) of the rules requires Progeny to demonstrate through actual field tests that its M-LMS system will not cause unacceptable levels of interference to Part 15 devices in the 902-928 MHz band.⁶ As an additional condition of the waiver, we required Progeny, once it had completed design of its M-LMS system but prior to commencing commercial operations, to file a report in WT Docket No. 11-49 that provides details of the M-LMS system design, describes the process by which it carried out the field testing, including the particular types of Part 15 devices tested, and demonstrates that its M-LMS system will not cause unacceptable levels of interference to Part 15 devices that operate in the 902-928 MHz band.⁷ We stated that the report would be placed on public notice for comment and that if no significant interference issues were raised, we would notify Progeny that it may commence commercial operations. We also stated that if significant interference concerns were raised, we would determine what additional steps may be appropriate.⁸

On January 27, 2012, Progeny filed a report in WT Docket No. 11-49 seeking to demonstrate, pursuant to 47 C.F.R. § 90.353(d), that its Multilateration Location and Monitoring Service (M-LMS) network does not cause unacceptable levels of interference to Part 15 devices in the 902-928 MHz band.⁹ The Wireless Telecommunications Bureau and the Office of Engineering and Technology sought comment on Progeny's report,¹⁰ and a number of comments and reply comments were filed in response.

On October 31, 2012, Progeny filed the three Joint Testing Reports and its October 31 Letter. Progeny states that it engaged in additional testing on a joint basis with Itron, Landis+Gyr, and WISPA between July 2012 and September 2012, at numerous test locations in Santa Clara County, California, with a variety of test configurations using two models of broadband wireless access equipment.¹¹ Progeny further states that the tests were conducted separately for each of the three parties "for scheduling

⁵ Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules, WT Docket No. 11-49, *Order*, 26 FCC Rcd 16878, 16887 ¶ 25 (WTB/OET 2011) ("Waiver Order"). In particular, as discussed more fully in the Waiver Order, we waived two subparts of the applicable rules, Sections 90.155(e) and 90.353(g). *Id.* at 16883 ¶ 13.

⁶ Waiver Order, 26 FCC Rcd at 16889 ¶ 29; *see* 47 C.F.R. § 90.353(d). Section 90.353(d) of the rules requires that certain M-LMS licenses are "conditioned upon the licensee's ability to demonstrate through actual field tests that their systems do not cause unacceptable levels of interference to 47 CFR part 15 devices." *Id.*

⁷ *Id.* at 16889 ¶ 29, 16890 ¶ 35.

⁸ *Id.* at 16889 ¶ 29.

⁹ *See* Letter from Bruce A. Olcott, Counsel to Progeny LMS, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission, Part 15 Test Report and M-LMS Network Description, WT Docket No. 11-49 (filed January 27, 2012). The reference line on page 1 of the filing states: "Progeny LMS, LLC Demonstration of Compliance with Section 90.353(d) of the Commission's Rules WT Docket No. 11-49."

¹⁰ The Wireless Telecommunications Bureau and the Office of Engineering and Technology Seek Comment on Progeny's M-LMS Field Testing Report, Public Notice, *Public Notice*, 27 FCC Rcd 1579 (WTB/OET 2012).

¹¹ October 31 Letter at 2.

purposes and to preserve the confidentiality of their respective products and network designs.”¹² As Progeny indicates, certain portions of the test results associated with the Itron and Landis+Gyr reports, along with Progeny’s discussion of them in its October 31 Letter, were filed with the Commission pursuant to requests for confidential treatment.¹³ It asks the Commission to “promptly grant approval to Progeny to commence commercial operations.”¹⁴

On November 20, 2012, the Wireless Telecommunications Bureau issued a protective order that establishes procedures that provide for limited access to the confidential information.¹⁵

Procedural Matters. This proceeding is a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁶ 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.

Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed 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.

¹² *Id.*

¹³ *Id.* See Letter from Bruce A. Olcott, Counsel to Progeny LMS, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission, Request for Confidential Treatment, Ex Parte Letter on Part 15 Joint Test Reports, WT Docket No. 11-49 (filed October 31, 2012); Progeny-Itron Letter; Progeny-Landis+Gyr Letter.

¹⁴ October 31 Letter at 6-7 (citing Waiver Order).

¹⁵ Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules, WT Docket No. 11-49, *Protective Order*, DA 12-1877 (WTB, rel. Nov. 20, 2012).

¹⁶ 47 C.F.R. §§ 1.1200 *et seq.*

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.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

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For further information, contact Bill Stafford, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, (202) 418-0563, or Hugh VanTuyl, Policy and Rules Division, Office of Engineering and Technology, (202) 418-7506.

Action by the Chief, Wireless Telecommunications Bureau, and the Chief, Office of Engineering and Technology.

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