



PUBLIC NOTICE

Federal Communications Commission
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DA 12-209

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THE WIRELESS TELECOMMUNICATIONS BUREAU AND THE OFFICE OF ENGINEERING AND TECHNOLOGY SEEK COMMENT ON PROGENY'S M-LMS FIELD TESTING REPORT

WT Docket No. 11-49

Comment Date: March 15, 2012

Reply Comment Date: March 30, 2012

On January 27, 2012, Progeny LMS, LLC (Progeny) filed a report in WT Docket No. 11-49 seeking to demonstrate, pursuant to 47 C.F.R. § 90.353(d) of the Commission's rules,¹ 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.² The Wireless Telecommunications Bureau and the Office of Engineering and Technology seek comment on Progeny's filing.

On December 20, 2011, the Wireless Telecommunications Bureau and the Office of Engineering and Technology released an Order ("Waiver Order") in WT Docket No. 11-49, which granted Progeny's request for limited waiver of two rules but did not revise other interference-related requirements applicable to M-LMS licensees.³ We noted in particular that Section 90.353(d) of the rules requires that Progeny 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.⁴ As an additional condition of the Waiver Order, 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

¹ 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.*

² 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) (hereinafter Progeny's "filing" or "report"). 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."

³ Request by Progeny LMS, LLC for Waiver of Certain Multilateration Location and Monitoring Service Rules, WT Docket No. 11-49, *Order*, DA 11-2036, ¶ 25 (rel. Dec. 20, 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 ¶ 13.

⁴ Waiver Order at ¶ 29.

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.⁵ We are hereby placing Progeny's filing on public notice for comment, as indicated in the Waiver Order.⁶

Progeny's filing includes details of its system design and a report on field tests. The filing sets forth a "number of factors" that Progeny claims have contributed to an absence of unacceptable interference to Part 15 devices from its M-LMS network.⁷ Progeny states that "Progeny's M-LMS network provides an optimal co-existence opportunity for the 902-928 MHz band."⁸ Progeny asks the Commission "to help make its position location service expeditiously available to the public by promptly concluding that Progeny may commence commercial operations."⁹

Interested parties may file comments on or before March 15, 2012, and reply comments on or before March 30, 2012. All filings should refer to WT Docket No. 11-49. A copy of Progeny's filing is available on the Commission's Electronic Comment Filing System (ECFS) in WT Docket No. 11-49.

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁰ 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.

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).

⁵ *Id.* at ¶¶ 29, 35.

⁶ *Id.* at ¶ 29. We noted that, if no significant interference concerns are raised, we will notify Progeny that it may commence commercial operations. *Id.*

⁷ See Progeny's filing at 2-4.

⁸ *Id.* at 4.

⁹ *Id.* at 4 (footnote omitted).

¹⁰ 47 C.F.R. §§ 1.1200 *et seq.*

- 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.

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.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C., 20554. These documents will also be available via ECFS.

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

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

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