



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

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INTERNATIONAL BUREAU ESTABLISHES PLEADING CYCLE FOR LIGHTSQUARED PETITION FOR DECLARATORY RULING

IB Docket No. 11-109
ET Docket No. 10-142

Comment Date: February 27, 2012
Reply Comment Date: March 13, 2012

On December 20, 2011, LightSquared Inc. (LightSquared) filed a Petition for Declaratory Ruling (Petition), requesting that the Commission “resolve the regulatory status” of commercial Global Positioning System (GPS) receivers, to the extent their operations may be impaired by the ancillary terrestrial component (ATC) of LightSquared’s licensed operations in the 1524-1559 MHz Mobile-Satellite Service (MSS) band.¹ To this end, LightSquared requests specific declarations designed to establish that commercial GPS devices are not entitled to interference protection from LightSquared’s operations, so long as LightSquared operates within the technical parameters prescribed by rule and Commission Order.² Pursuant to Rule 1.2(b), we invite comment on LightSquared’s petition, and establish a pleading cycle.

On January 26, 2011, the International Bureau granted LightSquared Subsidiary LLC (a subsidiary of LightSquared Inc., hereinafter also referred to as LightSquared) a conditional waiver of the ATC “integrated service” rule, thereby establishing certain conditions that LightSquared must meet before it can provide the terrestrial portion of service contemplated by its proposed integrated satellite and terrestrial 4G wireless network.³ The *Conditional Waiver Order* prescribed an Interference-Resolution Process by which LightSquared would work with the GPS community to resolve concerns raised about potential interference to GPS receivers and devices that might result from LightSquared’s planned terrestrial operations. As a condition of commencing such commercial operations, the *Conditional Waiver Order* required that this process first be “completed,” a term defined as the point at which “the Commission, after consultation with

¹ Petition for Declaratory Ruling, filed by LightSquared Inc., at i (filed Dec. 20, 2011).

² *Id.* at 29.

³ In the Matter of LightSquared Subsidiary LLC, Request for Modification of its Authority for an Ancillary Terrestrial Component, *Order and Authorization*, 26 FCC Rcd 566 (IB, rel. Jan. 26, 2011) (*Conditional Waiver Order*).

NTIA, concludes that the harmful interference concerns have been resolved and sends a letter to LightSquared stating that the process is complete.”⁴

To date, the Interference-Resolution Process has not been completed. Although LightSquared submitted, as a required step in the Process, the final report of the technical working group that it co-chaired with the U.S. GPS Industry Council (USGIC), the Commission issued a *Public Notice* calling for public comment on the report⁵ and has since asked for additional technical submissions and testing. In reply comments filed in connection with the *Public Notice*, LightSquared raised a full range of issues regarding the scope of interference protection to which GPS receivers are entitled.⁶

Separately, in the *Report and Order* in ET Docket No. 10-142, which focused on the addition of terrestrial service allocations to the 2 GHz MSS band, the Commission briefly discussed the *Conditional Waiver Order* and the Interference-Resolution Process.⁷ The U.S. GPS Industry Council (USGIC) filed a petition for reconsideration in that docket, requesting a statement from the Commission that the GPS community is not required to share responsibility for resolving interference issues with MSS ATC providers like LightSquared.⁸ The USGIC Recon Petition, which is pending, contends that MSS licensees providing ATC service are required to protect GPS receivers from interference caused by such terrestrial operations, and that the Commission has placed the obligation to resolve harmful interference on those MSS licensees.⁹ LightSquared opposed the USGIC Recon Petition, raising many of the same arguments contained in its Petition for Declaratory Ruling.¹⁰

On December 23, 2012, the Financial Services and General Government Appropriations Act, 2012 (2012 General Government Appropriations Act) was enacted into law as part of the Consolidated Appropriations Act, 2012.¹¹ Section 628 of the 2012 General Government Appropriations Act prohibits the Commission from using any funds made available by that Act “to remove the conditions imposed on commercial terrestrial operations in the Order and Authorization adopted by the Commission on January 26, 2011 (DA 11-133) [*i.e.*, the *Conditional Waiver Order*], or otherwise permit such operations, until the Commission has resolved concerns of potential widespread harmful interference by such commercial terrestrial operations to commercially available Global Positioning System devices.”¹²

⁴ *Id.* at 587.

⁵ Comment Deadlines Established Regarding the LightSquared Technical Working Group Report, *Public Notice*, IB Docket No. 11-109, *Public Notice*, DA 11-1133 (IB, rel. June 30, 2011) (*Public Notice*).

⁶ Reply Comments of LightSquared Subsidiary LLC in IB Docket No. 11-109 and File No. SAT-MOD-20101118-00239 (filed Aug. 15, 2011).

⁷ In the Matter of Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660 MHz, 1610-1626.5 MHz and 2483-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz, ET Docket No. 10-142, *Report and Order*, 26 FCC Rcd 5710, 5722 (2011) (*Report and Order*).

⁸ See Petition for Reconsideration of the U.S. GPS Industry Council in ET Docket No. 10-142, at 10 (filed June 30, 2011) (USGIC Recon Petition); *Report and Order*, 26 FCC Rcd at 5723.

⁹ USGIC Recon Petition at 8-9.

¹⁰ See Opposition of LightSquared Subsidiary LLC in ET Docket No. 10-142 (filed Aug. 25, 2011).

¹¹ Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, at Division C – Financial Services and General Government Appropriations Act, 2012 (enacted Dec. 23, 2011) (2012 Appropriations Act).

¹² *Id.* § 628.

In the instant Petition, LightSquared in essence seeks a declaratory ruling that, provided ATC operations are conducted in accordance within the Commission's technical parameters, commercially available GPS devices are not protected against harmful interference caused by those ATC operations. Section 628 of the 2012 General Government Appropriations Act bears on this issue as it relates to LightSquared, inasmuch as it precludes the Commission from permitting LightSquared to engage in such ATC operations under the *Conditional Waiver Order* until we have resolved concerns about interference to GPS. Further, because we believe the ongoing Interference-Resolution Process provides the most appropriate forum for considering LightSquared's satisfaction of the interference-resolution conditions of the *Conditional Waiver Order*, we associate LightSquared's Petition with the docket established by the Commission for petitions for reconsideration of the *Conditional Waiver Order*, IB Docket No. 11-109. To the extent the Petition raises general issues about the regulatory status of GPS devices, these issues will be considered in ET Docket No. 10-142.

Accordingly, interested parties are invited to file comments in response to LightSquared's petition for declaratory ruling in IB Docket No. 11-109 or ET Docket No. 10-142, as appropriate, no later than 30 days after the release date of this public notice. Parties may file replies in response to those comments in IB Docket No. 11-109 or ET Docket No. 10-142, as appropriate, no later than 15 days after the date that comments are due.

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹³ 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.

Action by the Chief, International Bureau.

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¹³ 47 C.F.R. §§ 1.1200 *et seq.*