



PUBLIC NOTICE

Federal Communications Commission
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DA 24-688

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON NORTH EAST OFFSHORE LLC REQUEST FOR WAIVER

WT Docket No. 24-212

Comment Date: July 31, 2024

Reply Comment Date: August 12, 2024

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) seeks comment on North East Offshore LLC's (North East) request for waiver of the freeze on the acceptance and processing of applications for new Part 90 Radiolocation Service operations in the 3100–3550 MHz band.¹

The MOBILE NOW Act mandated that the Commission and the National Telecommunications and Information Administration (NTIA) evaluate the feasibility of allowing commercial wireless services to share the 3110–3550 MHz band.² In addition, the Infrastructure Investment and Jobs Act (IIJA) required the Department of Defense (DoD) to conduct research and development regarding its use of the 3100–3450 MHz band and the feasibility of reallocating that band for shared federal and non-federal use.³ Further, in 2023, President Biden issued an executive memorandum establishing the National Spectrum Strategy (NSS) and requiring NTIA to identify at least 1500 megahertz of spectrum for in-depth study to determine suitability for repurposing for advanced wireless technologies and services.⁴

In February 2019, the Bureau announced a temporary freeze on the acceptance and processing of applications for new or expanded Part 90 Radiolocation Service operations in the 3100–3550 MHz band.⁵ The Bureau implemented this freeze to maintain a stable spectral environment in the band while alternative uses are under consideration.⁶ The *Public Notice* explained that applicants may have recourse through the Commission's waiver rules.⁷

¹ See Amendment and Waiver Request, FCC File No. 0010971433 (filed May 7, 2024), <https://wireless2.fcc.gov/UlsApp/ApplicationSearch/applAdmin.jsp?applID=14738848#> (*North East Waiver Request*).

² Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Division P (RAY BAUM'S Act of 2018), Title VI (MOBILE NOW Act), § 605(a), 132 Stat. 348.

³ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 90008(b)(1)(A), 135 Stat. 1348-49.

⁴ Memorandum on Modernizing United States Spectrum Policy and Establishing a National Spectrum Policy (Nov. 13, 2023), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/11/13/memorandum-on-modernizing-united-states-spectrum-policy-and-establishing-a-national-spectrum-strategy/>.

⁵ *Temporary Freeze on Non-Federal Applications in the 3100-3550 MHz Band*, Public Notice, DA 19-105, 34 FCC Rcd 19 (WTB Feb. 22, 2019) (*Public Notice*).

⁶ *Public Notice*, 34 FCC Rcd at 20.

⁷ *Public Notice*, 34 FCC Rcd at 20, n.5; see 47 CFR § 1.925.

After the Bureau implemented the freeze, NTIA identified the 3.45–3.55 GHz band as a good candidate for spectrum sharing.⁸ Accordingly, the Commission cleared the non-federal secondary allocations in the 3.3–3.55 GHz band in 2020,⁹ and in 2021 adopted rules in the 3.45–3.55 GHz band to make 100 megahertz of spectrum available for full-power commercial use.¹⁰ In September 2023, the DoD released the study required by the IJJA regarding the 3100–3450 MHz band. The DoD concluded that sharing in the 3100–3450 MHz band would only be feasible if certain conditions are proven through operational testing.¹¹ Building on the DoD’s findings, and as required by the NSS, NTIA and DoD, in collaboration with the FCC, are working toward a dynamic spectrum sharing demonstration in the 3100 to 3450 MHz band, to be completed in 2025.¹²

North East requests a waiver of the freeze so it can obtain a new license for certain frequencies in the 3100–3300 MHz band, which are part of the part 90 Radiolocation Service.¹³ North East claims the underlying purpose of the freeze would not be served by its application to the instant facts and that the application of the freeze to its license application would be inequitable and contrary to the public interest.¹⁴ Specifically, North East argues that “there have been no indications that either the FCC or NTIA is considering reallocating the 3100-3300 MHz band” and notes that its proposed operations are for a proposed facility more than 40 kilometers off the coast of the United States.¹⁵ We seek comment on North East’s request.

Filing Requirements. Interested parties may file comments on or before the date indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.

⁸ Edward Drocella *et al.*, Technical Feasibility of Sharing Federal Spectrum with Future Commercial Operations in the 3450-3550 MHz Band (2020), <https://www.ntia.doc.gov/report/2020/technical-feasibility-sharing-federal-spectrum-future-commercial-operations3450-3550>.

⁹ *Facilitating Shared Use in the 3100-3550 MHz Band*, WT Docket No. 19-348, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 11078 (2020).

¹⁰ *Facilitating Shared Use in the 3100-3550 MHz Band*, WT Docket No. 19-348, Second Report and Order, Order on Reconsideration, and Order of Proposed Modification, 36 FCC Rcd 5987 (2021).

¹¹ U.S. Department of Defense, Emerging Mid-Band Radar Spectrum Sharing (EMBRSS) Feasibility Assessment Report (2023), <https://dodcio.defense.gov/Portals/0/Documents/Library/DoD-EMBRSS-FeasibilityAssessmentRedacted.pdf>.

¹² National Telecommunications and Information Administration, Advanced Dynamic Spectrum Sharing Demonstration in the National Spectrum Strategy (2024), <https://www.ntia.gov/issues/national-spectrum-strategy/advanced-dynamic-spectrum-sharing-demonstration-in-the-national-spectrum-strategy>. The NSS and the corollary Implementation Plan also require NTIA and DoD to co-lead a further study of the lower 3 GHz band in-depth study to determine whether it can be repurposed for non-federal or shared federal and non-federal use. See National Telecommunications and Information Administration, National Spectrum Strategy Implementation Plan, Outcome 1.2(a) & Appendix (March 12, 2024), <https://www.ntia.gov/sites/default/files/publications/national-spectrum-strategy-implementation-plan.pdf>.

¹³ See 47 CFR § 90.103.

¹⁴ *North East Waiver Request* at 1-2.

¹⁵ *North East Waiver Request* at 2.

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. 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 courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

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Ex Parte Rules. The proceeding this Notice initiates shall be treated as 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.

For further information regarding this proceeding, please contact Mark DeSantis, Mobility Division, Wireless Telecommunications Bureau at Mark.DeSantis@fcc.gov.

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¹⁶ 47 CFR §§ 1.1200 et seq.