

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
WTB Seeks Comment on North East Offshore LLC’s Request for Waiver)	WT Docket No. 24-212
)	

COMMENTS OF CTIA

CTIA¹ respectfully responds to the Public Notice issued by the Federal Communications Commission (“Commission”) seeking comment on a request filed by North East Offshore LLC (“North East”) for a waiver of the freeze on the acceptance and processing of applications for new Part 90 Radiolocation Service operations in the 3.1–3.55 GHz band (“Waiver Request”).²

I. INTRODUCTION.

The Commission should deny the Waiver Request, which has consequences for the 3.1-3.45 GHz (“lower 3 GHz”) band segment that is currently under evaluation by the National Telecommunications and Information Administration (“NTIA”), Department of Defense (“DoD”), and Commission as part of the in-depth study being conducted under the Administration’s National Spectrum Strategy (“Strategy”) to determine whether frequencies in this range may be repurposed for commercial use. NTIA and DoD, in partnership with academia

¹ CTIA – The Wireless Association® (“CTIA”) (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless providers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² *Wireless Telecommunications Bureau Seeks Comment on North East Offshore LLC Request for Waiver*, Public Notice, DA 24-688 (WTB, rel. July 16, 2024) (“Public Notice”); *see also* Amendment and Request for Waiver (“Waiver Request”), *attached to* North East Offshore LLC – Revolution, FCC ULS File No. 0010971433 (filed May 7, 2024) (“North East Application”) (seeking access to the 3.148-3.211 GHz band segment).

and the commercial wireless industry, have efforts underway to define these studies. Given this ongoing, comprehensive evaluation, grant of the Waiver Request is not in the public interest and would undermine the purpose of the freeze on applications while the Administration is broadly considering actions in this band—a freeze that was imposed to facilitate completion of this very type of spectrum assessment.

II. THE WAIVER REQUEST SHOULD BE DENIED, AS IT WOULD UNDERMINE THE UNDERLYING PURPOSE OF THE APPLICATION FREEZE AND, NOW MORE THAN EVER, IS NOT IN THE PUBLIC INTEREST.

Spectrum below 3.45 GHz is a worldwide target for 5G and beyond, and it continues to be of significant interest in the United States. Roughly seventy countries currently operate (or have announced) 5G use in 3 GHz frequencies, including thirty countries where DoD (or allies using the same radars) operates today.³ Additionally, at the 2023 World Radiocommunication Conference, a new mobile allocation was added to the 3.3-3.4 GHz segment in Region 2 (the Americas Region), meaning there is an opportunity for harmonized use of the lower 3 GHz band for 5G International Mobile Telecommunications across the Americas, Europe, the Middle East, and Africa.⁴ The U.S. already successfully auctioned the 3.45-3.55 GHz segment for full-power use nationwide, and CTIA, on behalf of the U.S. wireless industry, continues to advocate for

³ See *Successful Military Radar and 5G Coexistence in the Lower 3 GHz Band: Evidence from Around the World*, CTIA, at 6-7 (Aug. 15, 2023), <https://www.ctia.org/news/successful-military-radar-and-5g-coexistence-in-the-lower-3-ghz-band-evidence-from-around-the-world>; see also, e.g., *The WRC Series – 3.5 GHz in the 5G Era: Preparing for New Services in 3.3-4.2 GHz*, GSMA (Oct. 2021), <https://www.gsma.com/spectrum/wp-content/uploads/2021/10/3.5-GHz-for-5G.pdf>.

⁴ See *World Radiocommunication Conference 2023 (WRC-23) Final Acts*, ITU, at Resolution 223 (Rev. WRC-23), MOD 5.429D (2024), <https://www.itu.int/hub/publication/r-act-wrc-16-2024/>.

policymakers to identify additional spectrum below the 3.45 GHz band to enable full-power 5G use and to support the next generation of mobile and fixed wireless connectivity.⁵

The application freeze for new or expanded Part 90 Radiolocation Service operations in the 3.1–3.55 GHz band was adopted to preserve the spectral landscape while the band is being explored for expanded commercial use.⁶ Despite North East’s misguided claim that “there have been no indications that either the [Commission] or NTIA is considering reallocating the 3100-3300 MHz band,”⁷ there are multiple active workstreams underway to assess the potential for commercial access to the lower 3 GHz band, including the 3.1-3.3 GHz band segment. The purpose of the freeze is thus as valid today as it was when it was adopted.

First, in 2021, Congress directed DoD as part of the Infrastructure Investment and Jobs Act (“IIJA”) to study the lower 3 GHz band for its potential as a candidate band for future commercial access.⁸ As discussed in the Public Notice, DoD finalized a report on this study in September 2023, concluding that it would be feasible to make spectrum in the lower 3 GHz band available for shared use under certain operational conditions.⁹ The Commission retains authority to auction spectrum in this band until 2028 under the IIJA.¹⁰

⁵ See, e.g., Comments of CTIA on NTIA’s Implementation of the National Spectrum Strategy (filed Jan. 2, 2024), <https://api.ctia.org/wp-content/uploads/2024/01/240102-Final-CTIA-Comments-on-NSS-Implementation-Plan.pdf>; Letter from Umair Javed, CTIA, to Scott Blake Harris, NTIA (Jan. 30, 2024); Meredith Attwell Baker, *#RestoreAuctionAuthority with a Spectrum Pipeline*, CTIA BLOG (Mar. 8, 2024), <https://www.ctia.org/news/restoreauctionauthority-with-a-spectrum-pipeline>.

⁶ See *Temporary Freeze on Non-Federal Applications in the 3100-3550 MHz Band*, Public Notice, 34 FCC Rcd 19 (WTB 2019) (“[T]he freeze in the 3100-3550 MHz band is necessary to maintain a stable spectral environment in a band that is under active consideration for possible alternative use.”).

⁷ Public Notice at 2 (quoting Waiver Request at 2).

⁸ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 90008(b), 135 Stat. 429, 1349 (2021).

⁹ See Public Notice at 2; see also *Emerging Mid-Band Radar Spectrum Sharing (EMBRSS) Feasibility Assessment Report*, DoD (Sept. 2023), <https://dodcio.defense.gov/Portals/0/Documents/Library/DoD-EMBRSS-FeasibilityAssessmentRedacted.pdf>.

¹⁰ IIJA § 90008(c).

Second, the lower 3 GHz band is a central part of the Strategy, which envisions a multi-year study of the band for potential commercial use that goes beyond the IJJA mandate. Consistent with the Biden Presidential Memorandum on Spectrum Policy and the Strategy,¹¹ NTIA is co-leading a holistic, collaborative initiative with DoD and other stakeholders to explore the full range of possibilities for commercial access to the lower 3 GHz band.¹² In particular, NTIA observed that the lower 3 GHz efforts will include exploring “opportunities for private-sector access in the band under several different scenarios (relocation, repacking, sharing, and a combination of different approaches).”¹³

The Strategy’s further evaluation is already underway. Technical discussions have begun so that the band can be studied for more efficient use, including the potential for repacking, relocation, or compression of Federal systems.¹⁴ Additionally, NTIA and DoD have already begun evaluating the band’s potential for supporting advanced dynamic spectrum sharing. This initiative will “explore investment incentives that improve the efficiency and performance of the overall ecosystem of the band and improve the ability of Federal agencies, including DoD, to effectively use spectrum,” and NTIA’s Institute for Telecommunication Sciences “will conduct

¹¹ See *Memorandum on Modernizing United States Spectrum Policy and Establishing a National Spectrum Strategy*, The White House, at Sec. 3(c) (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/> (calling on NTIA to “optimize United States spectrum management and use by considering different types of spectrum governance models, including exclusive licensing, unlicensed, and shared use”).

¹² See *National Spectrum Strategy*, The White House, at 6 (Nov. 13, 2023), https://www.ntia.gov/sites/default/files/publications/national_spectrum_strategy_final.pdf; see also *National Spectrum Strategy Implementation Plan*, NTIA, at A-1–A-7 (Mar. 12, 2024), <https://www.ntia.gov/sites/default/files/publications/national-spectrum-strategy-implementation-plan.pdf> (“Strategy Implementation Plan”).

¹³ *Advanced Dynamic Spectrum Sharing Demonstration in the National Spectrum Strategy*, NTIA (June 28, 2024), <https://www.ntia.gov/issues/national-spectrum-strategy/advanced-dynamic-spectrum-sharing-demonstration-in-the-national-spectrum-strategy>.

¹⁴ See Strategy Implementation Plan at A-3.

an independent assessment of the initiative following the demonstration.”¹⁵ And efforts are underway for Federal agencies to obtain funding under the Spectrum Relocation Fund to undertake these efforts, with a timeline for completion in October 2026 for the lower 3 GHz evaluation.¹⁶ These studies are an opportunity to explore a path forward for the U.S. for the lower 3 GHz band that is consistent with the international trends highlighted above.

The Commission should maintain the spectrum environment in the band while it is under study. This round of study of the lower 3 GHz band is just getting underway, and stakeholders need certainty about the spectral environment they are asked to study and plan for; introducing new operations at this juncture would disrupt the commitment, resources, and efforts that have already launched in response to the Strategy. Rather than creating encumbrances and uncertainty while the Strategy’s evaluations are underway, or presupposing the study’s outcomes, the Commission should work with NTIA and the Administration to advance consideration of the lower 3 GHz band for commercial wireless use. The responsible agencies should not pre-judge any outcome of the Strategy’s studies—which the Waiver Request essentially seeks.

Finally, if the Commission were to nevertheless entertain grant of the Waiver Request, which CTIA does not support, it would be necessary to impose a condition that any such grant operate on a non-interference basis and that operations in the band terminate in the event new commercial operations are opened up in the band.

¹⁵ *See id.* at 20, Outcome 3.2(f).

¹⁶ *See id.* at A-6–A-7.

III. CONCLUSION.

CTIA urges the Commission to deny the Waiver Request and maintain the spectral environment in the lower 3 GHz band while it is under study across the Administration.

Respectfully Submitted,

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