



Federal Communications Commission
Washington, D.C. 20554

December 22, 2015

DA 15-1482

Robert Vitanza, Esq.
AT&T Services, Inc.
1120 20th Street, NW, Suite 1000
Washington, DC 20036

RE: Request by AT&T Services, Inc. for Interim Waiver of 47 C.F.R. § 22.913 to Permit the Use of a Power Spectral Density Model for Certain Cellular Service Operations in Seven Kansas Markets (WT Docket No. 15-130)

Dear Mr. Vitanza:

1. This letter responds to the request filed on June 5, 2015, by AT&T Services Inc.¹ on behalf of AT&T, Inc. and its subsidiaries (“AT&T”) for an interim waiver of Section 22.913 of the Commission’s rules.² Section 22.913 sets forth power limits for the Cellular Radiotelephone (“Cellular”) Service in terms of effective radiated power (“ERP”) of base transmitters and Cellular repeaters.³ To the extent described herein, we grant the Waiver Request in part, and otherwise deny it, to permit AT&T to use the power spectral density (“PSD”) model at a maximum ERP level of 125 Watts/MHz for the seven stations in the following Kansas Cellular Market Areas (“CMAs”) licensed on Block A: CMA 428 (KNKN516); CMA 429 (KNKN514); CMA 433 (KNKN469); CMA 434 (KNKN465); CMA 438 (KNKN518); CMA 439 (KNKN741); and CMA 440 (KNKQ376) (collectively, the “Kansas Stations”). AT&T may increase the power to 250 Watts/MHz in non-rural areas and 500 Watts/MHz in rural areas (the “Increased Power Limits”) at the Kansas Stations subject to certain conditions, described below. Further, on our own motion, we grant AT&T an interim waiver of Sections 22.911, 22.912, and 22.953 to the extent necessary to enable AT&T to file an alternative Cellular Geographic Service Area (“CGSA”) determination for the Kansas Stations. The waiver relief we grant today is subject to the outcome of the pending rulemaking proceeding in which the Commission is considering changes to the Cellular radiated power limits and related technical rules.⁴

¹ AT&T Services, Inc., Request for Rule Waiver (filed June 5, 2015) (“Waiver Request”) (attaching a technical study dated November 19, 2014, as Appendix B (“November 2014 Study”).

² 47 C.F.R. § 22.913.

³ See *id.* (establishing the current ERP maximum of 500 Watts for base transmitters and Cellular repeaters, with a maximum of 1000 Watts ERP when operating in rural counties a certain distance from international borders).

⁴ See Amendment of Parts 1 and 22 of the Commission’s Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area; Amendment of the Commission’s Rules Governing Radiated Power Limits for the Cellular Service [other captions omitted], *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 12-40, RM-11510 and RM-11660, 29 FCC Rcd 14100 (2014) (“Cellular Power Reform FNPRM”).

I. BACKGROUND

2. In 2007 and 2008, the Commission revised the radiated power rules for various wireless services, including PCS and certain AWS,⁵ the 700 MHz Commercial Service,⁶ and 700 MHz public safety broadband operations,⁷ implementing a PSD model (among other related technical rule modifications).⁸ The Commission declined to revise the Cellular ERP rules in the Streamlining 3d R&O, primarily because of significant restructuring (800 MHz rebanding) ongoing in the immediately adjacent frequencies, which are used by public safety entities.⁹ After filing a petition for rulemaking to modify Section 22.913,¹⁰ AT&T sought interim waiver relief to use the PSD model for Cellular systems in southern Florida, Burlington, VT, and several counties in Missouri,¹¹ and the Wireless Telecommunications Bureau (“Bureau”) sought comment on these waiver requests.¹²

⁵ See Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27 and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, *Third Report and Order*, WT Docket No. 03-264, 23 FCC Rcd 5319 (2008) (“Streamlining 3d R&O”) (revising §§ 47 C.F.R. 24.232 and 27.50(d)).

⁶ See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 06-150, 22 FCC Rcd 8064 (2007).

⁷ See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, *Second Report and Order*, 22 FCC Rcd 15289 (2007).

⁸ More recently, the Commission adopted the PSD model for the 600 MHz band, AWS-3, H Block, and AWS-4, none of which is immediately adjacent to public safety operations. See, e.g., Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Report and Order*, GN Docket No. 12-268, 29 FCC Rcd 6567, 6684-85 (2014) (PSD in 600 MHz band); Amendment of the Commission’s Rules With Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands, *Report and Order*, GN Docket No. 13-185, 29 FCC Rcd 4610, 4642-43 (2014) (PSD in AWS-3 bands); Service Rules for Advanced Wireless Services H Block – Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands, *Report and Order*, WT Docket No. 12-357, 28 FCC Rcd 9483, 9504-05 (2013) (PSD in H Block); Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands, *Report and Order and Order of Proposed Modification*, WT Docket No. 04-356 and ET Docket No. 10-142, 27 FCC Rcd 16102, 16156 (2012) (PSD in AWS-4 bands).

⁹ See Streamlining 3d R&O, 23 FCC Rcd at 5321, 5341. See also Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, 19 FCC Rcd 14969, 15074 (2004) [other captions and docket numbers omitted], clarified by Improving Public Safety Communications in the 800 MHz Band, *Memorandum Opinion and Order*, WT Docket No. 02-55, 22 FCC Rcd 9818, 9819-21 (2007).

¹⁰ See AT&T Services, Inc., Petition for Expedited Rulemaking and Request for Waiver of Section 22.913 of the Commission’s Rules (filed February 29, 2012) (“AT&T Petition”). A technical study dated February 14, 2012, similar to the November 2014 Study, was attached to the AT&T Petition at Appendix A.

¹¹ AT&T Services, Inc., Request for Rule Waiver (filed July 22, 2013) (under cover letter from William Roughton, Esq., General Attorney, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, and attaching a technical study dated March 21, 2013) (supplemented on December 5, 2013, and July 9, 2014) (“Florida Waiver Request”); AT&T Services, Inc., Request for Rule Waiver (filed July 1, 2014) (under cover letter from William Roughton, Esq., General Attorney, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, and attaching a technical study dated May 14, 2014) (“Vermont Waiver Request”); AT&T Services, Inc., Request for Rule Waiver (filed Apr. 9, 2015) (under cover letter from Robert Vitanza, Gary Phillips, and Lori Fink, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, and attaching a technical study dated November 19, 2014) (supplemented on May 21, 2015, and September 1, 2015) (“Missouri Waiver Request”).

¹² See Wireless Telecommunications Bureau Seeks Comment on AT&T Request for Waiver to Permit Power Spectral Density Model for 800 MHz Cellular Operations in Three Florida Markets, *Public Notice*, WT Docket No. 13-202, 28 FCC Rcd 12584 (WTB 2013); Wireless Telecommunications Bureau Seeks Comment on AT&T Request for Waiver to Permit Power Spectral Density Model for 800 MHz Cellular Operations in Vermont Market, *Public*

3. Based on comments in the record, the Bureau’s Mobility Division (“Division”) granted both the Florida Waiver Request in part and the Vermont Waiver Request in September 2014.¹³ Specifically, in the Florida Waiver, the Division permitted AT&T to utilize the PSD model at an ERP level of 125 Watts/MHz, which corresponds to the parameters of the joint test plan conducted by AT&T with public safety entities in Florida.¹⁴ In the Vermont Waiver, the Division permitted AT&T to use higher power levels than in Florida (250 Watts/MHz in non-rural areas and 500 Watts/MHz in rural areas) because there are no public safety entities with base stations in the Vermont CMA and no public safety licensees objected to the request.¹⁵ The Division later granted in part the Missouri Waiver Request by permitting AT&T to use the PSD model at the same power levels specified in the Florida Waiver, with the option of increasing the power to 250 Watts/MHz in non-rural areas and 500 Watts/MHz in rural areas subject to certain conditions.¹⁶

4. In its Waiver Request, AT&T seeks authority, as an alternative to complying with the current Cellular ERP rule, to use a PSD model for the Kansas Stations subject to the outcome of the pending rulemaking to modify the rule.¹⁷ The Waiver Request seeks authority to operate using a PSD model with ERP limits of 250 Watts/MHz in non-rural areas and 500 Watts/MHz in rural areas for the Kansas Stations, which provide service in the following Kansas counties:¹⁸ Cheyenne, Rawlins, Decatur, Sherman, Thomas, and Sheridan (CMA 428);¹⁹ Norton, Phillips, Smith, Graham, Rooks, and Osborne (CMA 429);²⁰ Wallace, Logan, Gove, Greeley, Wichita, Scott, Lane, and Sheridan (CMA 433);²¹ Trego, Ellis, Russell, Ness, Rush, Barton, Pawnee, and Stafford (CMA 434);²² Hamilton, Kearny, Finney, Stanton, Grant, Haskell, Morton, Stevens, and Seward (CMA 438);²³ Hodgeman, Gray, Ford, Meade, and Clark (CMA 439);²⁴ and Barber, Comanche, Kiowa, Pratt, Stafford, and Edwards (CMA 440).²⁵

Notice, WT Docket No. 14-107, 29 FCC Rcd 8336 (WTB 2014); Wireless Telecommunications Bureau Seeks Comment on AT&T Request for Waiver to Permit Power Spectral Density Model for 800 MHz Cellular Operations in Four Missouri Markets, *Public Notice*, WT Docket No. 15-86, 30 FCC Rcd 2949 (WTB 2015).

¹³ See generally Interim Waiver of 47 C.F.R. § 22.913 to Permit the Use of a Power Spectral Density Model for Certain Cellular Service Operations in Three Florida Markets, WT Docket No. 13-202, 29 FCC Rcd 11638 (2014) (“Florida Waiver”); Interim Waiver of 47 C.F.R. § 22.913 to Permit the Use of a Power Spectral Density Model for Certain Cellular Service Operations for Cellular Market 248-Burlington, VT, WT Docket No. 14-107, 29 FCC Rcd 11632 (2014) (“Vermont Waiver”).

¹⁴ See Florida Waiver at 7. Although AT&T requested a waiver to use power limits of 250 Watts/MHz for both its Cellular A and B Block licenses in Florida, AT&T conducted tests at 125 Watts/MHz on the Cellular B Block only. See *id.* at 6. Initial concerns voiced by public safety entities in response to the Florida Waiver Request were ultimately resolved prior to the Florida Waiver. See *id.* at 4-6.

¹⁵ See Vermont Waiver at 4-5.

¹⁶ See Interim Waiver of 47 C.F.R. § 22.913 to Permit the Use of a Power Spectral Density Model for Certain Cellular Service Operations in Four Missouri Markets, WT Docket No. 15-86, 2015 WL 5821455 at 7-8 (Oct. 2, 2015) (“Missouri Waiver”).

¹⁷ See Waiver Request at 2.

¹⁸ AT&T states that the main counties comprising the CGSA for each licensed area are rural. See Waiver Request at n.4. See also *id.*, Appendix A.

¹⁹ See FCC license for KNKN516 (available in the Commission’s Universal Service Licensing System (ULS)).

²⁰ See FCC license for KNKN514 (available in ULS).

²¹ See FCC license for KNKN469 (available in ULS).

²² See FCC license for KNKN465 (available in ULS).

²³ See FCC license for KNKN518 (available in ULS).

²⁴ See FCC license for KNKN741 (available in ULS).

5. AT&T argues that a grant of the Waiver Request is in the public interest because it will permit AT&T to more quickly and efficiently deploy high speed wireless broadband services, such as Long Term Evolution (“LTE”), over its Cellular spectrum.²⁶ As a result, AT&T asserts it could simultaneously maintain high-quality service for its customers as data usage continues to soar without increasing the potential for interference.²⁷ AT&T argues that a waiver grant will remove “disparities between radio services” and will eliminate the “penalty on wideband emissions [that] dilutes and potentially precludes deployment of the most up-to-date, efficient wideband technologies.”²⁸ Further, AT&T argues that this conclusion is supported by the grant of similar waiver requests for Florida and Vermont.²⁹

6. AT&T submitted the November 2014 Study with its Waiver Request, purporting to show that shifting to PSD-based power limits for the Kansas Stations would not cause harmful interference to public safety licensees in adjacent frequency bands.³⁰ AT&T argues that, under its proposed ERP limits using a PSD model, the power injected into neighboring receivers either in adjacent areas or co-located sites does not increase but remains the same as under the current rule, because AT&T will maintain “the existing transmit power levels at AT&T’s sites.”³¹ AT&T claims that future deployments of 2X2 Multiple Input Multiple Output (“MIMO”) LTE in the Cellular band subject to a PSD limit would maintain the *status quo* with public safety services.³² Moreover, AT&T asserts, the risk of interference from the use of a PSD model is further reduced by existing Commission rules designed to minimize interference to non-Cellular 800 MHz licensees.³³ AT&T further claims that its proposed ERP limits for the Kansas Stations would maintain the *status quo* in the radio frequency environment in CGSAs of neighboring Cellular licensees.³⁴

7. In an *ex parte* letter dated September 1, 2015, AT&T explains why use of the PSD model is particularly necessary in the Kansas markets.³⁵ AT&T asserts that the current authorized power limits result in reduced coverage, which is particularly disadvantageous in rural counties where base stations are more widely dispersed, such as those counties covered by the Kansas markets.³⁶ Further, AT&T states that in these markets, it does not have paired 700 MHz spectrum, over which carriers are authorized under

²⁵ See FCC license for KNKQ376 (available in ULS).

²⁶ See Waiver Request at 3-4.

²⁷ See *id.* AT&T recently reported that it has received no complaints from public safety agencies concerning its PSD-model-based operations in Florida and Vermont. *Ex Parte* Letter from Linda Vandeloop, Assistant Vice President - Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 12-40, 13-202, and 14-107 (filed Dec. 17, 2015).

²⁸ *Id.* at 4-5.

²⁹ See *id.* at 5.

³⁰ See *id.* at 6 (describing its November 2014 Study).

³¹ Waiver Request at 8-9.

³² See *id.* at 6-7.

³³ See *id.* at 7-8. Specifically, AT&T cites to 47 C.F.R. §§ 22.970-22.973 and §§ 90.672-90.675. *Id.*

³⁴ Waiver Request at 8-9.

³⁵ *Ex Parte* Letter from AT&T (unsigned) to Marlene H. Dortch, Secretary, FCC, WT Docket No. 15-130 (filed Sept. 1, 2015).

³⁶ *Id.* at 1.

Commission rules to operate using a PSD model, to deploy LTE.³⁷ Therefore, its customers in the Kansas markets can only receive the benefits of LTE if it is deployed over AT&T's Cellular systems.³⁸

8. In June 2015, the Bureau sought comment on the Waiver Request, particularly with respect to any potential adverse impact on public safety operations and Cellular licensees.³⁹ The National Public Safety Telecommunications Council ("NPSTC") filed comments.⁴⁰ NPSTC recommends that the Commission address changes to Cellular Service power limit rules through the pending rulemaking, and alternatively if the Commission grants the Waiver Request, that it should include explicit conditions.⁴¹ Specifically, NPSTC argues that the Commission should require AT&T to: (1) investigate and resolve interference complaints from Part 90 licensees; (2) notify the Commission of any interference complaints received pursuant to the Cellular rules; and (3) compensate public safety entities for costs incurred from investigation and resolution of interference.⁴²

9. AT&T filed reply comments arguing that NPSTC's concerns are generalized and not specific to AT&T, and that waiting for resolution of the Cellular Power Reform FNPRM would unjustifiably delay benefits to its customers.⁴³ AT&T agrees with NPSTC that Part 90 interference complaints should be expeditiously resolved, as already dictated by Section 22.972.⁴⁴ In response to NPSTC's second proposed condition, AT&T claims that requiring additional notice of interference complaints would only produce limited information at best, as notice of interference is not equivalent to notice that AT&T is the cause of such interference.⁴⁵ Finally, AT&T argues that NPSTC has not justified why AT&T should have an obligation to compensate public safety for dealing with interference complaints, as it is not part of existing Part 22 or Part 90 interference rules, and identifying and mitigating interference is a shared responsibility between Part 22 and Part 90 licensees.⁴⁶

II. DISCUSSION

10. Under Section 1.925 of the Commission's rules, a waiver may be granted if the applicant demonstrates that: (i) the underlying purpose of the rule would not be served or would be frustrated by its application to the instant case and that grant of the requested waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁴⁷

³⁷ *Id.* at 2.

³⁸ *Id.*

³⁹ See Wireless Telecommunications Bureau Seeks Comment on AT&T Request for Waiver to Permit Power Spectral Density Model for 800 MHz Cellular Operations in Seven Kansas Markets, *Public Notice*, WT Docket No. 15-130, 30 FCC Rcd 6240 (June 11, 2015).

⁴⁰ See Comments of NPSTC (filed July 1, 2015) ("NPSTC Comments").

⁴¹ See *id.* at 1.

⁴² See *id.* at 5-6.

⁴³ See Reply Comments of AT&T (filed July 13, 2015) ("AT&T Reply Comments") at 2.

⁴⁴ See *id.* at 3 (citing 47 C.F.R. § 22.972(b)).

⁴⁵ See AT&T Reply Comments at 3.

⁴⁶ See AT&T Reply Comments at 3-4 (citing 47 C.F.R. §§ 22.1, *et seq.*, and §§ 90.1, *et seq.*).

⁴⁷ 47 C.F.R. § 1.925.

11. We have weighed the potential public interest benefits against potential adverse effects and conclude it is in the public interest to grant the Waiver Request in part. We find that it serves the public interest to permit AT&T to operate the Kansas Stations using a PSD model at a maximum of 125 Watts/MHz, subject to certain conditions described below. Further, AT&T may operate the Kansas Stations at the Increased Power Limits, subject to additional conditions also delineated below. Specifically, we conclude it is in the public interest to foster the development of advanced technologies in the Cellular Service, thereby allowing AT&T to launch LTE, offering its subscribers access to these valuable wireless broadband services.

12. We find it persuasive that AT&T and several public safety entities previously conducted successful tests using the PSD model,⁴⁸ and that no public safety licensees have raised objections specific to AT&T's proposed use of a PSD model for the Kansas Stations or requested testing.⁴⁹ Further, the conditions we impose today will help ensure that public safety systems and neighboring Cellular licensees will be protected from increased harmful interference from AT&T's operations using the PSD model. Based on the totality of the circumstances, we find that permitting AT&T to operate the Kansas Stations using the PSD model better serves the public interest than strict application of the current Cellular radiated power rules.

13. We also conclude that the underlying purpose of Section 22.913, to prevent harmful interference from a Cellular licensee to public safety and adjacent channel and neighboring co-channel Cellular licensees, will not be frustrated by a grant of the Waiver Request. AT&T completed successful testing in Florida demonstrating that operation at 125 Watts/MHz did not cause interference to the public safety entities that participated in the test.⁵⁰ Further, none of the neighboring co-channel Cellular or adjacent channel licensees raised an objection to the Waiver Request.

14. Accordingly, we grant AT&T's request in part and will permit AT&T to utilize the PSD model at the Kansas Stations at a maximum ERP level of 125 Watts/MHz. AT&T's operation under this waiver is subject to change if necessary to prevent interference to public safety licensees⁵¹ or to resolve interference resolution disputes. AT&T's use of a PSD model is limited to facilitating the Kansas Stations' LTE operations as described in AT&T's Waiver Request. Further, this waiver grant is conditioned on the following:

- 1) Before deploying a base station with power specified in terms of PSD under this waiver, AT&T shall provide a minimum of thirty (30) days written advance notice to any public safety licensee authorized in the frequency range 806-824 MHz/851-869 MHz with a base station located within a radius of 113 km of the AT&T base station to be deployed. The written notice shall specify: (a) a description of the area(s) where the base stations are located; (b) the timeframe within which the base station(s) will be activated; and (c) contact information, including a telephone number and email, to notify AT&T of any resulting interference. A public safety licensee may request that AT&T provide additional relevant technical information, such as the coordinates/addresses of each base station, the height above ground level of the radiation center of the base station

⁴⁸ See Florida Waiver at 5-6.

⁴⁹ Additionally, we are not aware of any public safety objections to AT&T's notice that it intends to begin operating pursuant to our waiver grant in Missouri. See *supra* note 16 and accompanying text; see also Missouri Waiver at 7-9 for additional operational terms and conditions.

⁵⁰ See Florida Waiver at 5-6.

⁵¹ Public safety licensees are defined for purposes of this waiver relief as licensees authorized under the following ULS radio service codes: GE, GF, GP, YE, YF and YP.

antenna(s) and the amount of beam tilt, if any, and AT&T's written notice shall inform public safety licensees of this right.

- 2) If AT&T receives a report that such base station(s) is/are causing harmful interference to a public safety licensee, it shall immediately remedy the interference, or suspend operation under this waiver until the interference has been successfully mitigated (in cases where AT&T base stations are found to be the cause of the interference). This condition shall remain in effect until further action of the Commission, and is in addition to, not a replacement for, AT&T's obligations pursuant to 47 C.F.R. §§ 22.971 and 22.972.

15. AT&T may operate at the Increased Power Limits at the Kansas Stations in order to facilitate LTE operations as described in AT&T's Waiver Request, subject to the following conditions:

- 1) At all times while operating at the Increased Power Limits, AT&T must have express written consent or non-objection from all public safety licensees authorized in the frequency range 806-824 MHz/851-869 MHz with at least one base station located within a radius of 113 km of the AT&T base station to be deployed at the higher power level.
- 2) Before operating at the Increased Power Limits, AT&T shall provide a minimum of thirty (30) days written advance notice to any public safety licensee authorized in the frequency range 806-824 MHz/851-869 MHz with at least one base station located within a radius of 113 km of the AT&T base station to be deployed. The written notice shall specify: (a) that AT&T intends to operate pursuant to a waiver of the FCC's base station power rules in order to provide wireless broadband service; (b) that the public safety licensees may file an objection within the next thirty (30) days: (1) notifying AT&T in writing; and (2) filing a written objection with the Commission in WT Docket No. 15-130; (c) a description of the area(s) where the base stations are located; (d) the timeframe within which the base station(s) will be activated at the higher power level; and (e) contact information, including a telephone number and email, to notify AT&T of any resulting interference. A public safety licensee may request that AT&T provide additional relevant technical information, such as the coordinates/addresses of each base station, the height above ground level of the radiation center of the base station antenna(s) and the amount of beam tilt, if any, and AT&T's written notice shall inform public safety licensees of this right. AT&T may operate at the Increased Power Limits prior to the expiration of the thirty (30) days if all public safety licensees authorized in the frequency range 806-824 MHz/851-869 MHz with at least one base station located within a radius of 113 km of the AT&T base station to be deployed have provided express written consent.
- 3) Any public safety licensee authorized in the frequency range 806-824 MHz/851-869 MHz located within a radius of 113 km may file an objection to AT&T's use of the Increased Power Limits: (1) notifying AT&T in writing; and (2) filing a written objection with the Commission in WT Docket No. 15-130.
- 4) If AT&T receives an objection or notice from a public safety licensee authorized in the frequency range 806-824 MHz/851-869 MHz demonstrating that an AT&T base station operating at the Increased Power Limits is causing harmful interference to a public safety licensee, it shall immediately remedy the interference or suspend operation under this waiver until the interference has been successfully mitigated or it has been determined that AT&T base stations are not the cause of the interference.

This condition shall remain in effect until further action of the Commission, and is in addition to, not a replacement for, AT&T's obligations pursuant to 47 C.F.R. §§ 22.971 and 22.972.

- 5) AT&T must coordinate with adjacent channel and neighboring co-channel Cellular licensees prior to commencing operation under this waiver and may not cause harmful interference to such licensees.

III. SAB EXTENSION AND ALTERNATIVE CGSA DETERMINATION

16. We also grant on our own motion⁵² a waiver of Sections 22.911(b), 22.912, and 22.953(b) of the Commission's rules⁵³ to the extent necessary to enable AT&T to calculate its Service Area Boundary ("SAB") extension and CGSA using the process described below for the Kansas Stations. We find that this waiver grant is in the public interest in order to allow AT&T to effectively implement PSD in these Kansas markets.

17. AT&T shall use an industry-accepted predictive model, rather than the formula provided in Section 22.911(a) of the Commission's rules,⁵⁴ for the purpose of determining its SAB extension⁵⁵ and CGSA. If the predictive model yields an SAB extension comprising at least 130 contiguous square kilometers (50 contiguous square miles), regardless of whether the CGSA departs $\pm 20\%$ in the service area of any cell,⁵⁶ AT&T must file an application for major modification of the CGSA, using FCC Form 601. AT&T must submit an alternative CGSA determination, pursuant to Section 22.911(b), and AT&T must file as an attachment a depiction of the CGSA, created using an industry-accepted predictive model.

18. If the predictive model results in calculations that depict an SAB extension comprising fewer than 130 contiguous square kilometers (50 contiguous square miles), AT&T shall not file an application for major modification. AT&T may provide service in the extension area on a secondary basis only.

IV. CONCLUSION

19. We conclude that the relief we grant today strikes an appropriate balance in the public interest. Permitting AT&T to deploy LTE using a PSD model at the Kansas Stations will allow AT&T to make more effective use of the spectrum by providing enhanced product offerings to consumers, while also protecting public safety licensees, neighboring co-channel Cellular licensees, and adjacent channel licensees from increased risk of harmful interference.

⁵² See 47 C.F.R. §§ 1.3, 1.925(a).

⁵³ 47 C.F.R. §§ 22.911(b), 22.912, and 22.953(b). Licensees seeking to modify an existing Cellular system must, under certain circumstances, file an application for major modification using Form 601. See 47 C.F.R. §§ 22.949 and 22.953(b).

⁵⁴ See 47 C.F.R. § 22.911(a).

⁵⁵ AT&T must define the SAB in terms of distances from the cell sites to the 32 dBuV/m contour along the eight cardinal radials. The distances used for the cardinal radials must be representative of the coverage within the 45° sectors.

⁵⁶ See 47 C.F.R. § 22.911(b).

V. ORDERING CLAUSES

20. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's rules, 47 C.F.R. § 1.925, the request filed by AT&T Services, Inc. on behalf of AT&T, Inc. and its subsidiaries is HEREBY GRANTED IN PART TO THE EXTENT DESCRIBED HEREIN AND OTHERWISE DENIED and SUBJECT TO the outcome of the pending rulemaking (WT Docket No. 12-40, RM-11510, RM-11660).

21. IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Sections 1.3 and 1.925(a) of the Commission's rules, 47 C.F.R. §§ 1.3, 1.925(a), a waiver of Sections 22.911(b), 22.912, and 22.953(b), 47 C.F.R. §§ 22.911(b), 22.912, and 22.953(b) is, on our own motion, HEREBY GRANTED TO THE EXTENT DESCRIBED HEREIN and SUBJECT TO the outcome of the pending rulemaking (WT Docket No. 12-40, RM-11510, RM-11660).

22. These actions are taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331.

Sincerely,

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau