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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 06-49; FCC 14-79]

Rules in the 904-909.75 and 919.75-928 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Order, the Commission terminates the Multilateration Location and Monitoring Service (M-LMS) rulemaking proceeding in WT Docket No. 06-49 and concludes that the proposals for broad revisions of the applicable rules do not merit further consideration at this time.

DATES: Effective Date: **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, WT Docket No. 06-49, FCC 14-79, adopted June 9, 2014 and released June 10, 2014. The full text of this document is available for inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, DC 20554. Also, it may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street SW., Room CY-B402, Washington, DC 20554; the contractor's Website, <http://www.bcpiweb.com>; or by calling (800)378-3160, facsimile (202) 488-5563, or email FCC@BCPIWEB.com. Copies of the R&O and OPM also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number WT Docket 14-79. Additionally, the complete item is available on the Federal Communications

Commission's Web site at <http://www.fcc.gov>.

I. INTRODUCTION AND BACKGROUND

1. In 1995, the Commission established Location and Monitoring Service (LMS) as a new radio service to be licensed in the 902-928 MHz band. LMS shares this band with a variety of users: Federal radiolocation systems; Industrial, Scientific, and Medical (ISM) equipment use; amateur operations; and Part 15 devices. LMS is secondary to Federal users and to ISM devices and may not cause interference to and must tolerate interference from these users and devices. Amateur radio operations are secondary to LMS. Unlicensed Part 15 devices are also authorized in the 902-928 MHz band, although such devices are not afforded interference protection rights and may not cause harmful interference to any licensed systems.

2. In establishing M-LMS, the Commission placed certain limitations on M-LMS operations to facilitate sharing of the 902-928 MHz band by multiple licensed services as well as unlicensed devices. The Commission also adopted certain provisions to facilitate the co-existence of M-LMS operations and Part 15 devices in the 902-928 MHz band. In particular, the Commission adopted a safe harbor rule for unlicensed devices and amateur operations in the band and required that M-LMS licensees demonstrate through actual field tests that "their systems do not cause unacceptable levels of interference to Part 15 devices." In 1999 and 2001, the Commission auctioned M-LMS licenses.

3. In 2006, noting that there had been very limited development of M-LMS service under the existing rules, the Commission initiated the instant proceeding to examine various new approaches that potentially could make for more effective use of the M-LMS spectrum in the 904-909.75 and 919.75-928 MHz portions of the 902-928 MHz band. The Commission sought to evaluate whether to revise rules applicable to M-LMS operations and provide licensees greater flexibility to respond to market conditions while continuing to protect federal and other licensed users and also avoiding any significant increased interference to unlicensed users in the band. The record in this proceeding closed on June 30, 2006.

4. Most M-LMS licensees supported having additional flexibility to provide services and opposed any reduction in the power levels in which they could operate, and some sought modification or elimination of the field testing requirement. Commenters representing other users expressed concerns about allowing M-LMS operations additional flexibility, generally supported reductions in the power levels for such operations but not in conjunction with an increase in flexibility, and opposed elimination or supported retention of the Section 90.353(d) field testing requirement.

5. Recent M-LMS developments. Over the past few years, Progeny LMS, LLC (Progeny), which holds multiple M-LMS licenses, developed equipment and offers a service that operates in a manner generally consistent with the existing M-LMS framework. In March 2011, Progeny filed a petition seeking waiver of two existing M-LMS service rules to enable it to deploy an M-LMS network that utilizes a beacon system and advanced technologies not available when the M-LMS rules were adopted in 1995. In December 2011, the Wireless Telecommunications Bureau and the Office of Engineering and Technology granted a limited waiver to permit Progeny to continue developing its proposed location service, based, in part, on the public interest benefits of facilitating the deployment of a multilateration location service that can provide more accurate location determinations, including more precise location information that can improve delivery of E911 emergency services. This limited waiver applied the existing interference rules governing M-LMS operations in the 902-928 MHz band and required Progeny to satisfy the field testing requirement by submitting field testing for Commission review prior to commencing commercial operations. In June 2013, following review of field tests submitted by Progeny in January and October of 2012, the Commission concluded that Progeny could commence commercial operations of its position location service network. In approving these M-LMS operations in the 902-928 MHz band, the Commission applied the original M-LMS framework – including the interference-related requirements, the power limits permitted licensed M-LMS operations, and the field testing requirement – that the Commission established when it authorized the service in 1995.

II. DISCUSSION

6. Based on the record before the Commission, and on recent developments pertaining to M-LMS operations in the 902-928 MHz band, the Commission concludes that the various proposals for wholesale revisions of the applicable rules do not merit further consideration at this time. Accordingly, the Commission terminates this proceeding.

7. In initiating the rulemaking in 2006, the Commission sought to evaluate whether to make various significant changes of the rules applicable to M-LMS to ensure that this service can be deployed in an effective and efficient manner. The Commission stated that its goal in this proceeding is to consider whether greater opportunity can be afforded M-LMS licensees to provide services while ensuring continued access for other licensed and unlicensed uses that share this band. The Commission finds that wholesale changes to existing M-LMS framework that the Commission sought comment upon in the M-LMS NPRM (71 FR 15658 March 29, 2006) are not warranted and that the types of revisions that the Commission sought comment are not necessary to provide sufficient flexibility to M-LMS licensees to provide their location services. Based on recent developments pertaining to M-LMS operations in the 902-928 MHz band, the Commission believes that the existing M-LMS framework can provide M-LMS licensees with sufficient opportunities to provide service offerings. The Commission concluded that Progeny could commence commercial operations of its M-LMS position location service network, within the framework that the Commission initially had established to promote the co-existence of M-LMS operations and unlicensed operations in the band. Accordingly, the Commission concludes that terminating this rulemaking serves the public interest at this time.

8. **Final Paperwork Reduction Act Analysis.** This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

9. **Congressional Review Act.** The Commission will not send a copy of this Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the Commission is not adopting any rules with this proceeding.

III. ORDERING CLAUSE

10. Accordingly, IT IS ORDERED, pursuant to the authority contained in Sections 4(i) and 4(j) of the Communications Act, as amended, 47 U.S.C. 154(i) and (j), that the proceeding in WT Docket No. 06-49 is HEREBY TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Secretary

[FR Doc. 2014-18518 Filed 08/04/2014 at 8:45 am; Publication Date: 08/05/2014]