



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU (WTB) AND MEDIA BUREAU ANNOUNCE LICENSING PROCEDURES TO FACILITATE THE TRANSITION OF BAS, CARS, AND LTTS LICENSES TO THE 2025 – 2110 MHZ BAND AND WTB ADDRESSES SBE PETITION FOR DECLARATORY RULING

By this Public Notice, the Wireless Telecommunications Bureau (WTB) announces Universal Licensing System (ULS) licensing procedures to facilitate the efficient transition of Television Broadcast Auxiliary Service (BAS) licensees¹ and Local Television Transmission Service (LTTS) licensees² in the 2 GHz band. Also in this Public Notice, the Media Bureau (MB) announces related procedures for licensees in the Cable Television Relay Service (CARS). These licensing procedures are in effect only during the transition of these licenses from the existing 1990 – 2110 MHz band to the compressed 2025 – 2110 MHz band pursuant to the Commission's *Report and Order* in WT Docket 02-55 (*800 MHz R&O*),³ and as further set forth in the BAS Relocation Schedule and Implementation Plan (*Implementation Plan*) submitted by Nextel Communications, Inc., on April 6, 2005,⁴ as required by the *800 MHz R&O*.

WTB also clarifies, in response to a petition for declaratory ruling filed by the Society of Broadcast Engineers (SBE),⁵ that a BAS TV Pickup license authorizes the use of multiple transmitters.⁶

I. BACKGROUND

In July 2004, the Commission adopted a *Report and Order* in WT Docket No. 02-55 which, *inter alia*, reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile

¹ 47 C.F.R. Part 74, Subpart F.

² 47 C.F.R. Part 101, Subpart J.

³ Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order and Order*, 19 FCC Rcd 14969 (2004) as amended by *Erratum*, 19 FCC Rcd 19651 (WTB 2004) and *Erratum*, 19 FCC Rcd 21818 (WTB 2004) (*800 MHz R&O* or *Report and Order*). Federal Register publication of the *800 MHz R&O* occurred on November 22, 2004, 69 Fed. Reg. 67823 (2004). See also *Supplemental Order and Order on Reconsideration*, WT Docket No. 02-55, 19 FCC Rcd 25120 (2004).

⁴ See BAS Relocation Schedule and Implementation Plan, Nextel Communications, Inc., April 6, 2005.

⁵ See Request for Declaratory Ruling in the Matter of Number of Transmitters Authorized by a Part 74 TV Pickup License, filed March 11, 2005.

⁶ Multiple transmitters are also authorized for CARS mobile licenses.

communication systems operating in the band.⁷ Pursuant to the *800 MHz R&O*, all BAS licensees must be relocated out of the 1990 – 2025 MHz band. The *Report and Order* requires that Nextel relocate those licensees within 31.5 months of the effective date of the R&O.⁸ On April 6, 2005, Nextel filed a BAS Relocation Schedule and Implementation Plan which provides details about its plans for the relocation.⁹

The *Implementation Plan* states that relocation will be accomplished in two stages, the first ending 19.5 months from the effective date of the *800 MHz R&O*, the second ending no later than 31.5 months after the effective date. The *Implementation Plan* also states that markets will be relocated in clusters so that interrelated markets will not be adversely affected. Under the *Implementation Plan*, equipment will be replaced with digital equipment that operates on the center frequencies of the existing channels, but with a compressed 12 MHz emission bandwidth. Once all of the licensees in a particular market have installed the new equipment, the licensees will simultaneously convert to the new compressed channel plan by shifting the center frequencies to the new channel plan.

In order to accomplish this transition, licensees must have operating authority at various times during the transition as follows:¹⁰

Step 1 - operate on the old channel plan with existing analog emissions,

Step 2 - operate on the old channel plan with new narrower digital emissions,

Step 3 - operate on the new channel plan with narrow digital emissions.

Existing ULS procedures would require multiple license modifications, which would need to be carefully timed in order to accomplish this multi-step transition. By this Public Notice, WTB announces special licensing procedures to facilitate the timely and efficient transition of BAS licensees from the old channel plan to the new compressed channel plan. In addition, the Media Bureau also outlines herein procedures for CARS licensees.

II. ULS PROCEDURES FOR BAS AND LTTS

A. Licensing Procedures

Licensees will be required to modify their authorization to obtain authority to operate with the technical parameters they will use during and after the transition by filing an FCC Form 601.¹¹ Licensees involved in the transition will be permitted to file an application to simultaneously authorize operation using Steps 1-3, as needed, during the transition. Licensees should specify in their application all channels and emissions with which they intend to operate during and after the transition period, for which they are not currently authorized.

⁷ See note 3, *supra*. The instant public notice refers to or summarizes certain Commission decisions in WT Docket No. 02-55 to provide context for the very limited purpose of discussing streamlined ULS procedures for the BAS relocation. See WT Docket No. 02-55 for complete details.

⁸ The effective date of the *800 MHz R&O* was January 21, 2005, sixty days after publication in the Federal Register. The original deadlines of 18 months for stage 1 and 30 months for stage 2 were extended by the Commission. See Public Notice *800 MHz Public Safety Interference Proceeding; Request for Comments on Ex Parte Presentations and Extension of Deadlines*, 69 Fed Reg. 67880 (Nov. 22, 2004).

⁹ See BAS Relocation Schedule and Implementation Plan, Nextel Communications, Inc., April 6, 2005. The *Implementation Plan* also refers to additional information about the relocation schedule, key dates and answers to frequently asked questions at www.2ghzrelocation.com

¹⁰ See *Implementation Plan* at FN 8 and Appendix B, Slide 10.

¹¹ Modification requires the filing of FCC Form 601 Main Form and Schedule I.

- We recommend that, with respect to digital operation on frequencies in the old channel plan, licensees modify existing channels to add additional emissions,¹² rather than adding additional frequencies to their license under the old channel plan with digital emissions.
- We also recommend that, when licensees are adding frequencies under the new channel plan, these frequencies be added as separate paths on the license to distinguish operations under the old channel plan from operations under the new channel plan.

Applicants can specify either center frequencies or lower and upper band edges.¹³ Applicants who intend to utilize Digital Return Link (DRL) channels should also include those channels on their application on the same path as the frequencies being added under the new channel plan. Licensees who are ultimately converting to the compressed channel plan (*i.e.*, Step 3) should include an exhibit with their application indicating that the purpose of the application is to transition to the new channel plan. During the transition licensees will be able to operate using any of the authorized parameters independently or simultaneously as needed. However, authorizations will be conditioned to indicate that authority to operate under the old channel plan will cease after the transition to the new channel plan is complete.

When a licensee has completed the transition to the new channel plan, they will be required to file a certification of completion of construction (FCC Form 601 Schedule K).¹⁴ Pursuant to the *ULS Report and Order*, notification of completion of construction is required following applications for new facilities or applications to add additional frequencies to an authorization.¹⁵ Licensees are required to file certification of completion of construction within 18 months of the grant date.¹⁶ The filing of the Schedule K will indicate that the licensee has constructed and is operating on the new compressed channel plan (*i.e.*, Step 3). After the transition, licensees will no longer be authorized to operate on the old channel plan with either analog or digital emissions. Therefore, upon the filing of the Schedule K the Commission will remove references to the old channel plan from the licensees authorization and will issue a superseded authorization reflecting the licensee's authority to operate on only the new channel plan (*i.e.*, parameters authorizing operation under Steps 1 and 2 will be deleted and the license will reflect only parameters authorizing operation under Step 3).

In lieu of converting to the compressed channel plan, BAS licensees may continue to use 17 MHz channels in the 2025-2110 MHz band if: (1) they give up rights to use channels 1 and 2; and (2) all BAS licensees in the market agree to do the same.¹⁷ Licensees who elect not to convert to the new channel

¹² ULS allows licensees to specify multiple emissions on each frequency.

¹³ Licensees may request authority for single or multiple channels in the new channel plan. Licensees may also request authority to operate on all of the channels in the new channel plan by specifying the lower band edge of 2025MHz and upper band edge of 2110MHz. In either case, the licensee must specify the appropriate bandwidth and emission designator for the equipment they intend to use. We note that, in certain markets that are subject to international coordination, it may be necessary for licensees to limit their application to specific channels.

¹⁴ See 47 C.F.R. §1.946(d)

¹⁵ See Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Report and Order*, 13 FCC Rcd 21,027 (1998) ("*ULS Report and Order*") ¶103 – 108. A notification of completion of construction is not required when the application to modify existing parameters does not involve new frequencies. Rather, licensees must file a modification application to change the parameters back if the licensee fails to construct the modification.

¹⁶ See 47 C.F.R. §74.34(a). Extension requests will be considered on a case-by-case basis and will be evaluated in accordance with the criteria in 1.946(e).

¹⁷ In the MSS Third R&O, the Commission stated that because the continued use of the existing channel plan could disrupt BAS licensees that have relocated to the Phase II channel plan and lead to the difficulties in coordination, the

plan must immediately restrict their operations to the 2025 – 2110 MHz band if, as part of the relocation negotiation process, they indicate that they do not wish to be relocated.¹⁸ Accordingly, licensees must modify their authorization to delete channels 1 and 2¹⁹ from their authorization if they elect not to relocate to the compressed channel plan.²⁰

B. TIMING

The procedures outlined above are intended to give licensees flexibility to implement the various stages of the transition without having to coordinate the timing of the application filing with great precision. However, the process outlined above does require that licensees file an application and obtain authority to operate with the appropriate technical parameters prior to operating during the transition. Therefore, licensees are encouraged to file applications to obtain authority to operate with the new digital emissions and on the new channel plan as soon as practical. Licensees whose applications meet all of the conditions listed in Section 74.25 may operate under conditional authority upon filing.²¹ Further, licensees of broadcast stations may operate auxiliary facilities for up to 720 hours under the provisions of Section 74.24.²²

C. EXCEPTIONS TO CONDITIONAL AUTHORITY FOR MARKETS AND APPLICATIONS WITH SPECIAL CONSIDERATIONS

Under the existing Commission rules, some markets or applications will have special considerations that may require additional time for application processing and/or limit the licensees' ability to operate under conditional authority. Some of these situations are outlined below. Applicants who have applications that fall into these categories are reminded to take these factors into consideration and file applications for authority as soon as possible to ensure that they have the proper operating authority to complete the transition.

- Proposed operation in markets that are within 35 miles of international borders may require coordination with the neighboring foreign administration.²³ In addition, stations in these markets are not eligible to operate under conditional authority while the application is pending.²⁴ To the extent that licensees negotiate operating agreements with the ENG licensees in the neighboring country prior to filing an application with the Commission, they should include documentation of any such agreement when they file their FCC Form 601. Documentation of existing operational agreements will help to expedite the coordination process with the neighboring foreign administration.

Commission will permit continued use of the 'old' channel plan only if all BAS licensees in a market will agree to such operation. *See MSS Third R&O*, 18 FCC Rcd at 23668 ¶ 58.

¹⁸ *800 MHz R&O*, 19 FCC Rcd 14969 (2004) ¶ 269.

¹⁹ Existing BAS channel 1 occupies 1990 – 2008 MHz. Existing BAS channel 2 occupies 2008 – 2025 MHz.

²⁰ Modification requires the filing of FCC Form 601 Main Form and Schedule I.

²¹ 47 C.F.R. § 74.25.

²² 47 C.F.R. § 74.24.

²³ *See* 47 C.F.R. § 1.928.

²⁴ *See* 47 C.F.R. § 74.25

- Proposed operation within any of the radio quiet zones defined in Section 1.924 of the Commission rules is prohibited under conditional authority unless the proposed operation has been coordinated and approved by the quiet zone authority.²⁵
- Applications that request a waiver of the Commission's rules are prohibited from operating under conditional authority.²⁶ In addition, these applications may require additional levels of review, which may add to the overall processing time.

III. CARS APPLICATIONS

CARS applications are not filed electronically at this time. Licensees who plan to transition to digital emissions on the old channel plan (Step 2) more than 180 days before going to the new channel plan (Step 3) must file two applications (Forms 327) to modify the station for each step. Licensees who plan for less than 180 days between Steps 2 and 3 may file a single application for the final modification for Step 3 together with a request for an STA for Step 2. The request for an STA must be limited to emission and channelization changes for this transition.

IV. SBE PETITION FOR DECLARATORY RULING

SBE filed a request for declaratory ruling on March 11, 2005,²⁷ asking WTB to clarify that a license for mobile TV Pickup²⁸ operations authorizes multiple transmitters. While this request is not limited to the 2 GHz transition, we take this opportunity to address SBE's request regarding BAS licensing.

SBE's Request notes that the legacy FCC Form 313 allowed licensees to specify the number of mobile units that they would operate and that licenses issued prior to the implementation of ULS reflected a mobile transmitter count.²⁹ SBE's Request also notes that the current ULS system does not specify the number of transmitters that are authorized under a particular TV Pickup license.³⁰ SBE asks WTB to clarify that an authorization for mobile TV pickup issued from ULS authorizes an unlimited number of mobile transmitters, with the only restriction being that the transmitters must operate in accordance with all applicable FCC Rules regarding Part 74 Stations.³¹ The Request also asks that future licenses issued from ULS include a statement indicating that there is not limit to the number of mobile units that may be operated.³²

As noted by SBE in its request, TV Pickup licenses issued in ULS do not specify the number of mobile transmitters that may be operated (*i.e.*, the license does not limit on the number of mobile transmitters

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Request for Declaratory Ruling in the Matter of Number of Transmitters Authorized by a Part 74 TV Pickup License, filed by SBE on March 11, 2005. (Request)

²⁸ See 47 C.F.R 74.601(a)

²⁹ Request at ¶ 1

³⁰ *Id.*

³¹ Request at ¶ 2

³² *Id.* at ¶ 3

that may be operated). Moreover, Section 74.632(a) states that “a mobile station license may be issued for any number of mobile transmitters to operate in a specific area or frequency band.....”³³

In accordance with Section 1.2 of the Commission’s Rules,³⁴ we clarify that when licenses issued from ULS for TV Pickup operations do not contain a limit on the number of transmitters that may be operated then, consistent with Section 74.632(a), licensees may operate any number of mobile transmitters as long as the technical parameters of those transmitters are consistent with the technical parameters that are authorized by the license and the transmitters are operated in accordance with all applicable FCC Rules. WTB will include a statement on future licenses issued from ULS which clarifies that an authorization for a TV Pickup station authorizes the use of multiple transmitters. Thus, to the extent discussed above, we grant SBE’s request for declaratory ruling.

V. FURTHER INFORMATION

For further information concerning this Public Notice contact: For BAS and LTTS issues—Stephen Buenzow at (717) 338-2687, <Stephen.Buenzow@fcc.gov> Broadband Division, Wireless Telecommunications Bureau; or for CARS issues—Wayne T. McKee at (202) 418-2355, Engineering Division, Media Bureau.

Action by the Acting Chief, Wireless Telecommunications Bureau and the Chief, Media Bureau.

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³³ See 47 C.F.R. § 74.632(a).

³⁴ 47 C.F.R. § 1.2 ([t]he Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty).