



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[GN Docket No. 12-268; FCC 15-38]

Comment Sought on Defining Commencement of Operations in the 600 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on defining the term “commence operations” for 600 MHz Band wireless licensees in the context of the transition rules adopted in the Incentive Auction Report and Order.

DATES: Comments are due on or before May 1, 2015; reply comments are due on or before May 18, 2015.

ADDRESSES: You may submit comments, identified by the docket number in this proceeding, GN Docket No. 12-268, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission’s Electronic Comment Filing System (ECFS): <http://fcc.gov/ecfs/>. Follow the instructions for submitting comments.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail): Federal Communications Commission, 9300 East Hampton Dr., Capitol Heights, MD 20743.
- U.S. Postal Service (First-class, Express, and Priority): Federal Communications Commission, 445 12th St., SW., Washington, DC 20554.

- Hand-delivered/Courier: Federal Communications Commission, 445 12th St., SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this document. All comments received will be posted without change to ECFS at <http://fcc.gov/ecfs/>, including any personal information provided.
- Docket: This document is in GN Docket No. 12-268. For access to the docket to read background documents or comments received, go to ECFS at <http://fcc.gov/ecfs/>.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Simon Banyai of the Wireless Telecommunications Bureau, Broadband Division, at (202) 418-1443 or e-mail to simon.banyai@fcc.gov.

SUPPLEMENTARY INFORMATION: This document was adopted on March 26, 2015 and released on March 26, 2015, and is available electronically at https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-38A1.pdf. The complete text of this document as well as any comments, reply comments, and ex parte submissions will also be available for public inspection during regular business hours in the FCC Reference Center (CY-A257) at the Federal Communications Commission, 445 12th Street, SW., Washington, DC, 20554. These documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

Public Participation

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's ECFS. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one active docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), or 202-418-0432 (tty).

I. SUMMARY

1. In the Incentive Auction Report and Order, the Commission adopted rules to implement the incentive auction through which certain broadcast television spectrum will be repurposed for wireless flexible use to create the 600 MHz Band (See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Report and Order, published at 79 FR 48442 (2014) (Incentive Auction Report and Order)). These rules include procedures governing the transition of broadcast television services and other operations out of the 600 MHz Band. As described below, the procedures the Commission adopted permit certain operations to continue in the 600 MHz spectrum until a 600 MHz Band

wireless licensee “commences operations” in its licensed spectrum. The Commission did not define the term “commence operations,” but indicated that it would do so in the pre-auction process. By this document, the Commission seeks comment on defining the term “commence operations” in the context of these transition rules.

2. Specifically, the Commission proposes that a 600 MHz Band licensee be deemed to “commence operations” in an area when it begins site activation and commissioning tests, using permanent base station equipment and permanent antenna or tower locations (hereinafter “site commissioning tests”). Site activation and commissioning tests confirm that the site is operational, integrated into the network, and meets key functional requirements and performance metrics. This testing takes place at the start of the site and system optimization processes and prepares the network for launch in the area in which the licensee will provide commercial service. The Commission believes this approach best fulfills its objective in the transition process of promoting ready access to the repurposed spectrum by 600 MHz Band wireless licensees when and where they need it, while at the same time providing for an orderly transition process for secondary and unlicensed users that currently are serving various important consumer needs using this spectrum.

3. As noted, this definition will be one element of the 600 MHz transition rules. Under these rules, all full power and Class A television stations must cease operating in the spectrum repurposed for the 600 MHz Band no later than 39 months from issuance of the Channel Reassignment PN (*i.e.*, by the end of the Post-Auction Transition Period). 600 MHz Band wireless licensees will not have access to the repurposed spectrum in an area during the Post-Auction Transition Period unless full power and Class A television operations have ceased operations in that area.

4. For secondary and unlicensed users that currently are authorized to operate in this band, including low power television (“LPTV”) and TV translator stations, fixed broadcast auxiliary service operations (“BAS”), and unlicensed television white space (“TVWS”) devices, the Commission established a phased transition out of the 600 MHz Band. The transition procedures applicable to these categories of operations vary in certain regards, but all require that these operations cease in areas where the 600 MHz Band wireless licensee commences operations after providing the requisite notice. Except in the guard bands, LPTV and TV translator stations in the 600 MHz Band may continue to operate indefinitely unless they are in an area in which a 600 MHz Band wireless licensee provides advance written notice that it intends to commence operations and that the LPTV or TV translator station is likely to cause harmful interference to the licensee’s operations in that area. LPTV or TV translator stations in the 600 MHz guard bands must cease operations no later than the end of the Post-Auction Transition Period. TVWS devices may continue to operate in the 600 MHz Band indefinitely, except in those areas in which a 600 MHz Band wireless licensee commences operations after providing the requisite notice to the TVWS database administrator. BAS licensees must vacate the 600 MHz Band by the end of the Post-Auction Transition Period, or earlier if notified that they are likely to cause harmful interference to a 600 MHz Band wireless licensee in an area in which it intends to commence operations. While several commenters in the Incentive Auction proceeding discussed the transition of secondary and unlicensed users out of the 600 MHz Band, the Commission received limited comment on how best to define when a 600 MHz Band wireless licensee commences operations for the purpose of these transition procedures.

5. Under the Commission’s proposed definition, a 600 MHz Band wireless licensee’s operations would be deemed to “commence” prior to the licensee’s launch of commercial services in an area, specifically when the licensee begins site commissioning tests.

These site commissioning tests ordinarily take place in the late stages of a deployment, after the wireless licensee has completed construction of physical network infrastructure that will provide commercial service in the area. That is, they are conducted after a cell site has been fully constructed, with all base station equipment, antennas, feed systems, and other hardware installed, and with all power systems and backhaul connectivity installed and operational. This testing encompasses start-up procedures and system checks when the system is first powered up, a series of functionality tests, and over-the-air field tests, such as establishing mobile calls, validating coverage, and confirming handover between sectors. Site commissioning tests are used to confirm that all of the site infrastructure is working properly and is integrated into the licensee's network, and to enable the licensee to verify the site's coverage through direct measurements. To ensure the accuracy of this site commissioning testing, a licensee will require access to its 600 MHz Band spectrum in the area in which it is commencing operations so all of its facilities can be tested under the real world conditions for which they were designed and in an environment that is free from potential interference from others. Alternatively, should any testing by a wireless licensee be deemed the "commencement" of operations? Is there a specific stage of testing other than site commissioning tests that would be an appropriate benchmark? Commenters supporting one of these alternatives to the Commission's proposal above should explain how it meets the objectives set forth in the Incentive Auction Report and Order regarding an orderly transition process for existing secondary and unlicensed users in the 600 MHz Band.

6. The Commission also proposes that a 600 MHz Band licensee's notification would cover the area served by the licensee's commercial service infrastructure deployment. Under this approach, the area subject to notification might include an entire metropolitan area, in the case of the initial launch for a market, or might be a smaller area, such as a highway corridor, where a licensee is deploying commercial service in phases. The 600 MHz Band licensee would

be authorized to conduct site commissioning tests on all cell sites within the identified area, starting on the date provided in the notice. Alternatively, should the area subject to a wireless licensee's notification cover larger areas to encompass the licensee's phased deployment of infrastructure? Commenters proposing such alternatives should explain their reasoning and how their proposals meet the Commission's transition objectives.

7. Under this proposed definition of "commence operations," secondary and unlicensed users would continue to operate as set forth in the Incentive Auction Report and Order until the time prescribed by the notice from the 600 MHz Band wireless licensee that triggers their obligation to vacate the affected area(s) of the licensed spectrum. The Commission believes this proposed definition of "commence operations" best accomplishes its transition objectives.

8. The Commission seeks comment on this proposed definition of "commence operations" for the purpose of the transition rules for the 600 MHz Band, including its proposal for determining the area to be covered by the licensee's notification. Commenters should discuss and quantify the costs and benefits of this proposal, as well as any suggested clarifications or revisions to the definition, and any proposed alternative approaches. In advocating an alternative definition, commenters should explain why the alternative proposal better serves the public interest and the Commission's policy goals than the definition being proposed.

II. PROCEDURAL MATTERS

A. Ex Parte Rules—Permit-But-Disclose Proceeding

9. Pursuant to § 1.1200(a) of the Commission's rules, this matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. 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.

B. Paperwork Reduction Analysis

10. This document does not change, or propose to change, the information collection requirements subject to the Paperwork Reduction Act of 1995 ("PRA"), Public Law 104-13., contained in the Incentive Auction Report and Order. As a result, no new submission to the Office of Management and Budget is necessary to comply with the PRA requirements. In addition, 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).

C. Regulatory Flexibility Analysis

11. The actions in this document have not changed, or proposed to change, the Final Regulatory Flexibility Analysis (“FRFA”), which was set forth in the Incentive Auction Report and Order. Thus, no supplemental FRFA is necessary.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

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