



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

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Wireless Telecommunications Bureau Sets Permit-but-Disclose Status for PDC Broadband Corporation Requests for Waiver of Part 101 Rules

On April 18, 2000, PDC BroadBand Corporation (PDC) filed requests for waiver of Sections 101.101, 101.105, 101.107, 101.111, 101.115, 101.139 and 101.603 of the Commission's Rules, 47 C.F.R. §§ 101.101, 101.105, 101.107, 101.111, 101.115, 101.139, 101.603, as well as any other fixed microwave radio service rules necessary to permit the processing of its applications pertaining to deployment of service in the 12.2-12.7 GHz band. PDC seeks authority to provide multichannel video programming, including the retransmission of local television broadcast signals, to 210 markets throughout the United States. PDC also proposes to provide data transmission services and Internet services to consumers in these various markets.

In its waiver requests, PDC argues that compliance with the technical limitations contained in Sections 101.105, 101.107, 101.111 and 101.115 of the Commission's Rules are meant for typical two-way, private or common carrier point-to-point microwave systems and are inapplicable here. PDC contends that Section 101.139 requires that the Commission certify all transmitters used for the provision of microwave services and that this requirement should be waived in order to ensure the expeditious deployment of its proposed services. PDC further argues that Sections 101.101 and 101.603 preclude the transmission of video entertainment material to customers in the 12.2-12.7 GHz band and are no longer appropriate in the band because the spectrum is now used by DBS operators.

We note that the 12.2-12.7 GHz band is the subject of an ongoing rulemaking proceeding¹ and was one of the bands listed in the International Bureau's Public Notice No. SPB-141, released on November 2, 1998, establishing a final cut-off date to file applications for non-geostationary satellite orbit fixed satellite service in the 12.2-12.7 GHz frequency band that may be mutually exclusive with previously filed applications of Skybridge, L.L.C. (Skybridge). PDC filed applications for use of the 12.2-12.7 GHz frequency band, proposing to use technology using similar compression algorithms as employed by DBS to enable sharing of this spectrum with existing direct broadcast satellite, geostationary satellite and other fixed microwave systems. PDC asserts that its proposed service will be on a secondary, non-interfering basis to direct broadcast satellite services and on a co-primary basis with any fixed satellite services, such as that proposed by Skybridge.

Requests for waiver of the Commission's Rules are subject, unless otherwise provided, to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and the potential impact of this proceeding on other proceedings, as well as, persons not parties to the waiver requests, we believe it would be in the public interest to

¹ See Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range and Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates, *Notice of Proposed Rulemaking*, ET Docket No. 98-206, FCC 98-310 (rel. November 24, 1998).

treat this case as a permit-but-disclose proceeding under the *ex parte* rules.² Therefore, any *ex parte* presentations that are made with respect to the issues involved in the subject waivers, subsequent to the release of this Public Notice, will be permissible but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

All written *ex parte* presentations and all written disclosures of oral *ex parte* presentations should reference PDC's Waiver Requests and DA 00-XXX and be filed with the Office of Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554. A copy of each filing should be sent to International Transcription Service, Inc. (ITS), 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800 and to Jennifer Burton, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 Twelfth Street, S.W., 4-C207, Washington, D.C. 20554.

The full text of the Requests for Waivers, written *ex parte* presentations, and all written disclosures of oral *ex parte* presentations are available for public inspection and duplication during regular business hours in the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, 445 Twelfth Street, S.W., 4-C207, Washington, D.C. 20554. Copies also may be obtained from ITS, 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800.

For further information, contact Jennifer Burton or Michael Pollak of the Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418-0680.

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

² See Sections 1.1200(a) and 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1200(a), 1.1206.

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