



PUBLIC NOTICE

Federal Communications Commission
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DA 01-1172

May 8, 2001

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON LEAP WIRELESS INTERNATIONAL, INC.'S REQUEST FOR WAIVER AND EXTENSION OF BROADBAND PCS CONSTRUCTION REQUIREMENTS

Comment Date: May 22, 2001

Reply Comment Date: May 30, 2001

Pursuant to section 1.925(c) of the Commission's rules, 47 C.F.R. § 1.925(c), the Wireless Telecommunications Bureau seeks comment on the Request for Waiver and Extension of Broadband PCS Construction Requirements filed on April 26, 2001, by Leap Wireless International, Inc., on behalf of itself and its affiliates and subsidiaries (collectively, "Leap").¹

Leap requests waiver of section 24.203(a) and (b) of the Commission's rules, 47 C.F.R. § 24.203(a) and (b), to extend the time period to meet the requisite coverage for 38 broadband PCS licenses it recently acquired through assignment. Section 24.203(a) provides that a broadband PCS licensee of a 30 MHz block must serve with a signal level sufficient to provide adequate service to at least one-third of the population in its licensed area within five years of original grant and two-thirds of the population in its licensed area within ten years of original grant. Section 24.203(b) provides that a broadband PCS licensee of a 10 MHz or 15 MHz block must serve with a signal level sufficient to provide adequate service to at least one-quarter of the population, or make a showing of substantial service, in its licensed area within five years of original grant. The five-year construction deadlines for the licenses that are the subject of Leap's waiver request fall on three dates: November 4, 2001; April 28, 2002; and June 27, 2002.

Leap specifically requests an additional one year to meet the coverage requirements for 16 markets (21 licenses)² and an additional two years to meet the coverage requirements for 15 markets

¹ See ULS File Nos. 0000435789, 0000435815, 0000435820, 0000435830, 0000435857, 0000435866, 0000435868, 0000444999, 0000445004, 00004455011, 0000445016, and 0000445592. Leap's waiver request also includes the D-Block license for Grand Rapids, MI (BTA169), identified by call sign KNLG664. The Commission has consented to assignment of KLNG664 to Leap, but consummation has not occurred as of the release of this Public Notice.

² Leap requests an additional year to meet the coverage requirements in the following Basic Trading Areas ("BTAs"): Appleton-Oshkosh, WI (BTA018); Battle Creek, MI (BTA033); Duluth, MN (BTA119); Eau Claire, WI (BTA123); Flint, MI (BTA145); Grand Rapids, MI (BTA169); Jackson, MI (BTA209); Kalamazoo, MI (BTA223); La Crosse-Winona, WI-MN (BTA234); Lakeland-Winter Haven, FL (BTA239); Lansing, MI (BTA241); Muskegon, MI (BTA310); Saginaw-Bay City, MI (BTA390); Sandusky, OH (BTA403); Stevens Point-Marshfield-Wisconsin Rapids, WI (BTA432); and Toledo, OH (BTA444).

(17 licenses).³ Leap states that no build-out of these markets occurred before it acquired the licenses. Leap also states that, because it only has six to fifteen months to meet the benchmarks for these licenses, it would be impractical and inefficient to provide service to these markets in time to comply with the rules. In those markets in which it requests an additional year, Leap states that it intends to provide its “Cricket” service to a generally underserved population whose needs have not been met by other, larger broadband PCS carriers. In those markets in which it requests an additional two years, Leap states that it intends to deploy a wireless data product that will offer consumers in remote areas a realistic alternative to landline broadband data services at an affordable price.

We seek comment on whether granting Leap’s waiver request would further the public interest. Commenters should address the sufficiency of the showing made in support of the waiver in light of the requirements of section 1.925 of the Commission’s rules and any other public interest considerations. Interested parties wishing to file comments must do so on or before **May 22, 2001**. Parties interested in submitting reply comments must do so on or before **May 30, 2001**. All comments should reference Leap’s waiver request, indicate in the caption that this matter is before the Wireless Telecommunications Bureau, Commercial Wireless Division, Policy and Rules Branch, and include the DA number of this Public Notice, DA 01-1172.

Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. In addition, parties should send one paper copy to: (1) Scott A. Mackoul, Federal Communications Commission, Wireless Telecommunications Bureau, Commercial Wireless Division, Policy and Rules Branch, 445 12th Street, SW, Room 4-A361, Washington, DC 20554; (2) Public Reference Room, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554; and (3) ITS, 445 12th Street, SW, Room CY-B400, Washington, DC 20554 (include one diskette copy for ITS).

By this Public Notice, we announce, pursuant to section 1.1200(a) of the Commission’s rules, 47 C.F.R. § 1.1200(a), that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to nonrestricted proceedings under section 1.1206 of the Commission’s rules. 47 C.F.R. § 1.1206. We believe the public interest will best be served by applying permit-but-disclose *ex parte* procedures in this case, because this proceeding involves broad public policy issues. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subject discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission’s rules, 47 C.F.R. § 1.1206(b).

Leap’s waiver request is also available for public inspection and copying in the FCC’s Reference Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Copies of the waiver request are also available for ITS at 1231 20th Street, NW, Washington, DC 20036 or by calling (202)857-3800.

For further information, contact Scott A. Mackoul at (202) 418-7498 or smackoul@fcc.gov.

By the Chief, Commercial Wireless Division, Wireless Telecommunications Bureau.

³ Leap requests an additional two years to meet the coverage requirements in the following BTAs: Adrian, MI (BTA005); Bemidji, MN (BTA037); Brainerd, MN (BTA054); Escanaba, MI (BTA132); Houghton, MI (BTA194); Iron Mountain, MI (BTA206); Ironwood, MI (BTA207); Marinette-Menominee, WI-MI (BTA279); Marquette, MI (BTA282); Mount Pleasant, MI (BTA307); Pittsburg-Parsons, KS (BTA349); Sault Ste. Marie, MI (BTA409); Traverse City, MI (BTA446); and Vicksburg, MS (BTA455).