



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
445 12th STREET S.W.  
WASHINGTON, D.C. 20554

News media information 202/418-0500  
Fax-On-Demand 202/418-2830  
Internet: <http://www.fcc.gov>  
<ftp.fcc.gov>

**DA 01-1547**  
**Released: June 29, 2001**

## **OFFICE OF ENGINEERING AND TECHNOLOGY DECLARES MDS AMERICA, INC. APPLICATION FOR EXPERIMENTAL RADIO STATION LICENSE FOR STATION WC2XPU TO BE A "PERMIT-BUT-DISCLOSE" PROCEEDING FOR *EX PARTE* PURPOSES**

On April 20, 2001, MDS America, Inc. filed an application for Experimental Radio Station License (File No. 0095-EX-PL-2001) for Station WC2XPU. By its experimentation, MDS America seeks to test the "HyperCable" broadband wireless technology developed by MDS International and to demonstrate that this technology can share the 12.2-12.7 GHz band without causing harmful interference to the Direct Broadcast Satellite ("DBS") systems licensed in the band.

On May 2, 2001, the staff granted the application with conditions designed to prevent the occurrence of harmful interference. On May 21, 2001, the staff reissued the license with additional conditions further designed to prevent interference. On June 15, 2001, DirecTV, Inc. and EchoStar Satellite Corporation, DBS licensees, filed an "Emergency Petition for a Cease and Desist Order and for a Freeze Order," requesting the Commission to order Station WC2XPU to cease and desist from conducting experiments.

The issue of whether specific terrestrial wireless technology can share the 12.2-12.7 GHz band without causing harmful interference to DBS services in the band is pending in ET Docket No. 98-206. As a rulemaking proceeding, this docket has "permit-but-disclose" status under the Commission's *ex parte* rules. The same issue is also pending in the Broadwave Albany, L.L.C. *et al.* licensing proceeding, which has also been designated with "permit-but-disclose" status. *See Corrected Public Notice*, DA 99-494, released March 11, 1999. Finally, the issue is also present in the Experimental Radio Station WA2XMY licensing proceeding, which also has been designated with "permit-but-disclose" status. *See Public Notice*, DA 99-1838, released September 9, 1999. As in the case of WA2XMY, OET now concludes that in order to permit a fuller exchange on the issues under consideration by the Commission, the public interest would be served by classifying the instant experimental radio licensing proceeding as a "permit-but-disclose" proceeding for *ex parte* purposes in accordance with Section 1.1200(a) of the Commission's rules and subject to the requirements under Section 1.1206(b) of the rules.

Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects 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)(2). Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b)(2).

For further information, contact Charles Iseman, Deputy Chief, Electromagnetic Compatibility Division, OET, at (202) 418-2444.

By the Acting Chief, Office of Engineering and Technology