



PUBLIC NOTICE

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BROADBAND PCS ENTITIES AND FIXED MICROWAVE SERVICES LICENSEES REMINDED OF APRIL 4, 2005 SUNSET OF RELOCATION COST COMPENSATION AND MICROWAVE COST SHARING RULES

By this *Public Notice*, the Wireless Telecommunications Bureau (Bureau) reminds Broadband PCS entities and Fixed Microwave Services (FMS) licensees of the April 4, 2005 sunset of the relocation compensation and microwave cost-sharing rules. Pursuant to Section 101.69 *et seq.* of the Commission's rules, FMS licensees in the 1850-1990 MHz band are protected from interference caused by broadband PCS entities and broadband PCS entities are required to pay certain compensable relocation costs if FMS licensees are relocated to other bands or alternative facilities. Pursuant to Section 24.239 *et seq.* of the Commission's rules, broadband PCS entities are also required, in certain circumstances, to share the costs of relocating FMS licensees. Section 101.79 and Section 24.253 provide for a sunset date for all PCS entities of April 4, 2005, which is 10 years after the date that voluntary negotiations commenced for A and B Block broadband PCS entities.¹ Those PCS entities that are paying their portion of relocation costs on an installment basis must continue the payments until the obligation is satisfied.

Following April 4, 2005, FMS licensees in the PCS band from 1850-1990 MHz will no longer be entitled to cost compensation for relocation to other bands or alternative facilities. FMS licensees, absent an agreement with affected broadband PCS entities or an extension pursuant to Section 101.79(b) of the Commission's rules, will be required to turn in their authorizations on the later of: (i) April 5, 2005² or (ii) six months following written notice from a PCS entity that such entity intends to turn on a system within the interference range of the incumbent FMS licensee.

The Commission concluded that six months following written notice from a PCS entity is a reasonable amount of time for most incumbents to relocate their facilities, especially because they will have been on notice for ten years that they might be requested to move.³ Nevertheless, the Commission also acknowledged that special circumstances might warrant an extension of the six-month period in some

¹ The cost-sharing plan will sunset **for all PCS licensees (A, B, C, D, E and F block licensees and unlicensed PCS)** on April 4, 2005, which is ten years after the date that voluntary negotiations commenced for A and B block licensees. 47 C.F.R. § 24.253.

² PCS entities may provide notice prior to the date that the relocation rules sunset, but may not turn on their systems until April 5, 2005. For example, if a PCS licensee intends to turn on a base station which will interfere with an FMS licensee's system on April 4, 2005, the PCS licensee had to notify the FMS licensee of its intent by October 4, 2004. See Amendment to the Commission's Rules Regarding a Plan For Sharing the Costs of Microwave Relocation, WT Docket No. 95-157, *First Report and Order and Further Notice of Proposed Rule Making*, 11 FCC Rcd 8825, 8876 N. 194 (1996).

³ *Id.* at ¶ 68.

instances to enable the incumbent to complete relocation activities.⁴ Accordingly, extension requests will be accepted and reviewed on a case-by-case basis. However, pursuant to Section 101.79(b) of the Commission's rules, the Commission will grant such extensions only if the FMS licensee can demonstrate that: (1) It cannot relocate within the six-month period (*e.g.*, because no alternative spectrum or other reasonable option is available), and; (2) The public interest would be harmed if the incumbent is forced to terminate operations (*e.g.*, if public safety communications services would be disrupted).⁵ Extension requests must be filed with the Office of the Secretary. A copy of the request should be filed at 1270 Fairfield Road, Gettysburg, PA 17325 to the attention of the appropriate Division contact listed at the end of this *Public Notice*.

Broadband PCS entities also will no longer be required to file Prior Coordination Notice (PCN) data with a microwave clearinghouse for sites placed into commercial operation after April 4, 2005. PCS entities should file PCN data for sites placed into commercial operation on or before April 4, 2005 as soon as possible. The PCIA Microwave Clearinghouse has provided specific information for PCS entities and FMS licensees on the relevant filing deadlines and the shutdown procedures for the clearinghouse on its website, <http://www.pcia.com/pcia_microwave.htm>. The ITA Microwave Clearinghouse has also provided information regarding the shutdown on its website, <<http://www.ita-relay.com>>. We encourage PCS entities and FMS licensees to review the information carefully to implement an orderly shutdown on cost-sharing obligations.

For information regarding Part 101 Fixed Microwave Services (non public safety) contact Tim Hilfiger of the Broadband Division at (717) 338-2578, or via e-mail at Tim.Hilfiger@fcc.gov. For information regarding Part 101 Fixed Microwave Services (public safety) contact Mike Regiec of the Public Safety and Critical Infrastructure Division at (717) 338-2603 or via e-mail at Mike.Regiec@fcc.gov. For further information regarding Part 24 Broadband PCS contact James Brown of the Mobility Division at (717) 338-2621 or via e-mail at James.Brown@fcc.gov.

By the Chief, Wireless Telecommunications Bureau.

- FCC

⁴ *Id.*

⁵ 47 C.F.R. § 101.79(b). Extension requests should also be filed in accordance with the procedural requirements of Section 1.46(c) of the Commission's rules regarding Motions for extension of time. 47 C.F.R. § 1.46.