



PUBLIC NOTICE

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LICENSEES OF BROADBAND RADIO SERVICE CHANNELS 1 and/or 2/2A MUST FILE SUPPLEMENTAL DATA BY JULY 14, 2006

Data Will Assist in Determining Future AWS Licensees' Relocation Obligations

Licensees of Broadband Radio Service (BRS) Channels 1 and/or 2/2A¹ (Licensees) that filed site and technical data for their stations in December 2005 must file supplemental site and technical data for their stations on or before July 14, 2006. If applicable, these Licensees must also update the data they filed in December 2005 to report any changes since that time.

I. BACKGROUND

The 2150-2160/62 MHz band is allocated for fixed and mobile services and designated for Advanced Wireless Services (AWS).² AWS licensees will be obligated to relocate incumbent primary BRS operations in the 2150-2160/62 MHz band to comparable facilities, most likely within the newly restructured 2495-2690 MHz band, as set forth under the rules and policies adopted by the Commission in the *Ninth Report and Order* in ET Docket No. 00-258.³

¹ The Multipoint Distribution Service (MDS) was renamed the Broadband Radio Service (BRS) in 2004 and all former MDS licensees are now referred to as BRS licensees. Herein, references to BRS Channels 1 and/or 2/2A refer to channel numbers under the pre-transition frequency assignments. See 47 C.F.R. § 27.5(i)(1).

² See Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, ET Docket No. 00-258, *Second Report and Order*, 17 FCC Rcd 23193 (2002), *Eighth Report and Order*, *Fifth Notice of Proposed Rulemaking and Order*, 20 FCC Rcd 15866 (2005) (*2005 Commission Order*). See also Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02-353, *Report and Order*, 18 FCC Rcd 25162 (2003) *modified by Order on Reconsideration*, 20 FCC Rcd 14058 (2005).

³ See Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, ET Docket No. 00-258, *Ninth Report and Order*, FCC 06-45 at ¶ 13 (rel. April 21, 2006) (*Ninth R&O* or *2006 Commission Order*).

2005 Commission Order. In September 2005, the Commission concluded that reliable, public data on each incumbent BRS system that will be subject to relocation is essential in advance of the planned auction of the 2150-2155 MHz band.⁴ The Commission also concluded that, because the BRS service is currently licensed on the basis of geographic licensing areas, neither the Commission nor the public has reliable, up-to-date information on the construction status and/or operational parameters of each BRS system in the 2150-2160/62 MHz band that will be subject to relocation.⁵ Accordingly, the Commission ordered BRS licensees to submit information on the locations and operating characteristics of their BRS systems in the 2150-2160/62 MHz band, as well as for any constructed and operational stations of their lessees, and noted that the information required would ultimately be necessary in the context of relocation negotiations.⁶ The Commission directed and authorized the Office of Engineering and Technology (OET) and the Wireless Telecommunications Bureau (WTB) to issue public notices with the specific data that BRS licensees in the 2150-2160/62 MHz band must file along with the deadline dates and procedures for filing this data electronically in the Commission's Universal Licensing System (ULS), where it will be available to the public.

On November 30, 2005, OET and WTB released a *Public Notice (First BRS Data Collection PN)* setting forth two data collections concerning BRS licensees in the 2150 – 2160/62 MHz band.⁷ The deadline for filing the first set of information ("First Data Collection") was December 27, 2005. The deadline for filing the second set of information ("Second Data Collection") could not be set until the Office of Management and Budget (OMB) approved the new or revised information collections pursuant to the Paperwork Reduction Act of 1995, Pub.L.No. 104-13.⁸ On April 26, 2006, OMB approved the new or revised information collections contained in the Second Data Collection.⁹

2006 Commission Order. On April 21, 2006, the Commission released the *Ninth R&O* in ET Docket No. 00-258. Among other things, the Commission decided that BRS licensees with primary status in the 2150-2160/62 MHz band as of June 23, 2006, will be eligible for relocation insofar as they have facilities that are constructed and in use as of that date. After June 23, 2006, all major modifications to existing BRS systems in use in the 2150-2160/62 MHz band will be authorized on a secondary basis to AWS systems, unless the incumbent affirmatively justifies primary status and the incumbent BRS licensee establishes that the modification would not add to the relocation costs of AWS licensees.

⁴ *2005 Commission Order*, 20 FCC Rcd at 15890-91 ¶ 53 (citing 47 U.S.C. § 154(i)).

⁵ *Id.*, *2005 Commission Order*. See also 70 Fed. Reg. 61747 (Oct. 26, 2005).

⁶ *Id.* The Commission also noted that the information submitted need not be signed under oath; however, willful false statements made therein are punishable by fine and imprisonment, and by appropriate administrative sanctions, including revocation of a station's license. See *id.* at n.139 (citing 47 C.F.R. § 1.917(c)).

⁷ Licensees of Broadband Radio Service Channels 1 and/or 2/2A Must File Site and Technical Data by December 27, 2005, *Public Notice*, DA 05-3126, 20 FCC Rcd 19273 (OET&WTB 2005) (*First BRS Data Collection PN*).

⁸ See *2005 Commission Order*, 20 FCC Rcd at 15890-91, 15893 ¶¶ 53, 66.

⁹ The new or revised information collections contained in the Second Data Collection were approved by OMB on April 26, 2006, see OMB Control No. 3060-1090, and the Commission published a document in the *Federal Register* announcing this approval at 71 Fed Reg. 27498 (May 11, 2006).

Do not confuse “major modifications” after June 23, 2006, under the eligibility rule¹⁰ with “major” and “minor” classifications under the application rules.¹¹

The Commission noted that, in response to the request for information in the *2005 Commission Order* (implemented in the *First BRS Data Collection PN*), sixty-nine BRS licensees provided information on 127 stations.¹² Based on the information collected, the text of the *First BRS Data Collection PN*, and other record data, the Commission concluded that BRS licensees who did not file under the mandatory data collection requirements contained in the *First BRS Data Collection PN*, and who subsequently claim that they are entitled to relocation or reimbursement, have the burden to demonstrate to an AWS entrant that they meet the relocation eligibility requirements provided in the *2006 Commission Order*.¹³

II. REQUIRED ACTIONS

On or before July 14, 2006, BRS Channels 1 and/or 2/2A Licensees (“you”) must do the following:

- Amend each of your pending applications electronically on ULS to submit (upload) an attachment with the data required for the Second Data Collection.
- Review all information contained in each of your applications (filed in December 2005 for the First Data Collection), including all information that may have been automatically entered, to confirm that each application is complete and accurate as of June 23, 2006.

¹⁰ See 47 C.F.R. § 27.1254 (Eligibility). For purposes of this eligibility rule, major modifications include the following: (1) additions of new transmit sites or base stations made after June 23, 2006; (2) changes to existing facilities made after June 23, 2006, that would increase the size or coverage of the service area, or interference potential, and that would also increase the throughput of an existing system (e.g., sector splits in the antenna system). Modifications to fully utilize the existing throughput of existing facilities (e.g., to add customers) will not be considered major modifications even if such changes increase the size or coverage of the service area, or interference potential. *Id.*

¹¹ Under 47 C.F.R. §§ 1.901-1.959 (Wireless Telecommunications Services Applications and Procedures), licensees may make minor modifications to station authorizations, as defined in § 1.929 (other than *pro forma* transfers and assignments), as a matter of right without prior Commission approval. Where other rule parts permit licensees to make permissive changes to technical parameters without notifying the Commission (e.g., adding, modifying, or deleting internal sites), no notification is required. For all other types of minor modifications (e.g., name, address, point of contact changes), licensees must notify the Commission by filing FCC Form 601 within thirty (30) days of implementing any such changes. See 47 C.F.R. § 1.947 (Modification of licenses).

¹² See *Ninth R&O* at ¶ 13. Although the licensing records indicate there are approximately 565 active BRS licenses in the 2150-2160/62 MHz band, the Commission noted that licensees that did not have constructed and/or operational facilities were not required to file system information in response to the *2005 Commission Order*. See *2006 Commission Order* at n.40.

¹³ See *Ninth R&O* at n.40. The Commission added that an AWS entrant that does not engage in relocation negotiations with such BRS licensees, absent this showing, is not subject to a claim that it is failing to act in good faith. *Id.*

- If necessary, update the data that you reported in December 2005, for the First Data Collection, so that each of your amended applications is accurate and complete as of June 23, 2006.¹⁴ You do not have to provide the coordinates for any subscriber/customer premises equipment.
- If you determine that no changes are needed for each of your applications to be complete and accurate as of June 23, 2006, then just submit an attachment to each application with the data required for the Second Data Collection. Keep in mind that you must electronically re-sign and certify the accuracy of your complete application, as amended, as of June 23, 2006.
- These amendments will be treated as minor amendments that do not require payment of a fee if the requested information is submitted without making additional changes to the license.

A. Initiate Amendment

Take the following steps to initiate the electronic filing of an amended application on ULS:

- 1) Access the ULS homepage at <http://wireless.fcc.gov/uls> and click on Online Filing.
- 2) Enter the FRN and CORES password of the licensee and click Submit.
- 3) If you have saved applications, you will be taken to a page titled “My Applications.” From this page you should click on My Applications and then Pending Applications.
- 4) Select the file number of the application to be amended.
- 5) Select Update from the right side of the “Application at a Glance” screen.

At this point, begin entering information onto the amended application. ULS will take you through a series of screens that collect FCC Form 601 information and you will need to continue through many of the screens to get to a point where you may submit your amended application. The application information is carried over to the amended application and you do not have to reenter information, unless the information is changing. Certain fields and questions collected on the FCC Form 601 Main Form, Schedule D, and Schedule E must be completed or ULS edits will not allow you to continue to the next screen. ULS will display a message if a required field is left blank and you will be given the opportunity to go back to the screen and complete the required fields.

B. Second Data Collection

In order to determine the extent and scope of operations in the 2150 – 2160/2162 MHz band, additional information beyond that collected on the FCC Form 601 for these services is required. Because this information is not normally collected on ULS, you will need to submit the information as an attachment to each pending application.

¹⁴ Applicants must ensure the continuing accuracy and completeness of information furnished in a pending application. See 47 C.F.R. § 1.65. During the First Data Collection, licensees reported certain site and technical data by filing applications to modify their geographic-area licenses. These applications, which had to be filed by December 27, 2005, remain pending.

**To ensure that ULS correctly identifies and processes your amended application(s),
select Attachment Type: “BRS Channel 1, 2, 2A Notification”**

On the Application Information screen, select “Yes” in response to the question “Is an attachment being filed with this application?” Upload the attachment at any time during the filing process following these steps:

- Click on the Attachment link, which is listed at the top of every online filing page. Select the newly created Attachment Type called “BRS Channel 1, 2, 2A Notification” – and upload your attachment using this Attachment Type.
- Be sure to select Attachment Type “BRS Channel 1, 2, 2A Notification” when attaching your file. Failure to use this Attachment Type may result in the automated rejection of the application or a charge of an application fee.

You must include the following information on the attachment (for each operational station in the 2150-2160/62 MHz band as of June 23, 2006).

- 1) The ULS location number of the station transmitting on frequencies in the 2150-2160/62 MHz band. The location number can be found on the “Site Specific Technical Summary” screen.
- 2) Category of service (*e.g.*, one-way or two-way; fixed point-to-point, fixed point-to-multipoint, base-to-mobile).
- 3) For each station reported, the following receiver information.
 - a) For a fixed point-to-point transmitter: the receiver coordinates, elevation and the receive antenna’s make, model, beamwidth, gain, azimuth, and height to center above ground level. (Note: You do not have to provide the receiver coordinates for any subscriber/customer premises equipment.)
 - b) For a mobile or portable transmitter: the receiver elevation, covered service area, and each receive antenna’s make, model, beamwidth, gain, and height to center above ground.
 - c) For a fixed point-to-multipoint or base-to-mobile transmitter: the approximate coverage area and type of receiving equipment. If separate receive antennas are used, include the receive antenna’s make, model, beamwidth, and gain.
- 4) Operational status of the station, including whether the station is providing service to customers or students.
- 5) Type of equipment used by subscribers associated with this station (*e.g.* handheld device, fixed customer premises equipment).
- 6) Number of subscribers associated with the station as of June 23, 2006.
- 7) The type of application being provided (*e.g.*, video, broadband data, backhaul).

- 8) For fixed point-to-multipoint systems: the number of links associated with the station.
- Licensees should also note in their attachment if both BRS Channels 1 and 2/2A are used as part of the same service (*e.g.*, as a link to a two-way data service).

C. Make any necessary updates to the data reported in December 2005

If applicable, you must update the data filed in December 2005 to report any technical changes since that time so that the data is accurate and complete as of June 23, 2006. In order to update technical information, you should update and continue through the application screens until you get to a screen titled "Site Specific Technical Data Summary." From this screen, you have the option to either add technical information for a new station by selecting Add Location or modify the technical information for any existing stations by selecting the location to be modified. If all information on the locations is accurate, there is no need to update the individual stations. You may click Continue and proceed with submittal of the application with the supplemental data.

Facilities that require individual licenses. Licensees are cautioned that adding or changing a facility that requires an individual license or changing the technical parameters of a facility that is already individually licensed¹⁵ may cause the filing to be treated as a "major" modification under the application processing rules, as discussed in the box at the top of page three, and require payment of a fee.¹⁶

D. Submit Amended Application

When the Second Data Collection is attached and all information for the individual locations (as of June 23, 2006) is entered, click Continue to proceed through the screens to the "Summary" screen. If the system detects any errors, a message will be displayed on this screen that directs the licensee to go back to the relevant section of the application and correct the errors. When all errors are corrected, click Continue to Certify from the "Summary" screen. You must sign the amended application and click Submit Application to complete filing. Upon successful submittal, the licensee will receive a confirmation.

III. FURTHER INFORMATION

For additional ULS information or assistance, go to <http://esupport.fcc.gov>. You may also call the FCC Support Center at (877) 480-3201 (TTY 202-414-1255) and select Option #2, Forms or Licensing Assistance. Hours are from 8:00 a.m. to 7:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all Telephone calls are recorded. For questions about the collection of information, contact Mary Shultz, WTB, at (717) 338-2656. For questions about the underlying Commission *Orders*, contact Jamison Prime, OET, at (202) 418-7474. An FCC notice required by the Paperwork Reduction Act of 1995 is attached.

By the Deputy Chief, Office of Engineering and Technology

By the Acting Chief, Wireless Telecommunications Bureau

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¹⁵ See 47 C.F.R. §§ 27.1207(b), 27.1209(b).

¹⁶ Physical modifications made after June 23, 2006 to existing BAS facilities may also affect a licensee's eligibility for relocation. See *2006 Commission Order*.

ATTACHMENT

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995

The total annual reporting burden for this information collection including the time for gathering and maintaining the collection of information, is estimated to be 0.5 hours to 1.25 hours. If you have any comments on these burden estimates, or how we can improve the collection and reduce any burdens it causes you, please send an email to the Federal Communications Commission, PRA@fcc.gov. Please include the appropriate OMB Control Number (see below) in your correspondence.

Under 5 C.F.R. § 1320, you are not required to respond to a collection of information by the Federal government, and the government may not conduct or sponsor a collection of information unless it displays a current valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB Control Number or if we fail to provide you with this notice.

- The First Data Collection discussed in the instant *Public Notice* has been assigned OMB control number 3060-0798.
- The Second Data Collection discussed in the instant *Public Notice* has been assigned OMB control number 3060-1090.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. § 3507.