

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Commercial Spectrum)	
Enhancement Act and Modernization of the)	WT Docket No. 05-211
Commission's Competitive Bidding Rules and)	
Procedures)	

MEMORANDUM OPINION AND ORDER

Adopted: June 16, 2006

Released: June 16, 2006

By the Acting Chief, Wireless Telecommunications Bureau:

1. In this order, the Wireless Telecommunications Bureau (Bureau) clarifies, on its own motion, how certain application and reporting requirements adopted by the Commission in the *Second Report and Order* in this proceeding¹ will be implemented.

2. Section 1.913(a)(6) requires designated entities to use new FCC Form 609 (Wireless Telecommunications Bureau Application to Report Eligibility Event) to seek advance Commission approval of "reportable eligibility events," as defined in section 1.2114.² Section 1.913(b) requires electronic filing of FCC Form 609 via the Commission's Universal Licensing System (ULS). In addition, section 1.2110(n) requires designated entities to report certain information annually.³ Lastly, section 1.919(b)(5) requires that any applicant or licensee that is subject to the reporting requirements of section 1.2112 (ownership disclosure requirements for applications) or section 1.2114 (reporting of eligibility events) to file a FCC Form 602 (FCC Ownership Disclosure Information for the Wireless Telecommunications Services), or file an updated form if the information on a previously filed FCC Form 602 is not current, at the time it submits FCC Form 609.

¹ Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures, *Second Report and Order and Second Further Notice of Proposed Rule Making*, FCC 06-52, 21 FCC Rcd 4753 (2006) ("*Second Report and Order*"), *Erratum and Notice of Office of Management and Budget Approval of Information Collections*, DA 06-1280 (rel. June 16, 2006), *Order on Reconsideration of the Second Report and Order*, FCC 06-78 (rel. June 2, 2006) ("*Order on Reconsideration*"). A summary of the *Second Report and Order* was published in the Federal Register on May 4, 2006. See 72 Fed. Reg. 26,245 (May 4, 2006).

² A reportable eligibility event includes any event that might affect a designated entity's ongoing eligibility, under either the Commission's material relationship or controlling interest standards. See *Order on Reconsideration* at ¶42.

³ At a minimum, these reports must include a list and summaries of all agreements and arrangements (including proposed agreements and arrangements) that relate to eligibility for designated entity benefits. In addition, this list must include the parties (including affiliates, controlling interests, and affiliates of controlling interests) to each agreement or arrangement, as well as the dates on which the parties entered into each agreement or arrangement. See *Second Report and Order* at ¶47.

3. In order to implement the application and annual reporting requirements of sections 1.2114 and 1.2110(n), the Commission must receive approval from the Office of Management and Budget (OMB), under the Paperwork Reduction Act (PRA) of 1995,⁴ for the new FCC Form 609 and the collection of information in the annual reports. In addition, the Commission must obtain OMB PRA approval to implement the section 1.919(b)(5) requirement to file or update FCC Form 602 when an applicant or licensee submits FCC Form 609 reporting an eligibility event. The Commission also must implement extensive changes to ULS.

4. The Commission delegated authority to the Bureau to prescribe procedures for the implementation of the FCC Form 609 application and to determine the content of, and filing procedures for, the annual reports, as well as to modify ULS and create new forms if necessary.⁵ The Bureau therefore is developing an interim process for the filing of the information required by FCC Form 609, as well as the information required in the annual reports.⁶ The interim filing process will permit parties to satisfy their obligations under the Commission's newly adopted rules, while enabling the Bureau to design the FCC Form 609, finalize the annual reporting requirements, and implement necessary changes to ULS. We find that instituting an interim process serves the public interest by facilitating compliance with the application and reporting requirements adopted by the Commission in the *Second Report and Order* at the earliest possible date.

5. In order to permit designated entity licensees to seek advance Commission approval for reportable eligibility events and to file annual reports, on an interim basis, the Commission will submit a temporary FCC Form 609-T (Wireless Telecommunications Bureau Application to Report Eligibility Event) and a temporary FCC Form 611-T (Wireless Telecommunications Bureau Annual Report Related to Eligibility for Designated Entity Benefits) to OMB for approval. The Commission will also seek OMB approval to modify the FCC Form 602 instructions to implement the section 1.919(b)(5) requirement to file or update FCC Form 602 when an applicant or licensee submits FCC Form 609 (or, in the interim, FCC Form 609-T), reporting an eligibility event as defined in section 1.2114. Once OMB approves the interim information collections, the Bureau will release a public notice announcing the availability of the interim forms, as well as the steps necessary to submit applications and reports during the interim period. Accordingly, until the Commission announces the effective date of the interim filing process for reportable eligibility event applications and annual reports, designated entity licensees will not be required to file to obtain advance Commission approval of reportable eligibility events or file annual reports.⁷

6. We remind interested parties that certain rules adopted in *Second Report and Order*, including the rules regarding "impermissible material relationships" and "attributable material relationships" specified in sections 1.2110(b)(3)(iv)(A) and (B), became effective June 5, 2006. Parties therefore are subject to these rules and the Commission has authority under the Communications Act and applicable law to enforce compliance.

⁴ See Public Law 104-13.

⁵ See *Second Report and Order* at ¶¶46, 48 & 105.

⁶ The Commission will submit these requirements to OMB for emergency approval. The interim filing process will be available promptly upon receipt of OMB's approval of the requirements. The Bureau will advise the public when the interim filing process is available.

⁷ The Bureau will release a public notice to announce the effective date of the interim process. The Bureau will also release a public notice when it receives PRA approval from OMB for the FCC Form 609 and the FCC Form 611 and the ULS updates have been completed. This public notice will specify the date on which the interim process will be terminated and the date that the public should begin to use the new FCC Form 609 and new FCC Form 611.

7. This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331, paragraphs 46, 48 and 105 of the *Second Report and Order*,⁸ and paragraph 42 of the *Order on Reconsideration*.⁹

FEDERAL COMMUNICATIONS COMMISSION

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⁸ *Second Report and Order* at ¶¶46, 48 & 105.

⁹ *Order on Reconsideration* at ¶42.