



PUBLIC NOTICE

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THE WIRELESS TELECOMMUNICATIONS BUREAU ANNOUNCES FCC FORM 608 IS AVAILABLE FOR FILING SPECTRUM LEASING NOTIFICATIONS AND APPLICATIONS AND PRIVATE COMMONS ARRANGEMENTS

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) announces changes to the Federal Communications Commission's (FCC or Commission) Universal Licensing System (ULS) to implement FCC Form 608, Wireless Telecommunications Bureau Application or Notification for Spectrum Leasing Arrangement or Private Commons Arrangement (Form 608), which will be used for the filing of spectrum leasing and private commons arrangements effective August 28, 2006. The Bureau also announces that certain Commission rules and policies regarding spectrum leasing and private commons arrangements will take effect with the release of Form 608.

Background and Overview

On July 8, 2004, the Commission adopted a *Second Report and Order*¹ in its *Secondary Markets* proceeding that, among other things:

- 1) created a new form (Form 608) for spectrum leasing and private commons arrangements;
- 2) further streamlined the processing of certain long-term *de facto* transfer leases by providing for immediate processing of applications where the parties certify that the proposed transaction meets specific criteria indicating the absence of potential public interest concerns relating to eligibility, use restrictions, foreign ownership, designated entity policies, and competition;
- 3) further streamlined the processing of short-term *de facto* transfer leases by replacing the Special Temporary Authority (STA) procedures with immediate approval procedures that are similar to long-term *de facto* transfer leases;
- 4) further streamlined the processing of certain spectrum manager leases that do not raise public interest concerns consistent with *de facto* transfer leases; and

¹ See generally Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, *Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking*, 19 FCC Rcd 17503 (2004) (*Second Report and Order*).

5) created a new type of secondary market arrangement for both licensed and leased spectrum called a “private commons.”

In the *Second Report and Order*, the Commission stated that the Form 608 shall be used for spectrum leasing and private commons arrangements.² The Commission also delegated authority to the Bureau to make the necessary software changes to ULS in order to implement the new immediate approval procedures outlined above and further indicated that the Bureau would release a public notice advising the public once these procedures have been implemented and are available to the public.³ **By this public notice, the Bureau announces the availability of Form 608 and that the changes necessary to implement the immediate approval procedures described above will be effective as of August 28, 2006.**

Replacing FCC Form 603-T with Form 608

With the deployment of Form 608, FCC Form 603-T will become obsolete and will not be accepted as of August 28, 2006.

Submitting Form 608 Filings via ULS

The new online filing module for the Form 608 is launched from within the existing License Manager application of the ULS (<http://wireless.fcc.gov/uls>) to support electronic filing for the following purposes:

- New Lease
- Transfer of Control of a Lessee
- Extend Term of a Lease
- Cancel a Lease
- Administrative Update of a Lease
- Modification of a Lease

Once logged in to ULS License Manager, users will see several changes as a result of the implementation of Form 608.

On the *My Licenses* screen, two new links have been added:

- 1) The Lease Spectrum link initiates the application wizard for filing new leases; and
- 2) The My Leases link provides an environment for managing existing leases.
 - The *My Leases* page works similar to the *My Licenses* page already present in ULS. Users can access links directly on the page to initiate the application wizards for submitting Transfer of Control of a Lessee, Extend Term of a Lease, Cancel a Lease, Administrative Update of a Lease, and Modification of a Lease.
 - Also like *My Licenses*, existing leases are displayed in the center of the page, and by clicking on a Lease ID, users access the *Lease at a Glance* screen. *Lease at a Glance*, based on the existing *License at a Glance* screen, displays basic information about the lease and also contains a link to view the complete lease record. Depending on the status of the logged-in user and the classification of the lease, the logged-in party is able to perform actions on the lease.

² Previously, FCC Form 603-T was created as an interim form to allow parties to submit spectrum leasing filings while a permanent leasing form was being developed. See Wireless Telecommunications Bureau Announces FCC Form 603-T Is Available and Provides Guidance Regarding the Interim Process for Filing Spectrum Leasing Notifications and Applications, *Public Notice*, DA 04-252 (rel. Feb. 2, 2004).

³ *Second Report and Order*, 19 FCC Rcd at 261.

- *My Leases* also contains a search function called *Find My Leases*, which allows users to search their leases based on the Lease ID.

Under *My Applications* the user can access *Leases*, which facilitates multi-party filing by allowing second- or third- parties to complete the application. The first party in a multi-party application is able to access the next step in its part of filing process only after the second party and/or third party has completed its portion of the form by selecting *Saved* on the *My Applications* page. For more details on the parties responsible for completing, certifying, and submitting filings, see Attachment A or the Spectrum Leasing web page at <http://wireless.fcc.gov/licensing/spectrumleasing/>.

Alternatives for Submitting Certain Types of Filings

Assignment of a Lease: The Commission’s rules provide for a spectrum lessee to assign its spectrum lease to another party, provided that the licensee agrees to such an assignment and is in privity with the prospective lessee.⁴ A filing purpose of “Assignment of a Lease” does not exist on the Form 608. In order to file for an assignment of a lease, a new lease filing must be submitted between the licensee and prospective lessee. If the new lease filing is granted (if *de facto* transfer) or accepted (if spectrum manager), then the previous lease should be cancelled by the licensee.

Conversion of a Short-Term *De Facto* Transfer Lease to a Long-Term *De Facto* Transfer Lease: The Commission’s rules provide for a short-term *de facto* transfer lease to be converted to a long-term *de facto* transfer lease provided that the rules and policies for a long-term *de facto* transfer lease are met.⁵ A filing purpose of “Conversion of a Short-Term *de facto* Transfer Lease” does not exist on the Form 608. In order to convert a short-term *de facto* transfer lease to a long-term *de facto* transfer lease, a new lease filing must be submitted. If the new lease filing is granted, then the short-term *de facto* transfer lease should be cancelled by the licensee.

Leases that Never Commenced: The Commission’s rules provide that a licensee must notify the Commission if a lease never commenced.⁶ A filing purpose of “Never Commenced” does not exist on the Form 608. In order to notify the Commission that a lease never commenced, a cancellation notification must be submitted in the same manner as a lease that was effective and cancelled prior to the expiration date. The online Cancel a Lease application contains a checkbox for the applicant to indicate the lease never commenced as opposed to a cancellation of an effective lease.

Filings that Must be Submitted Manually

At this time, filings involving subleases and private commons arrangements cannot be submitted electronically via ULS and must be filed on the paper version of Form 608 and submitted manually to the FCC.⁷ If, at a later date, it is determined that electronic filing for subleases and/or private commons arrangements is needed, the Bureau will issue a public notice regarding when it would become available.

⁴ 47 C.F.R. §§ 1.9020(i), 1.9030(h).

⁵ 47 C.F.R. § 1.9035(i).

⁶ 47 C.F.R. §§ 1.9020(h)(3), 1.9030(g)(3).

⁷ For additional information on where to submit manual filings, see the instructions for Form 608 (<http://www.fcc.gov/Forms/Form608/608.pdf>) or the WTB’s Fee Filing Guide <http://wireless.fcc.gov/feesforms/feeguide/index.html>.

If the filing is for a Sublease (all purposes - New, Modification, Administrative Update, Cancel, Extend Term, or Transfer of Control of a Sublessee), the application will be scanned and attached to the Lease Record under the "Attachments" heading on the "Admin" Tab.

If the filing is for a Private Commons Arrangement of a License (all purposes - New, Modification, Extend or Cancel), the application will be scanned and attached to the License Record under the "Attachments" heading on the "Admin" Tab.

If the filing is for a Private Commons Arrangement of a Lease or a Sublease (all purposes - New, Modification, Extend or Cancel), the application will be scanned and attached to the Lease Record under the "Attachments" heading on the "Admin" Tab.

Absent a waiver of the Commission's rules, certain applicants and licensees must submit Form 608 electronically via ULS.⁸ In order to allow all subleases and private commons arrangements to be submitted manually, the Bureau, pursuant to delegated authority, waives section 1.913(b), on its own motion, until such time as electronic filing becomes available for subleases and private commons arrangements.⁹ The Bureau reminds parties that are subject to the mandatory electronic filing provisions of section 1.913(b) of the Commission's rules that all other Form 608 filings must be submitted electronically via ULS.

Converting Pending FCC Form 603-T Filings and Existing Leases

Pending FCC Form 603-T filings and active leases will be converted to the new spectrum leasing format available for searching in ULS. While the Bureau is converting active leases and pending filings, all other FCC Form 603-T filings will remain searchable as 603-T applications and notifications.

After conversion, additional lease application purposes, including Transfer of Control of a Lessee, Extend Term of a Lease, Administrative Update of a Lease and Cancellation of a Lease, can be filed electronically with respect to active leases that were converted. Upon conversion of an already existing lease, the licensee and lessee will receive a new Lease Arrangement Letter for the converted lease. This letter will not indicate that the lease was converted, but will give the licensee and lessee a new Lease ID, as described below.

Leases that are active as of August 25, 2006 will be issued a new Lease ID consisting of the letter "L" followed by a 9-digit number. For example, a lease that was granted on January 1, 2005, with a Lease ID of ABC123-L1 and an expiration date of January 1, 2008, will be issued a new Lease ID consisting of the letter "L" followed by a 9-digit number. However, a lease that was granted on January 1, 2005, with a Lease ID of XYZ789-L1 and an expiration date of January 1, 2006, will not be issued a new Lease ID because the lease is expired. In the example of the expired lease, the original Lease Arrangement Letter will continue to be located under the "Admin" tab of the underlying call sign from which spectrum was leased. The leases that have been converted will be viewable in ULS License Search. For additional information on how to search for spectrum leases, see Updates to ULS Search Interfaces below.

Updates to ULS Search Interfaces

Secondary Markets Application Search

⁸ 47 C.F.R. § 1.913(b).

⁹ 47 C.F.R. § 0.331, 1.925.

As part of incorporating leases into ULS, the Commission has implemented a specialized search for secondary markets-related applications. The Secondary Markets Search is an expansion of the former Assignments and Transfers Search and enables users to specify search criteria related to assignment, transfer, and lease applications. To accommodate leases, this search has been modified with additional lease-specific fields.

License Search

License Search has been changed to automatically allow users to see leases in their search results. Leases shown in the search result will be visibly distinct from licenses because the lease identifier begins with a letter “L” followed by 9 digits. To further identify leases, license records that have leases associated with that license will have an “L” icon next to the call sign. Users can exclude leases from their results by using the Advanced License Search and choosing the “Exclude Leases” check box.

Specialized Lease Search

ULS has been enhanced with a specialized search for leases, which is available from the license search home page. This specialized search provides lease-specific search fields and a refined search result that includes only lease data.

Query Download and Public Access

ULS License Search and Application Search will provide Query Download for the new Form 608 data. Query Download allows users to save the results of an application or license search as a single pipe-delimited text file, which can then be imported into spreadsheet software such as Excel. This feature is available from the ULS Application Search and License Search results pages. Form 608 data will also be included in Public Access after the launch of the form. Public Access database files are available for download from the Databases page: <http://wireless.fcc.gov/cgi-bin/wtb-datadump.pl> and the Daily Transaction Files page: <http://wireless.fcc.gov/cgi-bin/wtb-transactions.pl>.

Viewing Spectrum Leases in ULS

Previously, when an FCC Form 603-T application was processed for a new lease, a Lease Arrangement Letter was created for each call sign listed on the application and included a unique Lease ID. The Lease Arrangement Letter was sent to both the licensee and lessee. The only information available in ULS regarding a specific spectrum lease was through the Lease Arrangement Letter, which was located under the “Admin” tab of the underlying call sign for which spectrum was leased and which had to be downloaded.

While a Lease Arrangement Letter will continue to be sent to both the licensee and lessee once the Form 608 is deployed, spectrum leases will now be viewable in ULS in a user-friendly manner similar to that used currently for licenses. A new “Lease” tab will be displayed on any license that contains one or more spectrum leases. By clicking on the “Lease” tab, more detailed information about each spectrum lease can be found. Each spectrum lease in ULS will consist of a “Main” tab, which will include information such as the type of lease, term of the lease, and name of the lessee, and an “Admin” tab, which will consist of information such as comments, special conditions, and related applications associated with the spectrum lease. There will also be other tabs, such as a “Market” tab or “Locations” tab, depending on the radio service in which the spectrum is being leased.

Geographic Information Systems (GIS) Mapping

GeoSearch and Mapping functions are currently not available for Form 608 filings. It is envisioned that these features would be made available as a future enhancement to ULS.

Application and Notification Processing

The Bureau's application approval process called Immediate Approval Procedures (IAP) and General Approval Procedures (GAP) currently used for transfers and assignments filed with FCC Form 603 will be used for certain Form 608 applications.

When spectrum leasing applications or notifications for new leases are granted (or accepted, based on the processing procedures), both the licensee and the lessee will receive a Lease Arrangement Letter from the Commission. However, no Lease Arrangement Letter will be sent for cancellations or transfers of control of a lessee.

Additional Information

For additional information or assistance, you may visit the Web at <http://esupport.fcc.gov>. You may also call the FCC Support Center at (877) 480-3201 (TTY 717-338-2824) and select Option #2, Forms or Licensing Assistance. Hours are from 8 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.