



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
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## MODIFICATION OF *EX PARTE* STATUS APPLICATION FILED BY OP LLC, LICENSEE OF WPYQ831

File No. 0002271317

By this Public Notice, the Wireless Telecommunications Bureau announces that, effective today, presentations in the above captioned proceeding are subject to the “permit-but-disclose” requirements set forth in Section 1.1206 of the Commission's *ex parte* rules.<sup>1</sup>

On August 9, 2005, OP LLC filed an application and related request seeking waiver of Section 27.50(f)(1),<sup>2</sup> which specifies a peak 2 kW Equivalent Isotropically Radiated Power (EIRP) limit for fixed and base station operations in the 1670-1675 MHz band.<sup>3</sup> OP LLC's application and waiver request are restricted for *ex parte* purposes under Section 1.1208.<sup>4</sup> On November 2, 2006, Aloha Partners, L.P. filed an Informal Request for Commission Action under Section 1.41,<sup>5</sup> in which it opposes grant of OP LLC's application unless the Commission concurrently increases power limits for licensees in the 700 MHz and several other bands in WT Docket No. 03-264.<sup>6</sup>

WT Docket No. 03-264 is a pending permit-but-disclose rulemaking proceeding, in which the Commission has requested comment on, *inter alia*, the possibility of increasing power limits for certain spectrum bands, including the 1670-1675 MHz band.<sup>7</sup> Thus, related technical, legal, and policy issues are raised in WT Docket No. 03-264 and OP LLC's application. We seek to reduce possible confusion and ensure that consistent *ex parte* rules apply in these two proceedings. We find that, consistent with Note 2 to Section 1.1208 and Section 1.1200(a), the public interest would be served by modifying the *ex parte*

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<sup>1</sup> 47 C.F.R. § 1.1206.

<sup>2</sup> 47 C.F.R. § 27.50(f)(1).

<sup>3</sup> See “OP LLC, Licensee of WPYQ831, Request for Waiver, Statement in Support of Request of OP LLC and Crown Castle International Corp. for Waiver of Section 27.50 (f)(1) of the Commission's Rules,” ULS Application File No. 0002271317.

<sup>4</sup> 47 C.F.R. § 1.1208.

<sup>5</sup> 47 C.F.R. § 1.41.

<sup>6</sup> Letter dated November 2, 2006, from Thomas Gutierrez, Counsel to Aloha Partners, L.P., to Marlene H. Dortch, Secretary, Federal Communications Commission, File No. 0002271317.

<sup>7</sup> See Biennial Regulatory Review—Amendment of Parts 1, 22, 24, 27 and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket No. 03-264, *Report and Order and Further Notice of Proposed Rulemaking*, 20 FCC Rcd 13900, 13925 ¶ 54 (2005).

status of the OP LLC application proceeding to conform it to the permit-but-disclose status of WT Docket No. 03-264.<sup>8</sup> Accordingly, we hereby redesignate the OP LLC application and related waiver request as “permit-but-disclose” under Section 1.1206.<sup>9</sup>

Parties making oral *ex parte* presentations in these proceedings are reminded that memoranda summarizing the presentation must contain the presentation’s substance and not merely list the subjects discussed.<sup>10</sup> More than a one- or two-sentence description of the views and arguments presented is generally required.<sup>11</sup>

Alternate formats of this public notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or send an e-mail to [access@fcc.gov](mailto:access@fcc.gov).

For questions regarding this public notice, please contact Richard Arsenault, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-0920.

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<sup>8</sup> Note 2 to Section 1.1208 provides that, pursuant to Section “1.1200(a), the Commission or its staff may determine that a restricted proceeding not designated for hearing involves primarily issues of broadly applicable policy rather than the rights and responsibilities of specific parties and specify that the proceeding will be conducted in accordance with the provisions of § 1.1206 governing permit-but-disclose proceedings.” 47 C.F.R. § 1.1208, Note 2. Section 1.1200(a), in turn, provides, that “[w]here the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice.” 47 C.F.R. § 1.1200(a).

<sup>9</sup> 47 C.F.R. § 1.1206.

<sup>10</sup> See “Commission Emphasizes the Public’s Responsibilities in Permit-But-Disclose Proceedings,” *Public Notice*, 15 FCC Rcd 19945 (2000).

<sup>11</sup> 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) as well. *Id.* § 1.1206(b).