



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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DA 06-2589

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MODIFICATION OF *EX PARTE* STATUS

WT Docket No. 05-7

File Nos. 0002720030, 0002786879, 0002786917, 0002786920, 0002786925, 0002786933, 0002786940, 0002786969, 0002786981, 0002786987, 0002827513, and 0002851157

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

On October 13, 2006, the Commission released an order in WT Docket No. 05-7, granting in part and denying in part a request for declaratory ruling filed by QUALCOMM Incorporated (Qualcomm) regarding the interference protection requirements applicable to the 700 MHz Band.² Specifically, the Commission declared that Office of Engineering and Technology Bulletin No. 69 (OET-69), with certain modifications, is an acceptable methodology for making alternative showings for Qualcomm's MediaFLO system pursuant to the Section 27.60(b)(1)(iii) provision for demonstrating compliance with incumbent broadcaster protection requirements.³ The Commission, however, declined to establish through declaratory ruling a *de minimis* exception to the Section 27.60 interference protection criteria. Rather, it found it “in the public interest to grant a waiver to Qualcomm providing a measured approach towards the requested *de minimis* interference exception, whereby the percentage of permissible interference incrementally increases each year from the release of this order until the end of the DTV transition.”⁴ On November 13, 2006, The Association for Maximum Service Television, Inc. (MSTV) filed a Petition for Reconsideration and/or Clarification of the *Qualcomm Order* (MSTV Petition).⁵

WT Docket 05-7 originally commenced as a declaratory ruling proceeding, subject to the Commission's permit-but-disclose *ex parte* rules.⁶ In the *Qualcomm Order*, however, the Commission acted through

¹ 47 C.F.R. § 1.1206.

² In The Matter of Qualcomm Incorporated Petition for Declaratory Ruling, *Order*, WT Docket No. 05-7, FCC 06-155 (rel. Oct. 13, 2006) (*Qualcomm Order*).

³ *Id.*

⁴ *Id.*

⁵ On November 22, 2006, Pappas Southern California License, LLC filed comments in support of the MSTV Petition.

⁶ 47 C.F.R. § 1.1206.

both its declaratory ruling and waiver authority. All waiver proceedings (except those relating to tariff filings) are “restricted” under the *ex parte* rules.⁷ And the Commission’s grant of a waiver to Qualcomm is contested as a result of the MSTV Petition.

In addition, Qualcomm has filed the 12 applications identified above, seeking operating authority predicated, at least in part, on determinations made in the *Qualcomm Order*. Applications for authority under Title III of the Communications Act are “restricted” under the *ex parte* rules.⁸ Each of the 12 applications is thus far uncontested, however, and Qualcomm therefore could make presentations to staff without having to serve or notice any third party consistent with Note 1 to Section 1.1208.⁹ WT Docket 05-7 and the 12 applications have technical, legal, and policy issues in common, yet are currently subject to divergent disclosure requirements under the Commission’s *ex parte* rules. We seek to reduce possible confusion and ensure that consistent and transparent *ex parte* rules apply in these proceedings. We find that the public interest would be served by modifying the *ex parte* status of each proceeding to permit-but-disclose status, thereby ensuring uniform treatment under the Commission’s *ex parte* rules. Accordingly, we hereby redesignate WT Docket 05-7 and the 12 applications identified above as “permit-but-disclose” under Section 1.1206(b).¹⁰

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.¹¹ More than a one- or two-sentence description of the views and arguments presented is generally required.¹²

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.

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

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⁷ 47 C.F.R. § 1.1208.

⁸ *Id.*

⁹ *Id.*, note 1.

¹⁰ 47 C.F.R. § 1.1206(b).

¹¹ See “Commission Emphasizes the Public’s Responsibilities in Permit-But-Disclose Proceedings,” *Public Notice*, 15 FCC Rcd 19945 (2000).

¹² 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).