



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU SPECIFIES REQUIREMENTS FOR AIR-GROUND RADIOTELEPHONE SERVICE SPECTRUM SHARING AND SITE SELECTION PLAN

Pursuant to the *Air-Ground Order* and by this Public Notice, the Wireless Telecommunications Bureau (Bureau) hereby specifies the requirements for the spectrum sharing and site selection plan (Spectrum Sharing Plan) that must be filed with the Bureau if licenses A and B are awarded in the auction of new Air-Ground Radiotelephone Service licenses scheduled for May 10, 2006 (Auction No. 65).¹

Background. In Auction No. 65,² the Commission will offer new nationwide commercial Air-Ground Radiotelephone Service licenses in three alternative band configurations: (1) Band Plan 1, comprised of two overlapping, shared, cross-polarized 3 MHz licenses (Licenses A and B, respectively),³ (2) Band Plan 2, comprised of an exclusive 3 MHz license and an exclusive 1 MHz license (Licenses C and D, respectively),⁴ and (3) Band Plan 3, comprised of an exclusive 1 MHz license and an exclusive 3 MHz

¹ The Commission directed the Bureau to issue a public notice prior to the auction of new licenses specifying the requirements for the Spectrum Sharing Plan. See Amendment of Part 22 of the Commission's Rules to Benefit the Consumers of Air-Ground Telecommunications Services, Biennial Regulatory Review—Amendment of Parts 1, 22, and 90 of the Commission's Rules, Amendment of Parts 1 and 22 of the Commission's Rules to Adopt Competitive Bidding Rules for Commercial and General Aviation Air-Ground Radiotelephone Service, WT Docket Nos. 03-103 and 05-42, *Report and Order and Notice of Proposed Rulemaking*, 20 FCC Rcd 4403, 4422-4423 ¶34 (2005) (*Air-Ground Order*). See also Amendment of Part 22 of the Commission's Rules to Benefit the Consumers of Air-Ground Telecommunications Services, Biennial Regulatory Review—Amendment of Parts 1, 22, and 90 of the Commission's Rules, Amendment of Parts 1 and 22 of the Commission's Rules to Adopt Competitive Bidding Rules for Commercial and General Aviation Air-Ground Radiotelephone Service, WT Docket Nos. 03-103 and 05-42, *Order on Reconsideration and Report and Order*, FCC 05-202, 2005 WL 3359081 (F.C.C.), 37 Communications Reg. (P&F) 616 (rel. Dec. 9, 2005).

² See *Public Notice*, Auction of 800 MHz Air-Ground Radiotelephone Service Licenses Scheduled for May 10, 2006, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 65, DA 06-376 (rel. Feb 21, 2006).

³ Licenses A and B would authorize transmission of radio waves that are vertically and horizontally polarized, respectively, and would initially share 3.0 MHz: 1.5 MHz at 849.0-850.5 MHz paired with 1.5 MHz at 894.0-895.5 MHz. Once Verizon Airfone Inc.'s incumbent system ceases operations in the upper 0.5 MHz of each band, the License B licensee would shift its operations to 1.5 MHz at 849.5-851.0 MHz paired with 1.5 MHz at 894.5-896.0 MHz, and the licensees for Licenses A and B would share 2.0 MHz.

⁴ License C would be located in the lower 1.5 MHz portion of each 2 MHz band (1.5 MHz at 849.0-850.5 MHz paired with 1.5 MHz at 894.0-895.5 MHz). License D would be located in the upper 0.5 MHz portion of each 2 MHz band (0.5 MHz at 850.5-851.0 MHz paired with 0.5 MHz at 895.5-896.0 MHz).

license (Licenses E and F, respectively), with the blocks at opposite ends of the band from Band Plan 2.⁵ The two licenses comprising the band plan that receives the highest aggregate bids in the auction will be awarded subject to review of the long-form license applications.⁶

In the *Air-Ground Order*, the Commission determined that if shared spectrum licenses A and B are awarded, it would afford the new licensees flexibility to configure their air-ground systems without having to adhere to minimum spacing requirements or site locations dictated by the Commission.⁷ Under this approach, licensees A and B would determine the criteria for ground station locations and other technical requirements necessary to provide air-ground services and jointly file a Spectrum Sharing Plan with the Bureau reflecting their determinations. The Commission directed the Bureau to specify the requirements for the Spectrum Sharing Plan, which follow below.⁸

General Filing Requirements. Licensees A and B must file their Spectrum Sharing Plan with the Bureau within six months of the initial grant of their licenses.⁹ If they determine that more than six months is required to prepare their Spectrum Sharing Plan, they may request an extension of the six-month period.¹⁰ If licenses A and B are awarded, the Bureau will issue a separate public notice within 60 calendar days of the initial grant specifying the filing procedures for the Spectrum Sharing Plan.

Spectrum Sharing Plan Requirements. In the *Air-Ground Order*, the Commission observed that licensees A and B should engage in good faith negotiations in developing and implementing their Spectrum Sharing Plan.¹¹ We find that, at a minimum, prospective licensees should agree on a Spectrum Sharing Plan that includes the following information:

1. Technology selected by each licensee;
2. Criteria for determining mutually acceptable locations for ground station sites;
3. Methods for controlling potential inter-system interference; and
4. Any power or emission limits that differ from those specified in applicable FCC rules, provided that such limits do not require a waiver of the applicable rule.¹²

Dispute Resolution Procedures. In the *Air-Ground Order*, the Commission encouraged the use of binding arbitration or other alternative dispute resolution procedures in the event that a dispute arises under an initial or amended Spectrum Sharing Plan.¹³ The Bureau therefore suggests, but does not require, that such procedures be specified in the Spectrum Sharing Plan.

⁵ License E would be located in the lower 0.5 MHz portion of each 2 MHz band (0.5 MHz at 849.0-849.5 MHz paired with 0.5 MHz at 894.0-894.5 MHz). License F would be located in the upper 1.5 MHz portion of each 2 MHz band (1.5 MHz at 849.5-851.0 MHz paired with 1.5 MHz at 894.5-896.0 MHz).

⁶ Gross bids for the licenses, rather than net bids adjusted for bidding credits, will be used to determine the band plan with the highest aggregate bids.

⁷ *Air-Ground Order*, 20 FCC Rcd at 4422-4423 ¶34.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 4422 n.137.

¹¹ *Id.* at 4424 ¶38.

¹² If a waiver is necessary, the licensees should file a separate waiver request.

¹³ *Air-Ground Order*, 20 FCC Rcd at 4424 ¶38. The Commission also noted that either party may request that the Commission resolve major disputes by filing, for example, a petition for declaratory ruling; the Commission would

Amendment. Any amendment to the Spectrum Sharing Plan must be filed no later than the effective date of the amendment.

Confidential Information. Licensees A and B may seek confidential treatment of information contained in a Spectrum Sharing Plan in accordance with the Commission's rules and policies.¹⁴

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endeavor to resolve such matters expeditiously. *Id.*

¹⁴ See 47 C.F.R. § 0.459.