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Small Entity Compliance Guide

2.0 GHz Broadcast Auxiliary Service Relocation

Report and Order and Order and Further Notice of Proposed Rulemaking
FCC 09-49

WT Docket No. 02-55

ET Docket No. 00-258

ET Docket No. 95-18

Released: June 12, 2009

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

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Fax: 1-866-418-0232

fccinfo@fcc.gov

2.0 GHz Broadcast Auxiliary Service Relocation Compliance Requirements

1. Objectives of the Proceeding

In the *Report and Order and Order and Further Notice of Proposed Rulemaking* adopted in June 2009 in this proceeding, the Commission eliminated the rule that required Broadcast Auxiliary Service (BAS) incumbents in the thirty largest markets, and all fixed BAS links, to be relocated before Mobile Satellite Service (MSS) entrants can begin operations in the cleared spectrum. The relocation of the BAS incumbents has taken far longer than expected. This has prevented the MSS entrants from offering service. The elimination of the rule will allow the MSS entrants to begin operations even though many BAS incumbents remain in the band. To protect the BAS incumbents who remain in the band, the *Report and Order and Order* adopts a number of conditions that the MSS entrants must satisfy in order to begin operations. In those areas where the BAS incumbents have not been relocated, the MSS entrants will have to coordinate operations with the BAS incumbents. When MSS entrants are operating within line-of-sight to a BAS receiver site in an area where BAS has not been relocated, the MSS entrants will have to coordinate operations with the BAS incumbent. The MSS entrants will not be permitted to market their services to consumers in areas where BAS has not been relocated and will not be allowed to operate ancillary terrestrial component (ATC) systems where BAS incumbents have not been relocated.

A copy of the *Report and Order and Order and Further Notice of Proposed Rulemaking* is available at http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-09-49A1.pdf (24 FCC Rcd 7904 (2009))

2. General Information

The 1990-2110 MHz band, which is primarily used by the Broadcast Auxiliary Service (BAS), is being reduced to 2025-2110 MHz by replacing the existing analog BAS equipment with more spectrally efficient digital BAS equipment. The cleared spectrum will be shared by Sprint Nextel (1990-1995 MHz), the Mobile Satellite Service (MSS) (2000-2020 MHz), and future Advanced Wireless Service (AWS-2) licensees (1995-2000 MHz and 2020-2025 MHz).

Sprint Nextel had previously been required to relocate the BAS incumbents by September 7, 2007. Because of the limited number of equipment manufacturers, a shortage of qualified installers and tower climbers, and coordination problems between the new radio equipment and preexisting controllers, the relocation of BAS has not yet been completed. Sprint Nextel has completed relocation of most BAS incumbents to the new band plan. For 28 BAS markets, however, the relocation deadline has been extended to August 9, 2010.

3. What is the top 30 market rule?

The top 30 market rule prevented the MSS entrants from beginning operations in the band until the BAS incumbents in the thirty largest television markets and fixed BAS links in all markets have been relocated. For purposes of the rules pertaining to the BAS transition, such as the top 30 market rule, the BAS incumbents are grouped into Neilson Designated Market Areas (DMAs) as they existed on September 6, 2000. This rule was designed to protect the BAS incumbents from

harmful interference from the MSS operations before the BAS transition is complete. The top 30 market rule was eliminated effective July 23, 2009.

4. Where are the MSS entrants required to coordinate with BAS incumbents?

To protect the BAS incumbents from harmful interference until the BAS transition is complete, the MSS entrants are required to coordinate with the BAS incumbents in two situations. First, coordination is required when MSS equipment operates in a DMA where the BAS incumbents have not yet been relocated.

The second situation where coordination is required is to prevent interference from MSS operations, in a DMA where the BAS incumbents have been relocated, from causing interference in an adjacent DMA where the BAS incumbents have not yet been relocated. One of the primary applications of BAS is electronic newsgathering where mobile transmitters send video signals to fixed receiver sites. To protect these fixed receiver sites from interference, coordination is required when MSS equipment operates within line-of-sight of the BAS fixed receiver sites located in DMAs where the BAS incumbents have not been relocated. To help facilitate this coordination, BAS incumbents are expected to disclose the locations of their receiver sites upon request from the MSS entrants.

5. When should coordination occur?

The MSS entrants should coordinate with the BAS incumbents prior to conducting any operations where coordination is required. The MSS entrants may not approach the BAS incumbents in a DMA to begin coordination prior to sixty days before the MSS entrant expects to provide commercial service in that DMA.

6. What actions should MSS entrants and BAS incumbents take during coordination?

The *Report and Order and Order* did not require specific actions by the MSS entrants and BAS incumbents during coordination. The *Report and Order and Order* did suggest that BAS incumbents may be able to adjust the channels or bandwidth on which they operate to allow MSS entrants access to the band. The BAS incumbents are expected to act cooperatively to accommodate good faith coordination proposals from the MSS entrants. However, the BAS incumbents are not expected to agree to coordination proposals that would impair their ability to meet their electronic newsgathering or delay the BAS transition. If the BAS incumbents and MSS entrants are not able to successfully coordinate their operations in a particular DMA, the MSS entrants will have to refrain from conducting operations in that DMA until the BAS incumbents have been relocated.

7. What other restrictions are there on MSS operations until the BAS transition is complete?

To reduce the likelihood that interference to the BAS incumbents who have not been relocated will occur, the MSS entrants are required to meet a number of other conditions to begin operations before the BAS transition is complete:

- The MSS entrants may not market their services to customers in DMAs where the BAS incumbents have not been relocated.
- The MSS entrants may not operate ATC networks in DMAs where the BAS incumbents have not been relocated. An ATC network is a terrestrial communications network used in conjunction with a qualifying satellite system.

- The MSS entrants may not operate ATC networks within line-of-sight of BAS receiver sites in DMAs where the BAS incumbents have not yet been relocated.
- MSS entrants are required to accept any interference caused by BAS incumbents who have not yet been relocated.

8. Weblink and Citations

Report and Order and Order and Further Notice of Proposed Rulemaking, FCC 09-49, 24 FCC Rcd 7904 (2009); 74 Fed. Reg. 29607; http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-09-49A1.pdf

Other relevant FCC documents include:

Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 08-73, 23 FCC Rcd 4393 (2008); 73 Fed. Reg. 16822;
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-73A1.pdf

Memorandum Opinion and Order, FCC 05-174, 20 FCC Rcd 16015 (2005); 70 Fed. Reg. 76704;
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-174A1.pdf

Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, FCC 04-168, 19 FCC Rcd 14969 (2004); 69 Fed. Reg. 67823;
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-168A1.pdf