



PUBLIC NOTICE

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DA 18-949

Released: September 13, 2018

WIRELESS TELECOMMUNICATIONS BUREAU ANNOUNCES TEMPORARY FILING FREEZE ON THE ACCEPTANCE OF CERTAIN PART 90 APPLICATIONS FOR 896-901/935-940 MHZ (900 MHZ BAND) SPECTRUM

WT Docket No. 17-200

By this *Public Notice*, the Wireless Telecommunications Bureau (“the Bureau”) announces a temporary freeze, effective on September 13, 2018 on the acceptance of certain applications related to part 90 services operating in the 896-901/935-940 MHz spectrum band (“900 MHz band”) until further notice. As described below, the suspension implemented by this *Public Notice* applies only to applications for new or expanded use of 900 MHz band frequencies.

On August 4, 2017, the Commission released a *Notice of Inquiry* to begin a proceeding to examine whether any rule changes may be appropriate to improve spectrum efficiency or expand flexibility in the 900 MHz band in order to better serve private land mobile radio users’ current and future communications needs.¹ The purpose of this freeze is to preserve the current landscape of authorized operations in the 900 MHz band pending Commission action as part of its ongoing inquiry into potential rule changes to promote next generation technologies and services in the band.

The decision to impose this freeze is procedural in nature, and therefore, the freeze is not subject to the notice and comment and effective date requirements of the Administrative Procedure Act.² Moreover, we find that there is good cause for not delaying the effect of the freeze until after publication in the Federal Register, as such a delay would be impractical, unnecessary, and contrary to the public interest because it would undermine the purposes of the freeze.³ The Bureau finds that the freeze will help preserve the options available to the Commission for possible rule changes affecting the band while limiting the potential for speculative applications that might be filed in anticipation of potential future actions by the Commission.

Affected services. The filing suspension imposed by this *Public Notice* applies to applications regarding site-based stations in the 896-901/935-940 MHz band, specifically, the following radio services: 900 MHz Industrial/Land Transportation (B/ILT), Conventional (radio service code GI); 900

¹ See Review of the Commission’s Rules Governing the 896-901/935-940 MHz Band, *Notice of Inquiry*, 32 FCC 6421 (2017).

² See 5 U.S.C. § 553(b)(A), (d); see also, e.g., *Neighborhood TV Co. v. FCC*, 742 F.2d 629, 637-38 (D.C. Cir. 1984) (holding that the Commission’s filing freeze is a procedural rule not subject to the notice and comment requirements of the Administrative Procedure Act); *Buckeye Cablevision, Inc. v. United States*, 438 F.2d 948, 952-53 (6th Cir. 1971); *Kessler v. FCC*, 326 F.2d 673, 680-82 (D.C. Cir. 1963).

³ See 5 U.S.C. § 553(b)(B), (d)(3).

MHz Specialized Mobile Radio (SMR), Site-Specific, Conventional (radio service code GR); 900 MHz Business, Conventional (radio service code GU); 900 MHz I/LT, Trunked (radio service code YI); 900 MHz SMR, Site-Specific, Trunked (radio service code YS); and 900 MHz Business, Trunked (radio service code YU).

Affected applications. Effective immediately and until further notice, the Bureau will not accept: (1) applications for new licenses; (2) applications that seek to modify existing licenses by adding or changing frequencies or locations; (3) applications that seek to modify existing licenses by changing technical parameters in a manner that expands the station's spectral or geographic footprint, such as, but not limited to, increases in bandwidth, power level, antenna height, or area of operation; and (4) any other application that could increase the degree to which the 900 MHz band currently is licensed.⁴

This action does not apply to applications that would not substantially alter the current licensing landscape, including: (1) applications to renew existing licenses without modification; (2) applications that seek to modify existing licenses by deleting frequencies or locations; (3) applications that seek to modify existing licenses by changing technical parameters in a manner that does not expand the station's spectral or geographic coverage, such as decreases in bandwidth, power level, or antenna height; (4) applications that seek to modify existing licenses by changing the number of associated mobile units or temporary fixed stations; (5) applications that seek to modify existing licenses by adding or moving control points; (6) applications to assign, transfer, or lease existing licenses; (7) notices of construction or consummation; (8) requests for extensions of time to construct or consummate previously granted applications; (9) applications to cancel licenses; and (10) applications for special temporary authority for short-term operations.

For further information, contact Stana Kimball of the Mobility Division, Wireless Telecommunications Bureau, at (202) 418-1306 or via e-mail at stanislava.kimball@fcc.gov.

Action by the Chief, Wireless Telecommunications Bureau.

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⁴ Accordingly, applications for affected services should not be filed during the freeze. Such applications that are filed on or after the date of this *Public Notice* will be dismissed without prejudice. Applicants and potential applicants may have recourse to the waiver provisions in section 1.925 of the Commission's rules, 47 CFR § 1.925, to request an exception to the filing freeze. Parties filing such a request should carefully review the rule's criteria for a waiver and must provide complete support, including but not limited to documentation demonstrating that they meet the criteria set out in the rule.