



NEWS

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FOR IMMEDIATE RELEASE
July 8, 2004

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FCC EXPANDS SPECTRUM LEASING RULES AND SPEEDS PROCESSING TO CREATE ADDITIONAL OPPORTUNITIES FOR ACCESS TO SPECTRUM THROUGH SECONDARY MARKETS

Washington, DC – Building on the spectrum leasing policies it first implemented last fall, the Federal Communications Commission (Commission) today expanded the availability of spectrum leasing to more wireless services and devices, further streamlined the processing of spectrum lease applications and notifications, as well as traditional license transfers and assignments, and clarified certain aspects of the original spectrum leasing rules. The Commission also established a “private commons” leasing option for licensees who wish to provide spectrum access to individuals or groups using advanced devices. The Commission stated that this expansion of secondary market mechanisms permits spectrum to flow more freely among users and uses in response to economic demand. The Commission expects that the new rules will stimulate innovation, investment, and consumer choice by making it easier for those who want or need access to licensed spectrum to obtain it.

In this proceeding’s *First Report & Order*, adopted in 2003, the Commission implemented rules to introduce spectrum leasing in many wireless services and reduce the review time for transfer/assignment applications. Today, the Commission further streamlined the processing of certain spectrum leasing and transfer/assignment filings by providing for immediate processing of applications and notifications where the parties certify that the proposed transaction meets specific criteria indicating the absence of potential public interest concerns relating to eligibility, use restrictions, foreign ownership, designated entity policies, and competition. Lease filings and transfer/assignment applications that meet these criteria will be eligible for overnight electronic processing, while transactions that do not meet these criteria will be subject to further review under specified timetables, or may be offlined for more detailed review if they raise potentially serious public interest issues.

The Commission also extended its spectrum leasing rules to certain additional Wireless Radio Services (WRS) in which licensees hold exclusive rights to their assigned spectrum, including the Multichannel Video Distribution and Data Service and the Automated Maritime Telecommunications Systems Services. In the case of land mobile public safety services, the Commission allowed leasing arrangements with other public safety entities or entities that provide communications in support of public safety operations, but declined at this time to permit public safety licensees to lease to commercial or other non-public safety operations. The

Commission declined to extend its leasing policies to services operating on shared spectrum (e.g., Amateur Radio, Personal Radio Services, Part 87 Aviation Services) or to non-WRS services such as Cable Television Relay Services or satellite services.

The Commission clarified that under existing spectrum leasing rules, parties may enter a variety of dynamic leasing arrangements, made increasingly possible by technological advances. For example, the Commission noted that licensees and lessees may by agreement share use of the same leased spectrum over the same period of time. This will better promote access to and the efficient use of spectrum and permit Wireless Radio Services licensees greater flexibility to enter into mutually beneficial transactions that take advantage of innovative technologies.

To facilitate further the use of advanced technologies, the Commission established a new regulatory option of “private commons” as part of its leasing rules. This option will be available to licensees who wish to provide spectrum access to individual users or groups of users that may not fit squarely within the current options for spectrum leasing or within traditional end-user arrangements. The Commission stated that this new option might be attractive to users of advanced devices that are capable of dynamic spectrum access but do not necessarily require use of a licensee’s network architecture. The private commons option enables licensees to make licensed spectrum available for use by these advanced technologies in a manner similar to that by which unlicensed users gain access to unlicensed spectrum under Part 15 of the Commission’s rules, and to do so without the necessity of entering into individual spectrum leasing arrangements. The Commission noted that its establishment of a private commons option is not intended to, and does not, affect the rights of users of unlicensed devices or limit the Commission’s ability to authorize unlicensed use under Part 15 of its rules.

In ruling on several pending petitions for reconsideration of last year’s *First Report & Order* in this proceeding, the Commission clarified various aspects of the original spectrum leasing rules, including reiterating the licensee’s responsibility to ensure its spectrum lessee’s compliance with Commission policies and rules; protections for the licensee or spectrum lessee in the event a spectrum lease or a license is terminated; and the respective responsibilities of licensees and spectrum lessees regarding particular service rules.

In a *Second Further Notice of Proposed Rulemaking*, the Commission sought further comment on what additional policies could facilitate the deployment of advanced technologies through secondary market arrangements such as spectrum leasing and private commons.

Action by the Commission, July 8, 2004, by *Second Report & Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking* (FCC 04-167, Docket 00-230, Chairman Powell, Commissioners Abernathy and Martin, with Commissioner Copps dissenting and Commissioner Adelstein approving in part and dissenting in part. Separate statements issued by Chairman Powell, Commissioners, Abernathy, Copps, Martin and Adelstein.

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