



NEWS

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See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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FCC MODIFIES ADVANCED WIRELESS SERVICE RULES TO PROVIDE GREATER FLEXIBILITY AND ACCESS TO SPECTRUM FOR SMALL AND RURAL PROVIDERS

WASHINGTON, D.C. – In an Order on Reconsideration adopted today, the Federal Communications Commission (FCC) advanced its efforts to make spectrum available for an array of innovative wireless services and technologies, including voice, data, video, and other wireless broadband services offered over Third Generation (“3G”) mobile networks. Today’s Order modifies the band plan, and licensing and service rules – originally adopted in October 2003 – for the 90 MHz of Advanced Wireless Service (AWS) spectrum at 1710-1755 MHz and 2110-2155 MHz. The modifications adopted today respond to Petitions for Reconsideration filed by five parties in response to the original AWS service rules.

The changes made in the Order adopted today enhance flexibility for potential AWS licensees and provide additional opportunities for smaller and rural wireless carriers to access this spectrum. The original band plan for this spectrum adopted by the FCC in October 2003 included a mixture of license sizes and geographic areas in order to accommodate the needs of wireless providers of various sizes serving a range of different geographic areas. Today’s Order maintains such a mixture but increases the amount of spectrum licensed on a small geographic area basis (Cellular Market Areas, or CMAs) from 10 MHz to 20 MHz in order to provide greater opportunities for smaller rural or regional providers to obtain access to this spectrum at auction. The Order also provides for an additional 10 MHz of spectrum licensed by Economic Areas (EAs).

The new band plan splits the original 30 MHz E block at 1740-1755 MHz and 2140-2155 MHz into one 10 MHz block (new block E) and one 20 MHz block (new block F), in order to facilitate access to the spectrum by a wider array of new and existing wireless carriers seeking to deploy advanced services, improve service quality, augment existing networks, or expand coverage areas. Today’s Order also restructures the band plan by aligning the CMA, EA, and REAG spectrum blocks in order to enable operators to aggregate similarly-licensed spectrum more easily. For more information, please see the attached diagram depicting the old and new band plans for the 1710-1755 MHz and 2120-2155 MHz spectrum.

In addition to the changes made to the AWS band plan and geographic licensing areas, today’s Order modifies one of the original technical rules by removing a restriction on

transmitter output power levels. Finally, the Commission today affirmed its 2003 decision not to set aside a portion of the 1710-1755 MHz and 2110-2155 MHz bands exclusively for small businesses that meet certain eligibility criteria and its 2003 decision to provide two levels of bidding credits to small businesses that are winning bidders for licenses in those bands. The Commission declined a request to add a third level of bidding credits and two proposals that would have amended its rules pertaining to eligibility for designated entity (“DE”) status and DE benefits such as bidding credits. The Commission also declined a third proposal to amend the DE rules in this proceeding, but stated that it would examine this issue further in a separate action.

In December 2004, the FCC announced its intention to auction the 1710-1755 MHz and 2120-2155 MHz AWS spectrum as early as June 2006. The resolution of the pending petitions on this spectrum and the new rules adopted today will enable the FCC to move forward expeditiously with its plans to auction this spectrum. The timely auction and licensing of this spectrum will in turn provide operators with new resources to provide advanced and innovative wireless services to the American public.

Action by the Commission on August 5, 2005 by Order on Reconsideration, (FCC 05-149). Chairman Martin, Commissioners Abernathy, Copps, and Adelstein, with Commissioners Copps and Adelstein issuing separate statements. Chairman Martin will issue a separate statement with the release of the item.

For additional information, please contact Peter Corea, Wireless Telecommunications Bureau, at (202) 418-7931 or Peter.Corea@fcc.gov; or Brian Carter, Wireless Telecommunications Bureau, at (202) 418-1334 or Brian.Carter@fcc.gov.

WT Docket No. 02-353

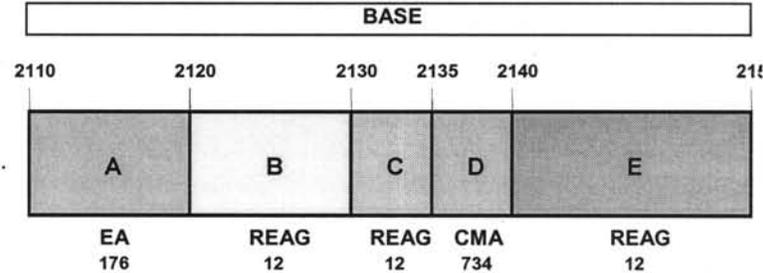
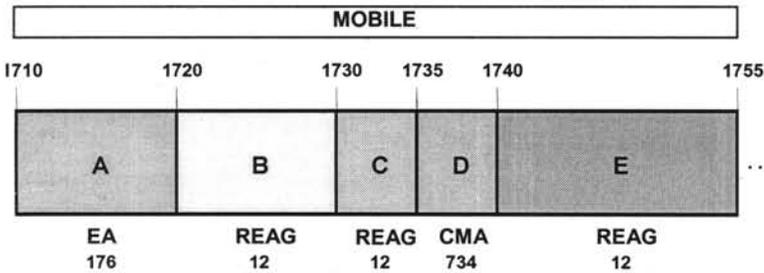
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PREVIOUS AND NEW BAND PLANS FOR ADVANCED WIRELESS SERVICE SPECTRUM AT 1710-1755 MHz AND 2110-2155 MHz

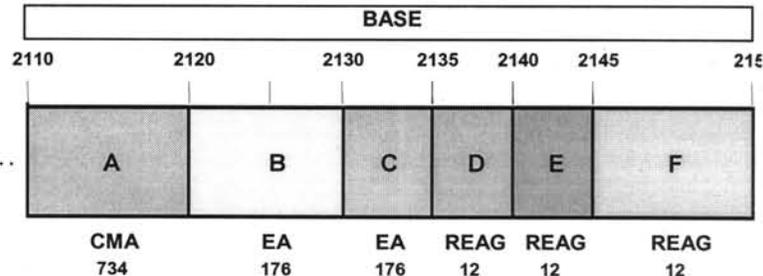
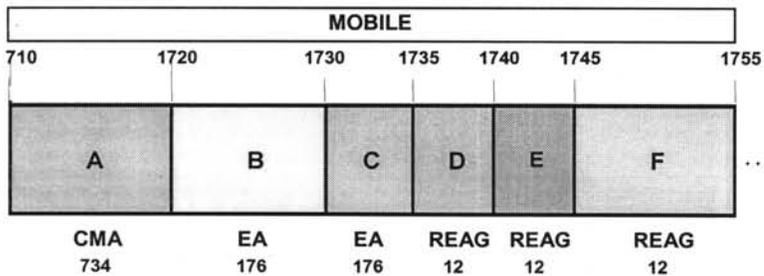
Previous Band Plan, Adopted October 16, 2003

<u>Blocks</u>	<u>Pairings</u>	<u>Amount</u>	<u>Area</u>	<u>Licenses</u>
A	1710-1720 and 2110-2120	2x10	EA	176
B	1720-1730 and 2120-2130	2x10	REAG	12
C	1730-1735 and 2130-2135	2x5	REAG	12
D	1735-1740 and 2135-2140	2x5	CMA	734
E	1740-1755 and 2140-2155	2x15	REAG	12



New Band Plan, Adopted August 5, 2005

<u>Blocks</u>	<u>Pairings</u>	<u>Amount</u>	<u>Area</u>	<u>Licenses</u>
A	1710-1720 and 2110-2120	2x10	CMA	734
B	1720-1730 and 2120-2130	2x10	EA	176
C	1730-1735 and 2130-2135	2x5	EA	176
D	1735-1740 and 2135-2140	2x5	REAG	12
E	1740-1745 and 2140-2145	2x5	REAG	12
F	1745-1755 and 2145-2155	2x10	REAG	12



For maps of the geographic areas listed above, please see the FCC's web site at <http://wireless.fcc.gov/auctions/default.htm?job=maps>.

STATEMENT OF COMMISSIONER
MICHAEL J. COPPS

RE: Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands (Order on Reconsideration).

I am committed to sticking to our schedule and conducting the AWS auction as soon as possible. The changes that we make today to the band plan will make this a better auction. The band plan balances the needs of different types of wireless companies by offering both geographically large and small auction areas. I think we came up with a solution that gives everyone a chance to participate meaningfully in the auction, a result that will serve both rural and urban consumers. We all want to make this spectrum available as quickly as possible, and we take a big step toward that goal today.

The Order also announces that the Commission will initiate a NPRM on the question of whether we should close a potentially troubling loophole in the designated entity program. The DE program is designed to create opportunities for smaller carriers to obtain the spectrum resources needed to bring new services to consumers. The program is often particularly useful in rural areas. In this auction, carriers that qualify under the DE program as small companies will receive a 25 percent auction discount. That discount can add up to millions of dollars.

I strongly support the DE program and consider it a powerful tool that can create new competition and entry by small businesses. But I also believe that we must be vigilant and guard against misuse of the program. Some entities cast themselves as small companies to qualify for auction discounts, having already entered into agreements to lease the spectrum rights they win to industry giants that themselves do not qualify for the discount. I am glad that we are exploring whether we should limit the ability of companies with billions of dollars in revenues to effectively receive discounts intended for small companies by entering into such arrangements. The DE program was initiated to create new competition and to give small entrepreneurs a chance to bring innovations to consumers. If there is a loophole that could result in millions of dollars less in auction revenues without these goals being served, we should act expeditiously to protect the DE program.

Our largest auction in many years is going to be held in June. We need to put this NPRM out immediately, compile the record, and develop whatever action plan may be necessary if it is determined that new protections are needed for the DE program—well before the auction is held. We need not delay this auction, but at the same time we must protect taxpayer money. I see no reason – if we move quickly – why we can't achieve both of these goals.

**SEPARATE STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands;
Order on Reconsideration; WT Docket No. 02-353*

I have repeatedly said the FCC needs to improve access to spectrum by those providers who want to offer service to traditionally under-served areas. That is why I pressed for the inclusion of both Economic Area (EA) as well as Cellular Market Area (CMA) licenses in the Advanced Wireless Services (AWS) Report and Order adopted last year.

I am very pleased that my initial push for EA licenses has been so well received by a number of carriers and manufacturers. Since our original decision, diverse interests have come together to actively support an even better balance between smaller and larger license areas through a variety of changes to the AWS band plan, many of which we adopt today.

All of this interest has resulted in a full and complete record that eminently supports our decision-making process. As a result, we have unanimous agreement at the Commission to make changes to our band plan that specifically respond to suggestions made by a number of different groups within the wireless industry. In particular, we are making additional spectrum available on both an EA and CMA basis.

I certainly recognize that there is value in offering larger service areas for economies of scale and to facilitate larger scale deployments, and our Order accommodates this need. But the public interest demands that we find a balance in developing a band plan, and we have done so today, particularly in light of recent consolidation among some of the largest wireless carriers since we first considered the issue. Also, in modifying our band plan, we move another step closer to seeing a more diverse group of providers offer a new generation of wireless services in this country.

I also am very pleased that in this item we commit to launching a separate proceeding to explore the narrow issue of limiting the ability of designated entities (DEs) who have a relationship with the largest wireless carriers from having access to bidding credits in this and future auctions. The stakes are simply too high to not allow a further question on whether or not we should allow this potential loophole to apply in the upcoming AWS auction. Considering this issue is particularly important given the dramatic scope of consolidation in the wireless industry in just the last 12 months and the ever-increasing market share of the largest carriers (up to 90% by some estimates).

Of course, we do not want to see the AWS auction unnecessarily delayed. But there is at least ten months until then, and if we all agree to move fast, we surely can resolve this matter in time. Indeed, there are a number of variables, both within and outside the Commission's control that may independently affect the timing of the auction, such as the submission of NTIA relocation costs. There also are MDS relocation issues

that have not yet been resolved. So we have an open window, but we have to act quickly. And I thank the Chairman for agreeing to move forward on this important issue. Immediate action truly is important to ensure that there is as little uncertainty as possible as interested parties prepare for this landmark auction.

I look forward to seeing the record in this proceeding because, at this time, it is unclear to me why the Commission allows large wireless companies to partner with DEs. This is even more important in the AWS auction where auction proceeds must be sufficient to cover government relocation costs. Also, the AWS auction should raise \$15 billion dollars by some estimates for the federal Government at a time our budget is under ever increasing pressure. Do we want the nation's largest wireless carriers partnering with DEs to get a 25% discount so that auction revenues to the U.S. treasury could potentially be reduced by well over a billion dollars? How is the public interest served in that outcome?

At a time of wholesale consolidation in the industry, it seems unwise to allow wireless giants to access a discount by being allowed to partner with a supposedly small business. Allowing access to discounts by the country's largest wireless businesses, at the expense of taxpayers, seems completely at odds with a program whose purpose is to help small telecommunications businesses get a foothold so that they can compete on a more level playing field with more established companies.

I look forward to working with my colleagues and the Bureau to making sure this auction is as successful as it can possibly be.