



NEWS

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

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FCC PAVES THE WAY FOR NEW BROADBAND SERVICES IN THE AIR

Restructures Air-Ground Radiotelephone Service, Proposes Auction Rules, and Streamlines Other Rules

WASHINGTON, D.C. – Today, the Federal Communications Commission (Commission) adopted a flexible approach for licensing the 4 MHz of spectrum in the 800 MHz band currently dedicated to commercial air-ground service. The Commission decided to auction new licenses for this spectrum in three possible band plan configurations and proposed auction rules for this spectrum. The ultimate band configuration will be determined based on the results of the auction. However, in order to further competition and ensure maximum use of the frequency band for air-ground services, the Commission imposed an eligibility limitation to prevent a single entity from holding new licenses for all 4 MHz of air-ground spectrum.

The Commission's action will help bring broadband services to the traveling public onboard aircraft and lead to greater technical, economic, and marketplace efficiency for this spectrum. Under the licensing approach adopted by the Commission, the final band configuration will be determined by the winning bidders at auction. New licenses will be awarded to high bidders for the two licenses comprising the configuration that receives the highest aggregate gross bid, subject to review of post-auction license applications. Bidders will have three options, which are based on proposals submitted to the Commission in this proceeding:

Band Plan 1 — two overlapping, cross-polarized 3 MHz licenses (licenses “A” and “B”)

Band Plan 2 — an exclusive 3 MHz license and an exclusive 1 MHz license (licenses “C” and “D”)

Band Plan 3 — an exclusive 1 MHz license and an exclusive 3 MHz license (licenses “E” and “F”), with the blocks at opposite ends of the band from Band Plan 2

Under the eligibility limitation, no more than 3 MHz of spectrum (either shared or exclusive) under the new rules could be acquired at auction or post-auction by a single entity. The Commission determined that the two new licensees must provide air-ground service, meaning service to airborne locations. New air-ground service may be any type (*e.g.*, voice, data, broadband internet, etc.) and may be provided to any or all aviation markets (*e.g.*,

commercial, military, and general). The Commission decided not to authorize ancillary services in the band.

To ensure protection to adjacent public safety operations in the 800 MHz band, the Commission applied to 800 MHz air-ground licensees the same interference rules and other specific protections adopted earlier this year in the 800 MHz public safety proceeding. Specifically, the Commission stated that ground stations in the air-ground 800 MHz service will be subject to the same interference abatement obligation rules adopted for cellular services in the 800 MHz public safety order.

The Commission also granted Verizon Airfone, the current operator in the 800 MHz air-ground spectrum, a non-renewable 5-year license, subject to existing narrowband technical limits. Noting that the provision of high-speed broadband services to consumers onboard aircraft by one or more new licensees will require at least 3 MHz of the 4 MHz band, the Commission decided that following the grant of the new license, Verizon Airfone must limit operations of the existing narrowband Airfone system under the 5 year non-renewable license to the remaining 1 MHz of spectrum. The Commission observed that the reduced spectrum for the incumbent system would be sufficient to maintain current service levels because the narrowband plan was originally intended to accommodate up to 6 licensees, and only the Verizon system remains in operation.

In addition to restructuring the air-ground spectrum, the Commission decided to resolve several pending mutually exclusive applications for individual channels in the 400 MHz general aviation air-ground band through auction. The Commission also eliminated or streamlined a number of other rules pertaining generally to public land mobile radio services. Among other things, the Commission eliminated the requirement that an authorization be obtained to operate general aviation airborne mobile stations in the air-ground service, deleted the requirement that specific Air-Ground Radiotelephone Automated Service protocols be used, and deleted the requirement that public land mobile radio services licensees under Part 22 of the Commission's rules be common carriers.

In a related action today, the Commission began an inquiry into whether its ban on using cellular telephones on airborne aircraft should be modified.

Action by the Commission on December 15, 2004, by *Report and Order and Further Notice of Proposed Rulemaking* (FCC 04-287). Chairman Powell, Commissioners Abernathy and Martin with Commissioners Copps and Adelstein dissenting in part, Chairman Powell, Commissioners Copps and Adelstein issuing separate statements.

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