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2.5 GHz Band Report and Order July 11, 2019

Overview

Yesterday, the FCC adopted a *Report and Order* that will make the 2.5 GHz band far more useful for commercial providers, particularly in rural areas. We will be happy to provide a copy of the item as soon as the FCC releases it. To summarize:

- All unassigned Educational Broadband Service (EBS) spectrum in the 2.5 GHz band will be available to commercial entities without any use restrictions or eligibility requirements
- The spectrum will be auctioned as “overlay” licenses by county, giving the auction winner primary rights in the geographic area outside the EBS licensee’s protected Geographic Service Area (“GSA”) and secondary rights inside the GSA
- The spectrum will be available in three blocks: 50.5, 49.5 and 16.5 megahertz. Entities may bid on, and win, one, two or all three blocks
- Bidding credits will be available to small or rural carriers
- The FCC will remove use restrictions and eligibility requirements from existing EBS licenses
- Tribal nations serving Tribal lands will receive priority access to the spectrum.
- The *Report and Order* does not address the Broadband Radio Service (BRS) portion of the 2.5 GHz band.

Background

The 2.5 GHz band (2496 – 2690 MHz) constitutes the single largest band of contiguous spectrum below 3 GHz. Of the available 194 megahertz of spectrum, 116.5 megahertz is allocated to the EBS [formerly known as Instructional Television Fixed Services (ITFS)], and the remaining 77.5 megahertz is allocated to the commercial Broadband Radio Service (BRS) [formerly

Multichannel Multipoint Distribution Services (MMDS)]. EBS licenses, reflecting their origins as TV licenses, are typically a circular area with a 35-mile radius from the center point.

Significant portions of the EBS spectrum currently lie fallow across approximately one-half of the United States, primarily in rural areas. Incumbent EBS licenses cover only about 50% of the geographic area of the country on any given channel. In the rest of the country, mostly rural areas, and mostly west of the Mississippi River, the 2.5 GHz spectrum remains largely unassigned.

At present, eligibility to hold an EBS license is limited to educational institutions, government organizations engaged in the formal education of students, and nonprofit organizations whose purposes are educational. However, EBS licenses are rarely used for educational purposes, except to the limited extent required by the FCC's rules. EBS licensees are permitted to lease "excess" capacity to commercial wireless providers.

It is estimated that over 90% of the 2190 active EBS licenses are currently leased, mostly to Sprint. Sprint holds substantial BRS spectrum across the country, and it leases EBS spectrum from educational entities, giving it an average of 120 megahertz of 2.5 GHz spectrum in 90 of the top 100 markets. Leases for EBS spectrum will not be affected by the Report and Order.

Unassigned EBS Spectrum Will Be Made Available by Auction for Commercial Use

The FCC will make available by auction all unassigned EBS spectrum. As noted, current EBS licenses typically cover a 35-mile radius GSA. The FCC will auction overlay licenses by county. The auction winner will have primary status in the geographic area not covered by the GSA, and it will have secondary status in the area covered by the GSA. In the event the GSA license is forfeited or expires, the auction winner will have primary status within the GSA as well. It is our understanding that, in cases where the GSA license has already expired, the auction winner will have primary status across the entire county, including within the GSA.

Mapping Unassigned EBS Spectrum

We are working on a database to map the geographic scope of the unassigned EBS spectrum. If you are interested in having us map the available spectrum in a certain geographic area, please let us know.

Bidding Credits

The following bidding credits will be available:

- 15% for entities with fewer than 250,000 combined wireless, wireline, broadband and cable subscribers, serving predominantly rural areas (defined as counties with a population density of 100 or fewer persons per square mile)
- 15% for entities with average gross revenue of \$55 million or less for the three years preceding the auction
- 25% for entities with average gross revenue of \$20 million or less for the three years preceding the auction
- 35% for entities with average gross revenue of \$4 million or less for the three years preceding the auction

Bidding credits cannot be combined.

Priority Filing Window for Rural Tribal Nations to Serve Tribal Lands

The FCC will hold a Tribal priority window for local Tribal entities to obtain unassigned EBS spectrum that covers Tribal reservations, and off-reservation lands in certain cases – but in all events only in rural areas. Tribal entities obtaining such licenses will have to protect existing EBS licensees.

The Tribal priority window will delay the auction of the remaining unassigned spectrum. To provide time to complete the Tribal priority process, the FCC has pushed back the effective date of the other new EBS rules until six months after publication in the Federal Register.

Build-Out Requirements for New 2.5 GHz Licensees

New EBS licensees will be required to show any of the following: (1) 80% population coverage for mobile or point-to-multipoint service (50% interim) or (2) 40 links per million persons (one link per 25,000) for fixed point-to-point service (20 links per million interim). The interim benchmark will apply to non-Tribal licensees after four years, and the final benchmark after eight years.

Timing of Auction

Chairman Pai has stated that the FCC plans to auction the unassigned EBS spectrum by the end of 2020. The FCC must first complete the Tribal priority process, and then propose and adopt auction rules.