



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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DA 02-607  
March 14, 2002

## PLEADING CYCLE ESTABLISHED FOR OPPOSITIONS TO PETITIONS FOR RECONSIDERATION OF THE REPORT AND ORDER IN GN DOCKET NO. 01-74, AND FOR REPLIES TO SUCH OPPOSITIONS

**Oppositions Due: March 25, 2002**

**Replies Due: April 1, 2002**

Notice is hereby given that the parties listed below have petitioned the Commission for reconsideration and clarification of the *Report and Order* in GN Docket No. 01-74, FCC 01-364, released January 18, 2002.<sup>1</sup> In the *Report and Order*, the Commission adopted allocation and service rules for the 698-746 MHz spectrum band (“Lower 700 MHz Band”), currently comprising television Channels 52-59, in order to reclaim and license this spectrum in accordance with statutory mandate.<sup>2</sup> This spectrum is being reclaimed for new commercial services as part of the transition of television broadcasting from analog to digital transmission systems. The Communications Act of 1934, as amended, requires the Commission to assign spectrum reclaimed from broadcast television using competitive bidding, and envisions that the Commission will conduct an auction of this spectrum by September 30, 2002.

In light of the upcoming auction of licenses in the Lower 700 MHz band at 698-746 MHz (Auction No. 44), which is scheduled to commence on June 19, 2002,<sup>3</sup> good cause exists in this instance to alter the periods specified in Section 1.429 of the Commission’s rules, 47 C.F.R. §

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<sup>1</sup> See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, *Report and Order*, FCC 01-364 (rel. January 18, 2002) (“*Report and Order*”).

<sup>2</sup> See Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 § 3003 (1997) (“BBA 97”) (adding new Section 309(j)(14) to the Communications Act of 1934, as amended); § 3007 (uncodified); reproduced at 47 U.S.C. §309(j) note 3).

<sup>3</sup> See “Auction of Licenses in the 698-746 MHz Band Scheduled for June 19, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues,” *Public Notice*, DA 02-200 (rel. January 24, 2002).

1.429, for the filing of oppositions to petitions for reconsideration and replies to oppositions.<sup>4</sup> The petitions filed by the parties listed below seek reconsideration or clarification of a number of the policies and procedures adopted in the *Report and Order*, which are relevant to the transition of the 698-746 MHz band from broadcasting to new services. An expedited schedule will give the Commission an opportunity to provide timely guidance regarding these issues to prospective bidders and incumbent broadcasters in advance of Auction No. 44. Accordingly, oppositions to petitions for reconsideration of the *Report and Order* shall be filed no later than **March 25, 2002**, and replies to oppositions will be due no later than **April 1, 2001**.

### **Procedural Matters**

Parties submitting oppositions or replies should address the issues raised in the petitions for reconsideration in light of the relevant statutory requirements,<sup>5</sup> procedures,<sup>6</sup> and public interest considerations.<sup>7</sup> All responsive filings should reference the docket numbers of this proceeding, *i.e.*, GN Docket No. 01-74.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>8</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must reflect the substance of the presentations and not merely list the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.<sup>9</sup> Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules.<sup>10</sup>

Parties may obtain copies of the *Report and Order* and petitions for reconsideration at the FCC website, <http://www.fcc.gov/e-file/ecfs.html>. The petitions are also available for public inspection and copying in the Reference Center, Room CY A257, 445 12th Street, S.W., Washington, DC 20554. Copies of the petitions are also available from Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, D.C. 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or e-mail at [qualexint@aol.com](mailto:qualexint@aol.com).

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<sup>4</sup> See 47 C.F.R. § 0.331 (authority delegated to Wireless Telecommunications Bureau); 47 C.F.R. § 1.3 (suspension, amendment, and waiver of Commission Rules). See also 5 U.S.C. § 553(b)(B).

<sup>5</sup> See, *e.g.*, 47 U.S.C. § 309.

<sup>6</sup> See, *e.g.*, 47 C.F.R. § 1.429.

<sup>7</sup> See, *e.g.*, 47 U.S.C. §§ 303, 309.

<sup>8</sup> See 47 C.F.R. §§ 1.1200(a), 1.1206.

<sup>9</sup> See 47 C.F.R. § 1.1206(b).

<sup>10</sup> *Id.*

Oppositions to petitions for reconsideration and replies may be filed using the Commission's Electronic Comment Filing System ("ECFS") or by filing paper copies. Oppositions and replies filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Each filing should be submitted into the following docket: GN Docket No. 01-74. In completing the transmittal screen, parties should include their full name and Postal Service mailing address. Parties may also submit an electronic filing by Internet e-mail. To get filing instructions for e-mail filings, parties should send an e-mail message to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), including "get form to <your e-mail address>" in the body of the message. A sample form and directions will be sent in response.

Due to the threat of contamination that resulted in the disruption of regular mail, the Commission released on November 29, 2001, an *Order*,<sup>11</sup> temporarily amending certain procedural rules on an emergency basis. Oppositions to petitions for reconsideration and replies thereto must be filed electronically (i.e., by e-mail or facsimile), or by hand delivery to the Commission's Massachusetts Avenue location.

- **If filed electronically** by e-mail, oppositions to petitions for reconsideration and replies thereto shall be filed at the following e-mail address: [WTBSecretary@fcc.gov](mailto:WTBSecretary@fcc.gov). Please also copy (CC) G. William Stafford at [wstafford@fcc.gov](mailto:wstafford@fcc.gov), Michael J. Rowan at [mrowan@fcc.gov](mailto:mrowan@fcc.gov), and Jamison Prime at [jprime@fcc.gov](mailto:jprime@fcc.gov). For security purposes, we recommend that documents filed via electronic mail be converted to PDF format.
- **If filed by facsimile**, oppositions to petitions for reconsideration and replies thereto shall be faxed to 202-418-0187. The fax transmission should include a cover sheet listing contact name, phone number and, if available, an e-mail address. In addition to the official filing, please also fax copies to G. William Stafford, Room 4-A124, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, Michael J. Rowan, Room 4-A131, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, and Jamison Prime, Room 4-A734, Office of Engineering and Technology, at (202) 418-7447.
- **If filed by hand delivery**, documents shall be delivered to 236 Massachusetts Avenue, NE, Suite 110, Washington DC 20002.<sup>12</sup> Please address documents to the Secretary, and copies thereof to the attention of G. William Stafford, Room 4-A124, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, Michael J. Rowan, Room 4-A131, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, and Jamison Prime, Room 4-A734, Office of Engineering and Technology.

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<sup>11</sup> See In the Matter of Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, FCC 01-345 (rel. Nov. 29, 2001)

<sup>12</sup> See "FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence," *Public Notice*, DA 01-2919 (rel. Dec. 14, 2001).

- **If filed by overnight delivery service** (other than U.S. Postal Service Express and Priority Mail), filings must be received at the Commission's headquarters at 445 12th Street, S.W., Washington, D.C. 20554. As noted in the October 17 and October 18, 2001 public notices,<sup>13</sup> the Commission will divert those deliveries to the Capitol Heights facility.

In addition, one copy of each opposition to petitions for reconsideration and each reply thereto must be delivered to the Commission's duplicating contractor, Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, D.C. 20554, telephone (202) 863-2893, by facsimile (202) 863-2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com).

FOR FURTHER INFORMATION CONTACT:

Wireless Telecommunications Bureau:

Michael J. Rowan, (202) 418-1883, e-mail: [mrowan@fcc.gov](mailto:mrowan@fcc.gov), or G. William Stafford, (202) 418-0563, e-mail: [wstaffor@fcc.gov](mailto:wstaffor@fcc.gov).

Office of Engineering and Technology:

Jamison Prime, (202) 418-7474, e-mail: [jprime@fcc.gov](mailto:jprime@fcc.gov).

**Parties Filing Petitions for Reconsideration and Clarification in GN Docket No. 01-74**

Spectrum Clearing Alliance (by Paxson Communications Corporation) (February 5, 2002); Supplement (March 8, 2002).

KM Communications, Inc. (March 6, 2002).

Office of the Chief Technology Officer, Government of the District of Columbia (March 8, 2002).

Access Spectrum, LLC (March 8, 2002).

Spectrum Exchange Group, LLC and Allen & Company Incorporated (March 8, 2002).

The WB Television Network (March 8, 2002).

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<sup>13</sup> See "FCC Announces Change in Filing Location for Paper Documents," *Public Notice*, DA 01-2436 (rel. Oct. 17, 2001); "FCC Announces Changes In Filing Procedures," *Public Notice*, DA 01-2430 (rel. Oct. 17, 2001); "Clarification on FCC's Announced Changes in Filing Procedures," *Public Notice*, DA 01-2451 (rel. Oct. 18, 2001).

Pappas Telecasting of America, a California Limited Partnership, and Iberia Communications, LLC (Joint Petition) (March 8, 2002).

Univision Television Group, Inc. (March 8, 2002).

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