

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Applications of Sprint Nextel Corporation)	
Transferor)	
)	
SoftBank Corp., and Starburst II, Inc.,)	
Transferees)	IB Docket No. 12-343
)	
Joint Applications for Consent to Transfer of)	
Control of Licenses, Leases, and)	
Authorizations; and Petition for Declaratory)	
Ruling under Section 310(b)(4) of the)	
Communications Act of 1934, as amended)	

OPPOSITION TO PETITION TO DENY

The Catholic Television Network (“CTN”) and the National EBS Association (“NEBSA”) hereby oppose the petition to deny (“Petition”) filed by the Consortium for Public Education and The Roman Catholic Diocese of Erie, Pennsylvania and its affiliates (“Petitioners”). CTN and NEBSA strongly disagree with Petitioners’ claims concerning the Educational Broadband Service (“EBS”), which form the basis for Petitioners’ objection to grant of the above referenced applications (“Applications”) for transfer of control of Sprint Nextel Corporation and Clearwire Corporation (“Clearwire”). CTN and NEBSA wish to set the record straight and ensure that the Commission understands that Petitioners’ views are at odds with those of the EBS community as a whole.

I. Petitioners Do Not Represent the EBS Community.

Petitioners assert that they “represent a cross section of nonprofit, educational, quasi-governmental and religious organizations which hold authorizations for EBS spectrum affected

by this proceeding.”¹ This is simply not true. There are approximately 1,300 EBS licensees and 2,200 EBS stations in the United States. Petitioners represent just two EBS licensees with seven EBS stations in one state. This is hardly representative of a cross section of the EBS community.

Historically, CTN and NEBSA have represented the interests of EBS licensees throughout the United States. CTN is an association of Roman Catholic archdioceses and dioceses that operate many of the largest parochial school systems in the country. For over forty years, CTN’s members have used EBS spectrum to provide educational services to children in some of the nation’s most impoverished neighborhoods, training to teachers, and other services that enhance education and build strong communities. CTN’s members serve thousands of students in cities that include Boston, New York, Los Angeles, Chicago, Dallas, and San Francisco.

NEBSA (formerly called the National ITFS Association), established in 1978, is a non-profit professional organization of EBS licensees. NEBSA’s goals are to gather and exchange information about EBS, promote the development of EBS, act as a conduit for those seeking information or assistance about EBS, and represent the interests of EBS licensees and applicants. NEBSA’s members include state government agencies, state universities, public community and technical colleges, private universities and colleges, public and private elementary and secondary schools, public television and radio stations, hospitals and hospital associations, and private, non-profit educational entities.

Together, CTN and NEBSA represent EBS licensees in virtually every state and have participated in every major proceeding relating to EBS. Their views consistently have helped shape important communications policy issues concerning the use of wireless technology in education.

¹ Petition at 2.

II. Petitioners Grossly Mischaracterize EBS Substantial Service Filings.

Following its adoption of a new band plan and technical rules creating the EBS in 2005, the Commission established a deadline – ultimately November 1, 2011 – for all EBS licensees to demonstrate that they were providing “substantial service.” Substantial service had two essential components – an EBS station had to actually be operating on authorized channels in its FCC-licensed service area, and the station could demonstrate substantial service by meeting at least one of several service benchmarks (safe harbors). All of the EBS stations referred to in Exhibit 1 of the Petition filed timely substantial service notifications, and all those notifications were reviewed by the Commission and accepted. The Commission actions accepting these notifications became final long ago.

Now, Petitioners claim that out of 127 EBS licenses that they reviewed in twenty markets, “96 substantial service exhibits reveal there is no educational usage.”² This claim is bewildering. Either Petitioners completely misunderstand the Commission’s EBS rules and substantial service requirements and the plain language of the exhibits they examined, or they have deliberately twisted the facts and mischaracterized the contents of substantial service filings.

All of the 96 substantial service exhibits that Petitioners claim reveal “no educational usage” were filed pursuant to the geographic coverage safe harbor specified in Section 27.14(o)(3) of the Commission’s rules.³ That safe harbor provided that an EBS licensee is deemed to provide substantial service through a leasing arrangement as long as the lessee

² Petition at 6-7.

³ 47 C.F.R. § 27.14(o)(3) (“An EBS or BRS licensee may be deemed to provide substantial service through a leasing arrangement if the lessee is providing substantial service under paragraph (o)(1) of this section.”).

provides coverage of at least 30% of the population of the licensed area.⁴ Consistent with additional guidance issued by Commission staff in 2011, each of the 96 substantial service filings included a signed certification, made under penalty of perjury, that the licensee is in compliance with the minimum educational usage requirements specified in Part 27 of the Commission's rules.⁵

Significantly, one of the Petitioners itself filed a substantial service notification based on the 30% coverage safe harbor. Attached as Exhibit B is the substantial service notification submitted by Petitioner Consortium for Public Education for call sign WNC484. The notification relied on the 30% coverage safe harbor and included the required educational usage certification. It contained no additional details regarding educational use, including the sort of information Petitioners now seem to want from the entire EBS community, such as the number of devices provided by Clearwire, the nature of their use, and the specific number of hours of use generated. By the logic of the Petition, Petitioner Consortium for Public Education's own substantial service notification, filed under penalty of perjury, did not demonstrate the required minimum educational use. But clearly, at least Petitioner Consortium for Public Education understood that a substantial service showing made in reliance on the 30% coverage safe harbor does not "reveal" a lack of educational usage.

Petitioners also make misleading arguments about the meaning of the remaining EBS substantial service exhibits to which they refer. Although the Commission's rules required EBS

⁴ 47 C.F.R. § 27.14(o)(1)(iii) ("A BRS or EBS licensee has provided 'substantial service' by . . . [p]roviding coverage of at least 30 percent of the population of the licensed area for licensees providing mobile services or fixed point-to-multipoint services").

⁵ See *Guidance to Broadband Radio Service and Educational Broadband Service Licensees on Complying with Requirement to Demonstrate Substantial Service by May 1, 2011*, Public Notice, DA 11-370 (rel. Feb. 25, 2011), attached as Exhibit A.

licensees that relied on the 30% coverage safe harbor only to certify that they met the educational use requirements, some licensees went further and voluntarily opted to provide additional information about educational use. From the fact that some licensees voluntarily provided more details than required, Petitioners infer that *every* licensee that did not opt to include additional information must therefore have generated *no* educational use, despite the licensee's sworn certification to the contrary. This is false logic.

Finally, Petitioners attempt to argue that these few filings referenced in Exhibit 1 of the Petition depict the entire universe of educational use by all EBS licensees. CTN and NEBSA firmly reject the notion that Petitioners can select a handful of substantial service exhibits, filed for a limited regulatory purpose in 2011, and claim to know now how EBS licensees across the nation use their spectrum. Moreover, Petitioners are in no position to dictate how every EBS licensee *should* use its spectrum. EBS licensees are entitled to make technology and education decisions tailored to their unique needs, and those needs vary widely across the country.

III. Petitioners' Concerns about EBS Leases and Reserved Educational Capacity are Misplaced.

Petitioners allege that Clearwire's EBS leases frustrate the ability of EBS licensees to provide educational services and violate the Commission's minimum educational reservation requirements.⁶ However, EBS leases facilitate rather than frustrate EBS licensees in the use of their spectrum, and Petitioners provide no evidence of any violations of the Commission's rules.

CTN and NEBSA firmly believe that effective use of EBS has been greatly enhanced by the strategic partnerships that have been forged between educators and commercial operators, including Clearwire. The secondary market for EBS spectrum has facilitated delivery of high-quality educational services at a reasonable cost. At the same time, commercial entities such as

⁶ Petition at 8.

Clearwire are able to use EBS spectrum for nationwide wireless broadband deployments. Unlike other situations where public/private partnerships have been proposed but failed to materialize (e.g., the 700 MHz D Block), new services in the 2.5 GHz band have and will continue to flourish due to cooperative efforts among educational and commercial entities. Most importantly, the Commission's EBS rules and policies have empowered educators to decide for themselves how to best use their spectrum assets to meet changing instructional needs.

Petitioners attach a copy of a lease agreement to the Petition that may have been executed by a school board in Florida and suggest that its terms are problematic "because it appears to contemplate that Clearwire has the right to deploy a wireless system over 100% of the [licensee's] spectrum . . . including the capacity that is to be reserved for educational use."⁷ However, the lease is clearly not for 100% of the licensee's spectrum, as the lease plainly states that the licensee reserves "the capacity on the Channels that is required to be set aside for Licensee's use pursuant to FCC Rules" and defines the capacity that Clearwire is permitted to lease as the capacity of the Channels "other than" the licensee's reserved capacity.

Petitioners' arguments confuse two separate Commission leasing requirements: (1) the educational capacity reservation requirement, and (2) the minimum educational use requirement.⁸ In discussing the Florida lease, Petitioners state that a particular number of Clearwire accounts are being provided to the EBS licensee in exchange "for its purported 5% capacity reservation."⁹ But there is no necessary connection between the number of free accounts a licensee may bargain for and receive through a lease and its reservation of educational

⁷ Petition at 9.

⁸ 47 C.F.R. Section 27.1214(b)(1).

⁹ Petition at 10.

capacity in a lease. The licensee may use free accounts to generate the required level of minimum educational use, but it can also separately satisfy the educational capacity reservation requirement by actually reserving capacity on the licensee's channels. That is what the lease attached to the Petition so provides. Petitioners have not demonstrated that any licensees have actually failed to reserve the required capacity, or that Clearwire has refused to allow licensees to access that capacity.

Furthermore, even if Clearwire were to deploy facilities on an EBS licensee's reserved capacity, there is no inconsistency between reserving spectrum capacity and contractually obligating Clearwire to build wireless facilities using that capacity.¹⁰ In a digital broadband environment, it often makes sense for EBS licensees to negotiate lease terms that require their commercial partners to build network facilities – be they video facilities or broadband network facilities – that will be used by the licensee over the term of the lease. From the EBS licensee's perspective, this approach may be more economical, practical, and desirable than building a separate stand-alone system.

Some EBS leases also require the commercial operator to provide wireless broadband access, video, and other communications services using both reserved and non-reserved capacity to meet the evolving educational needs of EBS licensees. In addition, the Commission's rules require that, at a minimum, EBS licensees have the right after the first 15 years of a lease, and

¹⁰ Section 27.1214(b)(1) of the Commission's rules provides that EBS licensees must reserve at least 5% of their spectrum for educational use. The amount of capacity reserved, as well the actual use of reserved capacity, are all matters of negotiation that vary among EBS licensees. Some licensees reserve more than the mandatory minimum. Other licensees retain additional spectrum recapture rights or choose not to lease at all.

every 5 years thereafter, to reassess their educational needs in cooperation with their commercial lessees.¹¹ The lease at issue clearly complies with that requirement.

V. Conclusion

Petitioners provide no evidence of rule violations or public policy concerns to justify denial or conditions on grant of the Applications. Contrary to what the Petitioners would have the Commission believe, the existing EBS licensing regime has promoted the use of technology in education by ensuring that EBS spectrum is held by qualified educational licensees who are in the best position to determine their instructional needs. In addition, the Commission's secondary market policies have led to partnerships between EBS licensees and commercial operators that provide advanced wireless services not only to the educational community, but to business and residential customers as well. Inexplicably, given that the Petitioners themselves are EBS licensees, if Petitioners had their way, they would unravel all of these benefits. That would be a tragic mistake. The Commission should deny the Petition in its entirety.

Respectfully submitted,

THE CATHOLIC TELEVISION NETWORK

NATIONAL EBS ASSOCIATION

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February 11, 2013

¹¹ 47 C.F.R. § 27.1214(e).

CERTIFICATE OF SERVICE

I, Donna A. Balaguer, hereby certify that on this 11th day of February 2013, I caused true and correct copies of the foregoing Opposition to Petition to Deny to be served by e-mail to the following:

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EXHIBIT A



PUBLIC NOTICE

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GUIDANCE TO BROADBAND RADIO SERVICE AND EDUCATIONAL BROADBAND SERVICE LICENSEES ON COMPLYING WITH REQUIREMENT TO DEMONSTRATE SUBSTANTIAL SERVICE BY MAY 1, 2011

By this *Public Notice*, the Broadband Division of the Wireless Telecommunications Bureau (Bureau) provides guidance to Broadband Radio Service (BRS) and Educational Broadband Service (EBS) licensees on complying with the requirement to demonstrate substantial service by May 1, 2011.¹ This includes guidance on application filing, the information that must be contained in the filing, and the consequences of not making the required filing.

These filings take place near the end of a process for restructuring services in the 2500-2690 MHz band that involved eliminating the interleaved low- and high-powered services and transitioning licensees in the band to new channel assignments.²

Substantial Service Requirement and Safe Harbors

In 2006, the Commission established a requirement that all BRS and EBS licensees demonstrate substantial service by May 1, 2011.³ The purpose behind the requirement is to “ensure prompt delivery of service to rural areas, . . . prevent stockpiling or warehousing of spectrum by licensees or permittees, and . . . promote investment in and rapid deployment of new technologies and services.”⁴ The Commission established various safe harbors that licensees could rely on to demonstrate substantial service. The Commission established the following general safe harbors:

¹ See 47 C.F.R. § 27.14(o).

² See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 03-66, 19 FCC Rcd 14165 (2004) (*BRS/EBS R&O* and *FNPRM* as appropriate).

³ See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *et al.*, WT Docket No. 03-66, *et al.*, *Order on Reconsideration and Fifth Memorandum Opinion and Order and Third Memorandum Opinion and Order and Second Report and Order*, 21FCC Rcd 5606, 5733 ¶ 303 (2006) (*BRS/EBS 2nd R&O*). BRS Basic Trading Area (BTA) authorizations granted after November 6, 2009 have four years from the date of grant to demonstrate substantial service and need not make any showing at this time. See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-66, *Third Report and Order*, 25 FCC Rcd 7743 (2010).

⁴ *BRS/EBS 2nd R&O*, 21 FCC Rcd at 5720 ¶ 278, *citing* 47 USC §309(j)(4)(B).

- Constructing six permanent links per one million people for licensees providing fixed point-to-point services;
- Providing coverage to at least 30 percent of the population of the licensed area for licensees providing mobile services or fixed point-to-multipoint services;
- Providing specialized or technologically sophisticated service that does not require a high level of coverage to benefit consumers; or
- Providing service to niche markets or areas outside the areas served by other licensees.⁵

The Commission also established a specific safe harbor for EBS licensees. Specifically, an EBS licensee shall be deemed to be providing substantial service with respect to all channels it holds if:

- it is using its spectrum (or spectrum to which its educational services are shifted) to provide educational services within its GSA;
- the services it provides are actually being used to serve the educational mission of one or more accredited public or private schools, colleges or universities providing formal educational and cultural development to enrolled students; and
- the level of service it provides meets or exceeds the minimum usage requirements specified in the Commission's rules.⁶

While the Commission declined to establish a specific safe harbor for EBS licensees that leased spectrum, the Commission indicated that EBS licensees "have the flexibility to meet the substantial service standard through leasing."⁷

The Commission also adopted a specific safe harbor for licensees providing service to rural areas. Under that safe harbor, BRS or EBS licensees providing service to "rural areas" (defined as a county (or equivalent) with a population density of 100 persons per square mile or less, based upon the most recently available Census data) and areas with limited access to telecommunications services will be deemed to be providing substantial service if:

- For mobile service, the licensee provides coverage to at least 75% of the geographic area of at least 30% of the rural areas within its service area; or
- For fixed service, the licensee has constructed at least one end of a permanent link in at least 30% of the rural areas within its licensed area.

Finally, the Commission required licensees with multiple licenses to demonstrate substantial service for each license individually,⁸ although it later allowed licenses to combine certain highly

⁵ *BRS/EBS 2nd R&O*, 21 FCC Rcd at 5726 ¶ 288.

⁶ *Id.* at 5727-5728 ¶¶ 291-292.

⁷ *Id.* at 5727-2728 ¶ 292.

⁸ *Id.* at 5731 ¶ 297.

encumbered licenses.⁹

Application Filing Instructions

Types of Applications: Different types of licensees in the 2500-2690 MHz band are required to file different types of applications in connection with demonstrating substantial service. All EBS licensees and BRS Basic Trading Area (BTA) licensees subject to the May 1, 2011 substantial service deadline must file a notification of completion of construction. BRS incumbent licenses (defined as non-BTA based BRS licenses) must demonstrate substantial service as part of their applications for renewal of license. All applications should be filed electronically using the Universal Licensing System (ULS).¹⁰

Deadlines for Filing: The deadline for EBS licensees and BRS BTA licensees to file their notifications is Monday, May 16, 2011.¹¹ The deadline for BRS incumbent licensees that expire on May 1, 2011 to file their renewal applications is May 2, 2011.¹² Applications filed after the deadline will need to be accompanied by a request for waiver of the applicable deadline, along with a justification for a waiver.¹³ Request for extension of time to demonstrate substantial service must be filed before the deadline.¹⁴

Filing Construction Notifications (ULS application purpose NT): The following instructions apply to filing construction notifications (NTs)

- *Single Call Sign:* An applicant filing a Notification for a single call sign should login to ULS License Manager and click on the applicable call sign link displayed on the “My Licenses” page. On the “License at a Glance” screen, the applicant should select the “Notify the FCC”

⁹ See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *et al.*, WT Docket No. 03-66, *et al.*, *Third Order on Reconsideration and Sixth Memorandum Opinion and Order and Fourth Memorandum Opinion and Order and Second Further Notice of Proposed Rulemaking and Declaratory Ruling*, 23FCC Rcd 5992, 6047-6048 ¶¶ 144-145 (2006) (*BRS/EBS 4th MO&O*).

¹⁰ There are approximately ten BRS incumbent licenses that do not have expiration dates of May 1, 2011. For those licenses, the licensees should file notifications of completion of construction using the directions noted above. Those licensees need not file renewal applications at this time.

¹¹ See 47 C.F.R. § 1.946(d) (“The notification must be filed within 15 days of the expiration of the applicable construction or coverage period.”) Because May 15, 2011 is a Sunday, licensees have until the following Monday to file their notifications. See 47 C.F.R. § 1.4(j). On February 9, 2011, the National EBS Association (“NEBSA”) and the Catholic Television Network (“CTN”) filed a request for waiver of Section 27.14(o) of the Commission’s Rules to extend the deadline for Educational Broadband Service (“EBS”) licensees to demonstrate substantial service from May 1, 2011 to November 1, 2011. See Request for Waiver of Section 27.14(o) of the Commission’s Rules, The National EBS Association and the Catholic Television Network (filed Feb. 9, 2011). That request remains pending.

¹² See 47 C.F.R. 1.949(a) (“Applications for renewal of authorizations in the Wireless Radio Services must be filed no later than the expiration date of the authorization for which renewal is sought, and no sooner than 90 days prior to expiration.”); 47 C.F.R. § 1.4(j).

¹³ The Commission may grant a request for waiver if it is shown that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative. See 47 C.F.R. § 1.925(b)(3).

¹⁴ See 47 C.F.R. § 1.946(e).

link in the “Work on This License” box on the right side of the screen. The system will then launch an NT application for the call sign from which the application was initiated. Call signs cannot be added to an application that is initiated for a single call sign.

- *Multiple Call Signs:* To launch an application for multiple call signs, the applicant should log in to ULS License Manager and select the “Notify the FCC” link in the left-hand navigation menu in License Manager.
- *Purpose of Filing:* Once an NT application is launched, the applicant will be guided through a series of steps in which the system will prompt the applicant to respond to questions and provide required information. On the first screen, the applicant must select the purpose of the NT filing. The system will display a list of application purposes based on the call sign selected (for a single call sign application) or the licenses linked to the applicant’s FCC Registration Number (for a multiple call sign application). For an NT filing, applicants should select “1 - 1st Buildout/Coverage requirements” from list of purposes. If the applicant is filing an application for multiple call signs, the system will display a list of pertinent call signs based on the purpose selected; the applicant should select and review the call signs to be included in the application.
- *Waivers:* Following selection of the purpose of the application, the applicant will be asked to complete the questions on the “Fees and Waivers” page.¹⁵ Licensees should note that waivers filed on a multiple call sign application are applicable to every call sign on the application. In services where a waiver fee is required, a fee will be required for every feeable call sign on the application. If a waiver is required for only some of the call signs, it is recommended that licensees submit two filings; one for the call signs with a waiver and one for the call signs without a waiver.
- *Adding Attachments:* At this point in the process it will also be necessary to add an attachment which contains the substantial service showing demonstration (see also guidance that follows regarding information to include). To add the attachment, click on the “Attachments” link near the top right hand corner of the License Manager screen. From the “Add Attachment” menu select type “Other” from the drop down box, browse to select the appropriate attachment and enter “Substantial Service Demonstration” in the description. Click on the “Add Attachment” button to complete this process.
- *Summary Screen:* After the applicant has completed the preceding steps, the “Summary” screen is displayed allowing the applicant to review and, if necessary, edit the information on the application. After ensuring that the information on the application is correct, the applicant may continue to the “Certification” screen to sign and submit the application.

Filing Renewal Applications (ULS application purpose RO or RM): The following instructions apply to filing renewal applications:

- *Single Call Sign:* An applicant filing a renewal application for a single call sign should login to ULS License Manager and click on the applicable call sign link displayed on the “My Licenses” page. On the “License at a Glance” screen the applicant should select the “Renew License” link in the “Work on This License” box on the right side of the screen. The system

¹⁵ EBS licensees are not subject to application fees. See 47 C.F.R. § 1.1102.

will then launch a renewal application for the call sign from which the application was initiated. Call signs cannot be added to an application that is initiated for a single call sign.

- *Multiple Call Signs:* To launch an application for multiple call signs, the applicant should log in to ULS License Manager and select the “Renew Licenses” link in the left-hand navigation menu in License Manager. The system will display a list of pertinent call signs, and the applicant should select the call signs to be included in the application.
- *Review of Callsigns:* The applicant will be prompted to review the selected call signs and will be given an option to make updates to the licensee or contact information.¹⁶
- *Waivers:* Following the review of the callsigns, the applicant will be asked to complete the questions on the “Fees and Waivers” page.¹⁷ Licensees should note that waivers filed on a multiple call sign application are applicable to every call sign on the application. In services where a waiver fee is required, a fee will be required for every feeable call sign on the application. If a waiver is required for only some of the call signs, it is recommended that licensees submit two filings; one for the call signs with a waiver and one for the call signs without a waiver.
- *Adding Attachments:* At this point in the process it will also be necessary to add an attachment which contains the substantial service showing demonstration (see also guidance that follows regarding information to include). To add the attachment, click on the “Attachments” link near the top right hand corner of the License Manager screen. From the “Add Attachment” menu select type “Other” from the drop down box, browse to select the appropriate attachment and enter “Substantial Service Demonstration” in the description. Click on the “Add Attachment” button to complete this process.
- *Summary Screen:* After the applicant has completed the preceding steps, the “Summary” screen is displayed allowing the applicant to review and, if necessary, edit the information on the application. After ensuring that the information on the application is correct, the applicant may continue to the “Certification” screen to sign and submit the application.

Information to Demonstrate Substantial Service

The information required in connection with a substantial service showing will vary depending on the nature of the service being provided and the type of showing the licensee is attempting to make. What follows is some guidance on the information that should be provided, both generally and with respect to specific safe harbors that licensees may seek to demonstrate. If, after reviewing the showing, staff determines that additional information is necessary, the application will be returned, or the licensee will be informally contacted with a request for additional information. Accordingly, it is imperative that the contact information on the application be accurate and current.

General: All licensees shall provide a description of the type of service they are providing. The description shall be sufficient for staff to understand how and by whom the facilities are being used. In addition, all EBS licensees shall certify that they are in compliance with the programming requirements contained in Section 27.1203 of the Commission’s Rules, and, if they are leasing spectrum (except for

¹⁶ With a renewal application, only the licensee’s administrative information or contact information can be updated.

¹⁷ EBS licensees are not subject to application fees. *See* 47 C.F.R. § 1.1102.

leasing arrangements involving the transmission of educational programming), they are in compliance with Section 27.1214 of the Commission's Rules.¹⁸

We remind all licensees that in order to demonstrate substantial service, a licensee must show that it is actually providing service.¹⁹ Transmitting signals that are not being used to provide service in some way does not constitute substantial service.²⁰ Accordingly, all licensees must demonstrate that their facilities are being used in some fashion to provide service to customers, students, or others.²¹

“Constructing six permanent links per one million people for licensees providing fixed point-to-point services” safe harbor: Licensees relying on this safe harbor shall provide the coordinates for both ends of each link demonstrate that their proposed links are within the GSA of their proposed station. They shall also calculate the population within their GSA using the most recent census data readily available. It is not necessary to provide a map showing the location of the links. Licensees shall also indicate the uses to which the links are being put to use and the bandwidth of the links.

“Providing coverage of at least 30 percent of the population of the licensed area for licensees providing mobile services or fixed point-to-multipoint services” safe harbor: Licensees relying on this safe harbor shall provide a map showing their GSA and the areas within their GSA. They shall also calculate the populations within their GSA and their coverage area using the most recent census data readily available. In describing coverage, licensees shall indicate the signal level that they believe indicates coverage and the percentage of time such a signal level is available within the coverage area. Licensees are reminded that their coverage predictions shall reflect a level of service that the licensee would be willing to offer to customers or students.

Rural Safe Harbors: Licensees relying on one of the rural safe harbors shall provide the information applicable to the type of service they are providing, as noted above. In addition, for each county that they consider to be a rural area, they shall provide the area (in square miles) and population for that county, based upon the most recently available census data. Licensees shall indicate which rural counties are receiving their service.

EBS Safe Harbor: EBS licensees relying on the EBS-specific safe harbor shall provide a narrative exhibit explaining how they comply with each part of the EBS safe harbor. They shall describe with specificity the educational services which are being provided. If a licensee is providing services to other accredited educational institutions, it shall provide the names and addresses of those institutions. Licensees relying on the EBS safe harbor shall provide a detailed exhibit demonstrating that they provide a level of service equal to or greater than the minimum usage requirements contained in Section 27.1214 of the Commission's Rules.

Channel Shifting and Channel Loading: EBS licensees may shift their required educational use onto channels not authorized to it, but which are included in the wireless system of which it is a part

¹⁸ As will be detailed below, EBS licensees relying on the EBS-specific safe harbor will be required to provide additional information regarding their compliance with these provisions.

¹⁹ See *BRS/EBS 2d R&O*, 21 FCC Rcd at 5735-5736 ¶¶ 308-310.

²⁰ *Id.*

²¹ This requirement does not mean that the facilities must be **directly** used to provide service to customers or educators. For example, a network of point-to-point links used in connection with a network could comply with our rules. Furthermore, private internal use of BRS would be permissible under our rules.

(“channel shifting”).²² If an EBS licensee is using channel shifting, it shall identify the call sign(s) of the license(s) to which its educational use is being shifted.

EBS licensees also have the flexibility to use channel loading to shift their required educational programming onto a subset of their authorized number of channels.²³ If a licensee is relying on the EBS safe harbor and is using channel loading, the licensee shall indicate that fact in its showing. EBS licensees who are not relying on the EBS safe harbor need not provide information regarding channel loading.

Showings Based on Combinations of Licenses: Ordinarily, substantial service must be demonstrated on a license-by-license basis. There are two exceptions. First, if the GSA of a licensee is less than 1924 square miles in size, and there is an overlapping co-channel station licensed or leased by the licensee or its affiliate, substantial service may be demonstrated by meeting either the point-to-point safe harbor or the mobile services/point-to-multipoint safe harbor with respect to the combined GSAs of both stations.²⁴ Second, if the GSA of a BTA authorization holder, is less than one-half of the area within the BTA for every BRS channel, substantial service may be demonstrated for the licenses in question by meeting either the point-to-point safe harbor or the mobile services/point-to-multipoint safe harbor with respect to the combined GSAs of the BTA authorization holder, together with any incumbent authorizations licensed or leased by the licensee or its affiliates.²⁵

If a licensee wishes to make a showing under either of these exceptions, it must file a construction notification or renewal application for each of the licenses in question. The licensee shall provide a map showing the GSAs of all stations involved and shall provide sufficient information to demonstrate that the licenses are eligible to be considered together for substantial service purposes.

Important Reminder Regarding Filing of Post-Transition Modifications

For the past several years, BRS and EBS licensees have been transitioning from old channel locations to new channel locations consistent with the revised bandplan adopted in 2004, following the transition process the Commission established at that time.²⁶ In most BTAs, the Commission has been notified that the transition of BRS and EBS to the new band plan has been completed. There are many instances, however, where post-transition notifications have been filed but licensees have not filed the requisite applications to modify their licenses to reflect operation on the new band plan. We remind licensees of the importance of filing those post-transition modification applications. If a licensee which has been transitioned files a substantial service showing without filing its post-transition modification application, its application will be returned, and its substantial service showing will not be considered until the licensee files its post-transition modification application.²⁷

²² See 47 C.F.R. § 27.1214(b)(2).

²³ See Amendment of Part 74 of the Commission's Rules Governing Use of the Frequencies in the Instructional Television Fixed Service, MM Docket 93-106, *Report and Order*, 9 FCC Rcd 3360 ¶ 2 (1994).

²⁴ See 47 C.F.R. § 27.14(o)(4).

²⁵ See 47 C.F.R. § 27.14(o)(5).

²⁶ *BRS/EBS R&O and FNPRM*, 19 FCC Rcd at 14198 ¶ 74.

²⁷ Licensees who continue to operate under the old band plan may demonstrate substantial service in accordance with their operations under the old band plan. Furthermore, there may be markets where a transition is ongoing but certain licensees have transitioned to the new band plan. In those instances, licensees shall indicate that they are operating pursuant to the new band plan even though the transition is not yet complete in their market.

Processing of Applications

Substantial service showings will be reviewed by staff of the Broadband Division. If additional information is necessary to process the application, the licensee will be informed either through a return of the application or through informal contact. Depending on the circumstances, action on substantial service notifications may be taken in the Universal Licensing System, or through public notice, or by order.

Consequences of Failure to File

If a licensee fails to file a construction notification or renewal application, the license will automatically terminate without further Commission action.²⁸ EBS licenses and BRS BTA licenses will be subject to the “auto-term” process.²⁹

If a licensee cannot demonstrate substantial service by the May 1, 2011 deadline, it may request an extension of that deadline by filing an application on Form 601 requesting an extension of the buildout deadline (purpose EX). Such an application must be filed prior to May 2, 2011 and must meet the standards contained in Section 1.946(e) of the Commission’s Rules.³⁰

Contact Information

For assistance in filing, contact FCC Support at Phone: (877) 480-3201, TTY: (717) 338-2824 Hours: Monday-Friday: 8:00 a.m. - 6:00 p.m. ET (except Federal holidays) or by submitting an e-support request at <https://esupport.fcc.gov/onlinerequest.htm>

For legal inquiries, please contact John Schauble at (202) 418-0797 or by e-mail: John.Schauble@fcc.gov, or Nancy Zaczek at (202) 418-0274 or by e-mail: Nancy.Zaczek@fcc.gov.

By the Chief, Broadband Division, Wireless Telecommunications Bureau

-FCC-

For more news and information about the Federal Communications Commission please visit: www.fcc.gov

²⁸ See 47 C.F.R. § 1.955(a)(1), (2).

²⁹ See Wireless Telecommunications Bureau Announces Deployment Of “Auto-Term,” the Automated Feature in its Universal Licensing System That Identifies Unconstructed Stations Resulting in Automatic Termination of Licenses, *Public Notice*, 21 FCC Rcd 163 (WTB 2006).

³⁰ See 47 C.F.R. § 1.946(e).

EXHIBIT B

Reference Copy Only. Do Not Mail to the FCC as an Application.

Submitted: 09/08/2011 at 10:49:45
 File Number: 0004867672

FCC 601
Main Form

FCC Application for Radio Service Authorization: Wireless Telecommunications Bureau Public Safety and Homeland Security Bureau

Approved by OMB
 3060 - 0798
 See instructions for
 public burden estimate

1) Radio Service Code: ED	1a) Existing Radio Service Code:
-------------------------------------	----------------------------------

General Information

2)	(Select only one) (NT)	NE - New MD - Modification AM - Amendment	RO - Renewal Only RM - Renewal/Modification CA - Cancellation of License	AU - Administrative Update WD - Withdrawal of Application DU - Duplicate License			NT - Required Notifications EX - Requests for Extension of Time RL - Registered Location/Link
3a)	If this application is for a D evelopmental License, D emonstration License, or a S pecial Temporary Authorization (STA), enter the code and attach the required exhibit as described in the instructions. Otherwise enter ' N ' (Not Applicable).						(N) D M S N/A
3b)	If this application is for Special Temporary Authority due to an emergency situation, enter 'Y'; otherwise enter 'N'. Refer to Rule 1.915 for an explanation of situations considered to be an emergency.						() Yes No
4)	If this application is for an Amendment or Withdrawal, enter the file number of the pending application currently on file with the FCC.						File Number
5)	If this application is for a Modification, Renewal Only, Renewal/Modification, Cancellation of License, Duplicate License, or Administrative Update, enter the call sign of the existing FCC license. If this is a request for Registered Location/Link, enter the FCC call sign assigned to the geographic license.						Call Sign
6)	If this application is for a New, Amendment, Renewal Only, or Renewal/Modification, enter the requested authorization expiration date (this item is optional).						MM / DD
7)	Is this application "major" as defined in §1.929 of the Commission's Rules when read in conjunction with the applicable radio service rules found in Parts 22 and 90 of the Commission's Rules? (NOTE: This question only applies to certain site-specific applications. See the instructions for applicability and full text of §1.929).						() Yes No
8)	Are attachments (other than associated schedules) being filed with this application?						(Y) Yes No

Fees, Waivers, and Exemptions

9)	Is the Applicant exempt from FCC application fees?	(Y) Yes No
10)	Is the Applicant exempt from FCC regulatory fees?	() Yes No
11a)	Does this application include a request for a Waiver of the Commission's Rule(s)? If 'Yes', attach an exhibit providing rule number(s) and explaining circumstances.	(N) Yes No
11b)	If 11a is 'Y', enter the number of rule sections involved.	Number of Rule Section(s): _____
12)	Are the frequencies or parameters requested in this filing covered by grandfathered privileges, previously approved by waiver, or functionally integrated with an existing station?	() Yes No

Applicant Information

13) FCC Registration Number (FRN): 001159183			
14) Applicant/Licensee legal entity type: (Select One.) <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Unincorporated Association <input type="checkbox"/> Trust <input type="checkbox"/> Government Entity <input checked="" type="checkbox"/> Consortium <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Other (Description of Legal Entity) _____			
15) If the licensee name is being updated, is the update a result from the sale (or transfer of control) of the license(s) to another party and for which proper Commission approval has not been received or proper notification not provided?			() <u>Yes</u> No
16) First Name (if individual):	MI:	Last Name:	Suffix:
17) Legal Entity Name (if other than individual): Consortium for Public Education			
18) Attention To: Linda Croushore			
19) P.O. Box:	And/Or	20) Street Address: 410 Ninth Street	
21) City: MCKEESPORT	22) State: PA	23) Zip Code: 15132	
24) Telephone Number: (412)678-9215		25) FAX: (412)678-1698	
26) E-Mail Address:			

27) Demographics (Optional):

Race: <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African-American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	Ethnicity: <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female
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Real Party in Interest

28) Name of Real Party in Interest of Applicant (If different from applicant):	29) FCC Registration Number (FRN) of Real Party in Interest:
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Contact Information (If different from the applicant)

30) First Name:	MI:	Last Name:	Suffix:
31) Company Name: Consortium for Public Education			
32) Attention To: Steve Seliy			
33) P.O. Box:	And /Or	34) Street Address: 410 Ninth Street	
35) City: MCKEESPORT	36) State: PA	37) Zip Code: 15132	
38) Telephone Number: (412)678-9215		39) FAX: (412)678-1698	
40) E-Mail Address: sseliy@tcfpe.org			

Regulatory Status

41) This filing is for authorization to provide or use the following type(s) of radio service offering (enter all that apply):

() **Common Carrier** () **Non-Common Carrier** () **Private, internal communications** () **Broadcast Services** () **Band Manager****Type of Radio Service**

42) This filing is for authorization to provide the following type(s) of radio service (choose all that apply):

() **Fixed** () **Mobile** () **Radiolocation** () **Satellite (sound)** () **Broadcast Services**43) Does the Applicant propose to provide service interconnected to the public telephone network? () **Yes** **No****Alien Ownership Questions (If any answer is 'Y', provide an attachment explaining the circumstances)**44) Is the Applicant a foreign government or the representative of any foreign government? () **Yes** **No**45) Is the Applicant an alien or the representative of an alien? () **Yes** **No**46) Is the Applicant a corporation organized under the laws of any foreign government? () **Yes** **No**47) Is the Applicant a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country? () **Yes** **No**48a) Is the Applicant directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country? () **Yes** **No**48b) If the answer to 48a is 'Y', has the Applicant received a ruling(s) under Section 310(b)(4) of the Communications Act with respect to the same radio service involved in this application? () **Yes** **No**

If the answer to 48b is 'Y', include in the exhibit required by Item 48a the citation(s) of the applicable declaratory ruling(s) by DA/FCC number of the FCC Record citation, if available, release date, and any other identifying information.

If the answer to 48b is 'N', attach to this filing a date-stamped copy of a request for a foreign ownership ruling pursuant to Section 310(b)(4) of the Communications Act. It is not necessary to file a request for a foreign ownership ruling if the Applicant includes in the exhibit required by Item 48a a showing that the requested license(s) is exempt from the provisions of Section 310(b)(4).

Basic Qualification Questions49) Has the Applicant or any party to this application had any FCC station authorization, license or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license, or construction permit denied by the Commission? () **Yes** **No**50) Has the Applicant or any party to this application, or any party directly or indirectly controlling the Applicant, ever been convicted of a felony by any state or federal court? () **Yes** **No**51) Has any court finally adjudged the Applicant or any party directly or indirectly controlling the Applicant guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition? () **Yes** **No**

If the answer to any of 49-51 is 'Y', attach an exhibit explaining the circumstances.

Aeronautical Advisory Station (Unicom) Certification52) () I certify that the station will be located on property of the airport to be served, and, in cases where the airport does not have a control tower, RCO, or FAA flight service station, that I have notified the owner of the airport and all aviation service organizations located at the airport within ten days prior to application.**Broadband Radio Service and Educational Broadband Service Cable Cross-Ownership**53a) Will the requested facilities be used to provide multichannel video programming service? () **Yes** **No**53b) If the answer to question 53a is 'Y', does the Applicant operate, control or have an attributable interest (as defined in Section 27.1202 of the Commission's Rules) in a cable television system whose franchise area is located within the geographic service area of the requested facilities? () **Yes** **No****Note: If the answer to question 53b is 'Y', attach an exhibit explaining how the Applicant complies with Section 27.1202 of the Commission's Rules or justifying a waiver of that rule. If a waiver of the Commission Rule(s) is being requested, Item 11a must be answered 'Y'.****Broadband Radio Service and Educational Broadband Service (Part 27)**54) (For EBS only) Does the Applicant comply with the programming requirements contained in Section 27.1203 of the Commission's Rules? () **Yes** **No****Note: If the answer to item 54 is 'N', attach an exhibit explaining how the Applicant complies with Section 27.1203 of the Commission's Rules or justifying a waiver of that rule. If a waiver of the Commission Rule(s) is being requested, Item 11a must be answered 'Y'.**55) (For BRS and EBS) Does the Applicant comply with Sections 27.50, 27.55, and 27.1221 of the Commission's Rules? () **Yes** **No****Note: If the answer to item 55 is 'N', attach an exhibit justifying a waiver of that rule(s). If a waiver of the Commission Rule(s) is being requested, Item 11a must be answered 'Y'.**

General Certification Statements

1)	The applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application.
2)	The applicant certifies that grant of this application would not cause the applicant to be in violation of any pertinent cross-ownership or attribution rules.* *If the applicant has sought a waiver of any such rule in connection with this application, it may make this certification subject to the outcome of the waiver request.
3)	The applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.
4)	The applicant certifies that neither the applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to §5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. This certification does not apply to applications filed in services exempted under §1.2002(c) of the rules, 47 CFR § 1.2002(c). See §1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification.
5)	The applicant certifies that it either (1) has current required ownership data on file with the Commission, (2) is filing updated ownership data simultaneously with this application, or (3) is not required to file ownership data under the Commission's rules.
6)	The applicant certifies that the facilities, operations, and transmitters for which this authorization is hereby requested are either: (1) categorically excluded from routine environmental evaluation for RF exposure as set forth in 47 C.F.R. 1.1307(b); or, (2) have been found not to cause human exposure to levels of radiofrequency radiation in excess of the limits specified in 47 C.F.R. 1.1310 and 2.1093; or, (3) are the subject of one or more Environmental Assessments filed with the Commission.
7)	The applicant certifies that it has reviewed the appropriate Commission rules defining eligibility to hold the requested license(s), and is eligible to hold the requested license(s).
8)	The applicant certifies that it is not in default on any payment for Commission licenses and that it is not delinquent on any non-tax debt owed to any federal agency.

Signature

56) Typed or Printed Name of Party Authorized to Sign

First Name: Stephen	MI:	Last Name: Seliy	Suffix:
57) Title: Associate Executive Director			
Signature: Stephen Seliy			58) Date: 09/08/2011
FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.			
Upon grant of this license application, the licensee may be subject to certain construction or coverage requirements. Failure to meet the construction or coverage requirements will result in termination of the license. Consult appropriate FCC regulations to determine the construction or coverage requirements that apply to the type of license requested in this application.			
WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, §1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, §312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, §503).			

1) Purpose

The purpose of this submission: Enter one purpose only - 1, 2, 3, 4, I, S, D, G or H (1) See below and refer to instructions.

Satisfaction of Buildout/Coverage Requirements (Market-based services and State License Radio Service (SL) only)

- 1 1st buildout/coverage requirements for the referenced system have been met. (List call signs in 2a)
- 2 2nd buildout/coverage requirements for the referenced system have been met. (List call signs in 2a)
- 3 3rd buildout/coverage requirements for the referenced system have been met. (List call signs in 2a)
- 4 4th buildout/coverage requirements for the referenced system have been met. (List call signs in 2a)
- I Tribal lands buildout/coverage requirements for the referenced system have been met. (List call signs in 2a)

Satisfaction of Construction Requirements (Site-licensed services only)

- S Construction requirements for the referenced parameters have been met. (List, as applicable, call signs, locations or paths, frequencies, actual date of construction and mobile units in Item 2.)

Request for Regular Authorization for Facilities Operating under Developmental Authority (Paging services only)

- D Notification to request regular authorization for facilities previously operating under developmental authority. (List, as applicable, call signs, locations, frequencies and actual date of construction in Item 2.)

Extended Implementation (Slow Growth) (Land Mobile Services only)

- G Notification of compliance with yearly station construction commitments for licensees with approved extended implementation plans. (List call signs in Item 2a.)
- H Final notification that construction requirements have been met for the referenced system with approved extended implementation plan. (List, as applicable, call signs, locations, frequencies, actual date of construction and mobile units in Item 2.)

2) Call Signs/Locations or Paths/Frequencies

2a) Call Sign	2b) Location Number	2c) Path Number (Microwave only)	2d) Center (Assigned) or Lower Frequency (MHz)	2e) Upper Frequency (MHz)	2f) Actual Date of Construction (mm/dd/yy)	2g) Number of Operational Mobiles (see instructions)
WNC484						

3) Certification

By signing the Main Form, the applicant certifies, as set forth in 47 C.F.R. §1.946(c) of the Commission's rules, that it has commenced service or operations by the expiration of its construction period, or met its coverage or substantial service obligations by the expiration of its coverage period.

Attachment(s):

Type	Description	Date Entered
O	Substantial service map	09/08/2011
O	Substantial service showing	09/08/2011

WNC484

Demonstration of Substantial Service

Consortium for Public Education (“Licensee”) is the licensee of Educational Broadband Service (“EBS”) station WNC484 (the “License”) in Pittsburgh, PA. Licensee leases some of its spectrum to a subsidiary of Clearwire Corporation (“Clearwire”).

Section 27.14(o) of the Commission’s Rules states that EBS and Broadband Radio Service (“BRS”) licensees must make a showing of “substantial service” no later than November 1, 2011. Substantial service is defined as “service which is sound, favorable, and substantially above a level of mediocre service which might minimally warrant renewal.” 47 C.F.R. §27.14(o). In an effort to provide licensees a degree of certainty as to how to demonstrate substantial service, the Commission adopted several “safe harbors” for compliance. 47 C.F.R. §27.14(o)(1), (o)(2) and (o)(3).

As described below, Licensee satisfies the safe harbor specified in Section 47 C.F.R. §27.14(o)(3), which provides as follows: “An EBS or BRS licensee may be deemed to provide substantial service through a leasing arrangement if the lessee is providing substantial service under paragraph (o)(1) of this section.” Because Clearwire has satisfied the substantial service safe harbor specified in 47 C.F.R. §27.14(o)(1)(ii), Licensee is deemed to provide substantial service through its leasing arrangement with Clearwire pursuant to 47 C.F.R. §27.14(o)(3).

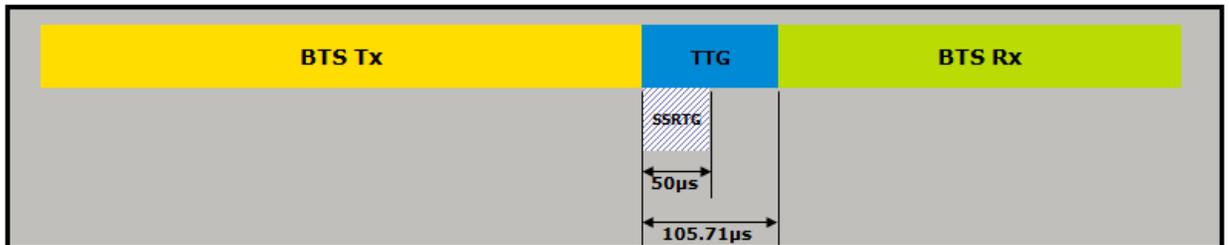
Clearwire has deployed and is operating a fourth generation (“4G”) commercial mobile wireless broadband network in Pittsburgh, PA that includes the Geographic Service Area (“GSA) of the License as defined by the Commission’s rules. See 47 C.F.R. § 27.1206. Clearwire, doing business under the brand name CLEAR®, is a leading provider of 4G wireless broadband networks that provide high-speed mobile Internet and residential access services, as well as residential voice services, in communities throughout the country. Clearwire’s 4G mobile broadband networks currently operate based on the 802.16e standard, which is referred to as mobile WiMAX. The mobile WiMAX standard builds off of the 802.11 standards, commonly referred to as Wi-Fi, and facilitates 4G mobile broadband services. By the end of 2010, Clearwire’s 4G mobile broadband services covered an estimated 110 million people in 71 markets, including Pittsburgh, PA.

In its 4G markets, Clearwire offers its services through retail channels and through wholesale partners that include Sprint Nextel Corporation, Comcast Corporation, Time Warner Cable Inc., and Bright House Networks, LLC. Clearwire offers several ways to connect to its service including personal Wi-Fi hotspots such as the iSpot, Clear Spot 4G and Clear Spot 4G+, USB modems and performance docks, a dual-mode 4G/3G USB modem, home modems with built-in Wi-Fi, and other mobile devices like 4G enabled laptops. There are also dozens of 4G-ready laptops and netbooks available from leading manufacturers including Dell, Fujitsu, Lenovo,

Samsung, and Toshiba. In addition, Sprint offers 4G enabled handsets that operate on the Clearwire 4G network.

Establishment of Population Covered Within the GSA. An incumbent EBS licensee’s GSA is determined by Sections 27.1206(1) as “bounded by a circle having a 35 mile radius and centered at the station’s reference coordinates, which was the previous PSA entitled to incumbent licensees prior to January 10, 2005, and is bounded by the chord(s) drawn between intersection points of the licensee’s previous 35 mile PSA and those of respective adjacent market, co-channel licensees...” The attached map depicts the GSA, the location of Clearwire’s base stations and the associated coverage areas for those base stations. In addition, the attached map shows the total population within the GSA, the population covered by Clearwire’s base stations and the percentage of the total, which is greater than 30 percent. The attached map is based on Alteryx 2009 population data, which are 2009 estimates derived from 2000 census data.

Establishment of Service Area Contours Within the GSA. Clearwire used a maximum distance calculation for determining population coverage within the GSA. This methodology takes into account the base station antennae deployed at the site, typically from vendors such as KMW and Kathrein. The service area contour, depicted on the attached map, was achieved by using at least (3) base station antennae with 120 degree coverage.



WiMAX Frame Structure

Clearwire operates using the WiMAX Forum’s Wave 2 profile. Clearwire’s frame consists of 29 downlink symbols and 18 uplink symbols. Because WiMAX technology utilizes Time Division Duplexing (TDD), applying the laws of physics and device switching performance, the maximum useable range for WiMAX is 8.35 KM. This is due to what is known as Round Trip Delay (“RTD”) that stems from what is known as the Transmission Time Gap (“TTG”), which represents the time interval between a base station’s transmit period and its receive period, (105.71 μs subtracted by the Subscriber Station Return Time Gap (“SSRTG”), which represents the time required by a subscriber station to switch from receive to transmit, (50 μs resulting in 55.71 μs)). Because the one-way delay is half of this value, or 27.855 μs, the maximum useable range for WiMAX technology is equal to the one way time of flight (27.855 μs) x speed of light = 8.35 KM.

Clearwire used this distance-based methodology rather than a propagation methodology because WiMAX technology is distance limited by TDD switching times well before it exceeds the technology's minimum signal thresholds. By examining the link budget of a WiMAX system using a typical off the shelf outdoor unit ("ODU"), it is clear that receiver sensitivity is not the limiting factor when determining coverage. The WiMAX link budget in the table below shows that the minimum required received signal level for the ODU to operate is over 41 dB below what would be received at the 8.35 KM TDD distance limit described above. Thus, either terrain blockage which is accounted by using the method described in the next paragraph or the WiMAX TDD distance limit are the two parameters limiting WiMAX coverage. Thus, to be conservative, Clearwire has established service area contours that are the minimum of the Line of Sight distance and the WiMAX TDD distance limit versus using a received signal level threshold.

Parameter	Units	Value
Transmitter Power (assuming 2T2R)	dBm	39.5
Cable Loss	dB	1.0
Antenna Gain	dBi	16.0
EIRP	dBm	54.5
Receiver Sensitivity	dBm	-94.0
ODU Antenna Gain	dBi	12.0
Maximum Path Loss (MAPL)	dB	160.5
Free Space Path Loss at 8.35 KM at 2600 MHz	dB	119.2
Received Signal Level at 8.35 KM	dBm	-52.7

To account for terrain obstructions, Clearwire also employed a calculation similar to Antenna Height Benchmarking as described in 47 C.F.R. § 27.1221. But, to account for the maximum useable range of 8.35 KM, instead of calculating Height Above Average Elevation along a radial with 50 points from 3 to 16 KM from the base station, Clearwire used 50 evenly spaced points from 0.5 KM to 8.35 KM. If this calculation resulted in service area contours that were less than the maximum useable range, then Clearwire

relied on this calculation to establish the service area contours depicted on the attached map. Clearwire used MapInfo to provide a graphical representation of these contours.

The foregoing, in conjunction with the attached map, demonstrates that Licensee provided substantial service through its leasing arrangement with Clearwire and satisfaction of the 30% population coverage safe harbor set forth in 47 C.F.R. §27.14(o)(1)(ii).

Licensee certifies that it is in compliance with the programming and minimum usage requirements set forth in Sections 27.1203 and 27.1214 of the Commission's rules. Moreover, Licensee satisfies the EBS-specific safe harbor specified in Section 27.14(o)(2) of the Commission's rules. The spectrum associated with the License is in use within a network that permits channel shifting and loading. Use of the spectrum associated with the system or a particular base station location is dynamic, depending upon the frequency use and reuse plan that optimizes network performance. Thus, at any given moment, educational usage may be on channels associated with the License or on other EBS or BRS channels associated with the system.

WNC484-Pittsburgh, PA

GSA POPs 2,212,414 Coverage POPs 1,244,980 Percent Covered 56%

