

EXPERIMENTAL OPERATIONS DESCRIPTION

INTRODUCTION

Amberwell LLC (“Amberwell”) seeks renewal of its previously approved experimental license, Call Sign WL2XAB.¹ Amberwell needs additional time to complete the experimental operations. As explained previously in the modification application associated with ELS File No. 0163-EX-CM-2021 (filed July 30, 2021), Amberwell experienced RF interference at the initially authorized location and had to relocate to a different location. That application was not granted until November 16, 2021, and accordingly, more time is necessary to complete the experimental operations.

Amberwell previously requested renewal of the license, and that request was dismissed without prejudice.² In the dismissal letter, the FCC stated that if Amberwell “wish[es] to continue testing [it] should seek authorization under the Broadcast Experimental rules by filing FCC Form 309.”³ Amberwell, through its counsel, repeatedly requested clarification from the FCC regarding the dismissal letter but received no response to its inquiries.

Amberwell believes the dismissal letter is in error. Amberwell does not seek to operate an experimental broadcast station and believes such a classification would not be appropriate for Amberwell’s experimental operations. For example, Amberwell is not a licensed broadcaster and is not developing technological to improve broadcast television or radio service or the broadcasting art generally.⁴ Similarly, Amberwell’s experimental transmissions are not intended for reception and use by the general public now or in the future.⁵

Amberwell is aware that other FCC applicants/licensees conducting experiments in the high frequency bands have sought to conduct such activities under the FCC’s broadcasting rules.⁶ Those efforts are unconnected to Amberwell, and the company should not be required to operate under the operational decisions of those other parties. Further,

¹ See Application of Amberwell LLC, ELS File No. 0370-EX-CN-2020 (granted August 10, 2020); Application of Amberwell LLC, ELS File No. 0163-EX-CM-2021 (granted November 16, 2021).

² See Application of Amberwell LLC, ELS File No. 0338-EX-CR-2022 (filed June 1, 2022; dismissed July 18, 2022).

³ See Letter to Tony Lin, Counsel for Amberwell LLC, from Anthony Serafini, Chief, Experimental Licensing Branch, FCC (dated July 18, 2022).

⁴ See, e.g., 47 C.F.R. § 5.203 (establishing that licensees of broadcast stations may obtain experimental authorizations to conduct technical experimentation to improve broadcast transmissions); *id.* § 5.205 (requiring applicant to have a definite program of research and experimentation which has a reasonable promise of substantial contribution to the developments of the broadcasting art).

⁵ See 47 C.F.R. § 5.54(b).

⁶ See Application of Parable Broadcasting Company, LLC, IBFS File No. IHF-C/P-20200427-00001 (filed April 27, 2020); Application of Turms Tech LLC, IBFS File No. IHF-C/P-20170417-00002 (granted August 1, 2017); Application of DPA Mac LLC, IBFS File No. IHF-C/P-20201228-00011 (filed December 28, 2020).

Amberwell is aware that the FCC continues to grant applications similar to Amberwell's⁷ and requests that its application be treated fairly.⁸

⁷Application of 3DB Communication Inc., ELS File No. 0386-EX-CR-2022 (granted August 3, 2022); Application of Alpha Bravo Communications LLC, ELS File No. 0675-EX-CN-2022 (granted November 30, 2022); Application of Farside Communications Inc., ELS File No. 0534-EX-CR-2022 (granted October 11, 2022); Application of RCA Telecom LLC, ELS File No. 0746-EX-CN-2022 (granted November 29, 2022).

⁸ *Melody Music v. FCC*, 345 F.2d 730 (D.C. Cir. 1965) (stating that the FCC must treat similarly situated parties the same).