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2.5 GHz Band Auction Scheduled for October 2009

The Federal Communications Commission recently announced that it has scheduled an Auction for the 2.5 GHz band Broadband Radio Service (“BRS”) for October 27, 2009. The Auction (Number 86), will include 78 licenses consisting of 76.5 MHz of spectrum at 2496-2502, 2602-2614, 2614-2615, 2616-2618, and 2618-2673.5 MHz. BRS is a flexible service that can be used to accommodate a variety of fixed, portable, and mobile services, including high-speed broadband services, video programming, and cellularized communication services. The BRS spectrum is currently being used by Sprint and Clearwire to offer the 4G WiMAX services in Portland, Las Vegas, Atlanta and Baltimore.

The 78 licenses include three BRS licenses in the Gulf of Mexico. In making three Gulf licenses available, the FCC elected to support offshore operations, reversing a previous FCC decision that did not make BRS licenses available in the Gulf. The FCC was persuaded, in part by comments filed by the Telecommunications Committee of the American Petroleum Institute highlighting the fact that the devastation caused by Hurricanes Rita and Katrina caused several oil and gas companies to reevaluate their communications requirements in the Gulf and place increased importance on the use of rapidly deployable IP-enabled broadband services. The Commission also noted that the 2.5 GHz band is one of the few bands available to adequately support off-shore oil and gas operations.

In reestablishing the Gulf licenses, the FCC rejected several efforts by incumbent terrestrial licensees to block operations on these BRS frequencies in the Gulf. The terrestrial licensees feared interference with land-based BRS stations. To address these concerns, the Commission elected to start the service areas for the Gulf BRS licenses twelve nautical miles from the shoreline. The Gulf licenses extend south to the limit of the Outer Continental Shelf.

Under rules established by the Commission, the BRS licenses will be issued to auction winners for ten-year terms. The Gulf licenses are divided into the eastern, central and western Gulf. The minimum opening bid for each of these licenses is \$20,000.

The Commission has not yet finalized its procedures for Auction 86. However, the procedures recently proposed by the FCC would implement the standard simultaneous multi-round (“SMR”) format the Commission has used in recent auctions, including last year’s 700 MHz auction. The SMR format offers every license for bid at the same time and consists of successive bidding rounds in which eligible bidders may place bids on individual licenses. Bidding typically remains open on all licenses until bidding stops on every license.

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