

**ALERT**

# Summary of Fourth Further Notice of Proposed Rulemaking: Use of Spectrum Bands Above 24 GHz For Mobile Radio Services (GN Docket No. 14-177)

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August 6, 2018

On August 3, 2018, the Federal Communications Commission (FCC or Commission) released a Fourth Further Notice of Proposed Rulemaking (Fourth FNPRM or FNPRM) on expanding flexible use in millimeter wave (mmW) spectrum at or above 24 GHz. The *Fourth FNPRM* seeks comment on transitioning existing 38.6-40 GHz (39 GHz) band licenses to the new flexible-use band plan. The FCC proposes to reconfigure the 39 GHz, 37.6-38.6 GHz (Upper 37 GHz), and 47.2-48.2 GHz (Upper 47 GHz) bands into 100 megahertz channels to facilitate simultaneous auction of all 2400 megahertz. The Commission further proposes to make all three bands available through an incentive auction. Comments are due September 17, 2018, and reply comments are due October 8, 2018.

## Band Plan Reconfiguration

In its First Spectrum Frontiers Report and Order, the FCC adopted a new band plan and Upper Microwave Flexible Use Service (UMFUS) rules for the Upper 37 GHz, 39 GHz, and 47 GHz bands. The UMFUS rules provide for 200 megahertz channels licensed by Partial Economic Area (PEA).

The Commission now proposes to modify the 39 GHz band plan from seven 200 megahertz channels to fourteen 100 megahertz channels. The 39 GHz band currently consists of unpaired 50 megahertz blocks licensed by PEA or by Rectangular Service Area (RSA). The FCC believes that modifying the band plan to 100 megahertz channels

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will help repack incumbents (many of which hold two non-contiguous 50 megahertz license blocks) and better enable licensees to aggregate spectrum.

The FCC also proposes to modify the Upper 37 GHz and 47 GHz band plans from 200 megahertz to 100 megahertz channels. The Commission concludes that aligning all three band plans will provide consistency across the remaining UMFUS bands not yet designated for auction and facilitate spectrum aggregation for licensees seeking larger bandwidth.

### **Reducing 39 GHz Band Encumbrances through Incentive Auction**

Many 39 GHz band licenses are “encumbered”—meaning they are either RSA licenses that do not conform to PEA boundaries or PEA licenses that overlap geographically with pre-existing RSA licenses. The Wireless Telecommunications Bureau is currently accepting applications from 39 GHz band licensees seeking to swap spectrum to obtain contiguous spectrum in 100 megahertz or 200 megahertz increments. Those with encumbered licenses, however, have fewer options to create a conforming PEA license.

The FCC proposes to supplement its existing license swap approach with an incentive auction, whereby incumbent licensees would be compensated for vacating encumbered spectrum. Unlike the broadcast television incentive auction, in which the FCC held separate reverse and forward auctions, here the FCC is proposing to determine supply and demand in a generic-block, clock auction for the Upper 37 GHz, 39 GHz, and 47 GHz bands. The clock auction would set both the price of new licenses and the amounts for which incumbents will relinquish their spectrum usage rights through a two-phase auction procedure. In the first phase, participants would bid to win generic spectrum blocks that would determine a uniform price in each PEA. The second phase would assign specific frequency licenses by PEA with the goal of maximizing contiguity within each PEA.

Incumbent licensees would receive a voucher equal to the final clock phase price in the PEA, adjusted to reflect the incumbent’s holdings in that PEA. Thus, an incumbent licensee could either submit winning bids for the number of licenses it currently holds, in which case the voucher would cover the cost of its bids, or it could allow another bidder to submit a winning bid, in which case the voucher would serve as compensation.

The Commission further proposes to offer incumbents with encumbered licenses an optional voucher exchange prior to the auction, which would allow them to consolidate their holdings across regions. More specifically, incumbents with encumbered licenses could exchange their fractional vouchers in one or more PEAs to create full vouchers in another PEA. For incumbents that choose not to participate in the auction, the FCC proposes a mandatory repack.