

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In re: |) | |
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| M2Z NETWORKS, INC. |) | File No. |
| |) | |
| Application for License and Authority to |) | |
| Provide National Broadband Radio Service |) | |
| in the 2155-2175 MHz Band |) | |
| |) | |

APPENDIX 2

**CONDITIONS FOR GRANT OF M2Z'S LICENSE
AND OPERATION OF ITS NETWORK**

CONDITIONS FOR GRANT OF M2Z'S LICENSE AND OPERATION OF ITS NETWORK

M2Z Network, Inc.'s license and its operations on 2155-2175 MHz band shall be conditioned on the following requirements:

1. Service Name and Definition

M2Z (hereinafter "NBRS Licensee" or "M2Z") shall provide National Broadband Radio Service. National Broadband Radio Service is a radio service provided under a single nationwide license on 20 MHz of spectrum in the 2155-2175 MHz band for the provision of fixed and portable broadband data services, without charge to end-users, on a network engineered to provide data rates of 384 kbps downstream and 128 kbps upstream.

2. Frequencies

M2Z shall provide the National Broadband Radio Service in the 2155-2175 MHz band on a primary basis.

3. Service Areas

The Service Area for National Broadband Radio Service in the 2155-2175 MHz band shall be nationwide. The nationwide service area consists of the fifty states, the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico and the United States Virgin Islands.

4. License Period

Initial authorizations and renewal terms for the National Broadband Radio Service shall be fifteen (15) years from the date of initial issuance or renewal.

5. Construction requirements; Criteria for comparative renewal proceedings.

M2Z shall commence the National Broadband Radio Service by placing a base station in operation in at least one Standard Metropolitan Statistical Area within 24 months of the Commission's grant of license authorization, and will comply with the following construction compliance benchmarks:

(a) *Third anniversary of license grant and commencement of operations:* will have constructed sufficient base stations to provide service to thirty-three percent (33%) of the U.S. population measured by counties.

(b) *Fifth anniversary of license grant and commencement of operations:* will have constructed sufficient base stations to provide service to sixty-six percent (66%) of the U.S. population measured by counties.

(c) *Tenth anniversary of license grant and commencement of operations:* will have constructed sufficient base stations to provide service to ninety-five percent (95%) of the U.S. population measured by counties.

(d) *At the filing of the renewal application:* will have constructed sufficient base stations to provide service to ninety-five percent (95%) of the U.S. population measured by counties.

6. Power limits

The following power limits shall apply to the 2155-2175 MHz bands:

(a) *Main, booster and base stations.*

(i) The maximum EIRP of a main, booster or base station shall not exceed $33 \text{ dBW} + 10 \log(X/Y) \text{ dBW}$, where X is the actual channel width in MHz and Y is 6 MHz.

(ii) If a main or booster station sectorizes or otherwise uses one or more transmitting antennas with a non-omnidirectional horizontal plane radiation pattern, the maximum EIRP in dBW in a given direction shall be determined by the following formula: $\text{EIRP} = 33 \text{ dBW} + 10 \log(X/Y) \text{ dBW} + 10 \log(360/\text{beamwidth}) \text{ dBW}$, where X is the actual channel width in MHz, Y is 6 MHz, and beamwidth is the total horizontal plane beamwidth of the individual transmitting antenna for the station or any sector measured at the half-power points.

(b) *User stations.* All user stations are limited to 2.0 watts transmitter output power.

7. Emission limits

For operations in the 2155–2175 MHz band, the power of any emissions outside the NBRS Licensee's frequency bands of operation shall be attenuated below the transmitter power (P) measured in watts.

(a) *For fixed and temporary fixed digital stations.* The attenuation for fixed and temporary fixed digital stations shall be not less than $43 + 10 \log(P) \text{ dB}$, unless a documented harmful interference complaint is received from an adjacent channel licensee. Provided that the complaint cannot be mutually resolved between the parties, both licensees of existing and new systems shall reduce their out-of-band emissions by at least $67 + 10 \log(P) \text{ dB}$ measured at 3 MHz from their channel's edges.

(b) *For user stations.* The attenuation factor for user stations shall be not less than $43 + 10 \log(P) \text{ dB}$ at the channel edge and $55 + 10 \log(P) \text{ dB}$ at 3 MHz from the channel edges.

8. Relocation of Incumbents

(a) *Relocation of fixed microwave service licensees.* Incumbent fixed microwave service licensees in the 2160-2175 MHz band shall be relocated pursuant to the procedures established by the Commission in the Ninth Report and Order on Advanced Wireless Services. *See Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems*, Ninth Report and Order, FCC 06-45, ¶¶ 55-63 (Rel. Apr. 21, 2006) (“AWS 9th R&O”).

(b) *Relocation of fixed BRS licensees.* Incumbent BRS licensees in the 2150-2162 MHz band shall be relocated pursuant to the procedures established by the Commission in the Ninth Report and Order on Advanced Wireless Services. See *AWS 9th R&O* at ¶¶ 11-63.

9. Protection of Incumbents

(a) *Protection of Part 101 operations.* Prior to initiating operations from any base or fixed station, the NBRIS Licensee must coordinate its frequency usage with co-channel and adjacent channel incumbent Part 101 fixed-point-to-point microwave licensees operating in the 2110-2155 MHz band. Coordination shall be conducted in accordance with the provisions of Section 24.237 of this chapter.

(b) *Protection of Part 21 operations.* Prior to initiating operations from any base or fixed station, the NBRIS Licensee must coordinate its frequency usage with co-channel and adjacent channel incumbent Part 21 BRS licensees operating in the 2150-2162 MHz band. In the event that the NBRIS Licensee and BRS licensees cannot reach agreement in coordinating their facilities, either licensee may seek the assistance of the Commission, and the Commission may then, at its discretion, impose requirements on either or both parties.

10. Public Interest and Other Obligations of M2Z

(a) *Basic service.* The NBRIS Licensee shall make available National Broadband Radio Service at engineered data rates of 384 kbps download and 128 kbps upload speeds free of airtime or service charges. The NBRIS Licensee may condition service provision on the use of customer premises equipment that is certified by the NBRIS Licensee to operate in the band according to its specifications and other relevant Commission regulations.

(b) *Service to Public Safety Entities.* The NBRIS Licensee shall serve any public safety organization in the U.S. willing to utilize NBRIS, without limit to the number of devices, and without airtime or service charges, provided that the NBRIS Licensee has constructed its network and makes service generally available in the public safety agencies' service area. The NBRIS Licensee shall provide any public safety entity that registers with service of up to 384 kbps download and 128 kbps upload speeds. Such service may be conditioned on the use of a gateway device certified by the NBRIS Licensee to operate in the band according to its specifications and other relevant Commission regulations.

(c) *Fees on Premium Services.* The NBRIS Licensee may make available "Premium Services" on a subscription basis, in which event it shall pay to the U.S. Treasury, on an annual basis, a voluntary usage fee of 5% of the gross revenues derived from such Premium Service.

(d) *Interference Protection.* The NBRIS Licensee shall protect incumbent licensees from harmful interference from its operations until the incumbents' operations are relocated in accordance with applicable Commission rules.

(e) *Limiting Indecent Content.* The NBRIS Licensee shall include, with its National Broadband Radio Service, automatic, default blocking of access to pornographic, obscene, and/or indecent material. Such default blocking shall be based on technology and processes readily available in the marketplace. The NBRIS Licensee may disable this blocking capability for National Broadband Radio Service or "Premium Service" customers who provide M2Z with

appropriate proof that they are of the age of majority. *See, e.g.*, 47 C.F.R. § 64.201. The NBRIS Licensee shall be permitted to disconnect any end user from its service for any violation of its service agreement, this condition or the Commission's regulations.

(f) *Commercial Mobile Radio Service.* M2Z is subject to regulation as Commercial Mobile Service under Section 332 of the Communications Act of 1934, 47 U.S.C. § 332, and as a Commercial Mobile Radio Service as defined in Section 20.9 of the Commission's rules. *See* 47 C.F.R. § 20.9.