

U.S. Department of Energy

February 26, 2008

**Non-Disclosure Agreement
Regarding Frequency Assignment Spectrum Data / Information Items
To Support Coordination With Advanced Wireless Services (AWS) Licensees
For Use of New Licenses in the 1710-1755 MHz Band**

- Wireless Service Licensees should print out the attached Non-Disclosure Agreement (NDA), complete the agreement with the required signatures, and submit the signed agreement to the Department of Energy Spectrum Relocation Office. The signed NDA may be mailed to the below address, faxed to 202-586-6626, or scanned and emailed to the DOE Spectrum Relocation email Inbox: Spectrum.Relocation@hq.doe.gov

U.S. Department of Energy / IM-20
Attention: Mr. Bruce M. Washington
Forrestal Building (8H-032)
1000 Independence Avenue, S.W.
Washington, DC 20585

- To assist DOE with future correspondence, please include below the name, phone number and email address of your Company Spectrum Engineer or Technical Point of Contact for the 1710 – 1755 MHz Coordination effort and include this sheet with your signed NDA:

NAME

PHONE NUMBER

EMAIL ADDRESS

- If the Wireless Service Licensee is obtaining technical support from a spectrum coordination technical support company; both the Licensee and the supporting entity should provide signed NDA's to DOE. Signed NDA's are required before data will be released.
- The DOE NDA was previously revised in June 2007 with the major change being the deletion of the original paragraph 12, which discussed the Whistleblower Protection Act. This version of the NDA makes one more minor change where DOE commits to protect all Wireless Service Licensee data submitted with coordination requests. All previously signed NDA's remain valid.

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NON – DISCLOSURE AGREEMENT

U.S. Department of Energy
Regarding Frequency Assignment Spectrum Data / Information Items
To Support Coordination With Advanced Wireless Services (AWS) Licensees
For Use of New Licenses in the 1710-1755 MHz Band

This Non-Disclosure Agreement (NDA) applies to any information released by the Dept of Energy (DOE) to the below designated entity in support of Frequency Assignment Coordination for the 1710-1755 MHz Band

1. _____ Corporation, the Authorized Entity, (or _____ Corporation, an agent of _____, Incorporated, the Authorized Entity), hereinafter referred to as “Authorized Entity”, intending to be legally bound, hereby accepts the obligations contained in this Agreement in consideration of it being granted access to Sensitive but UNCLASSIFIED information. As used in this Agreement, Sensitive but UNCLASSIFIED information is an over-arching term that covers any information which the loss of, misuse of, or unauthorized access to could adversely affect the national interest or the conduct of Federal programs, but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy. Authorized Entity understands and accepts that by being granted access to Sensitive but UNCLASSIFIED information, special confidence and trust shall be placed in it by the United States Government.
2. Authorized Entity attests that it is familiar with, and will comply with the requirements of the Commercial Spectrum Enhancement Act, specifically section 203(b) which provides that the Commission shall condition a license by requiring that the licensee not cause harmful interference to a Federal entity until that entity’s authorization has been terminated by the National Telecommunications and Information Administration (NTIA). Authorized Entity attests further that it is familiar with and will comply with the FCC’s Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands (WT Docket No. 02-353, FCC 03-251), specifically 47 C.F.R. section 27.1134 which requires licensees to accept any interference from government facilities and to protect these facilities from interference.
3. The information provided may include any or all of the following items: emissions

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designator, bandwidth, power, and the following transmitter and receiver antenna information: antenna gain, antenna height, antenna elevation, antenna type and manufacturer of antenna. The information is provided for the sole purpose of assessing the nature and extent of the Authorized Entity's obligations to protect the government incumbent from harmful interference prior to the completion of the government incumbent's relocation.

4. Authorized Entity will not disclose or release any information provided to it pursuant to this Agreement without proper authority or authorization; provided, however, that Authorized Entity may disclose or release such information to a supporting Authorized Entity. Should situations arise that warrant the disclosure or release of such information, Authorized Entity will do so only under approved circumstances and in accordance with any applicable laws, regulations, or directives. Authorized Entity will honor and comply with any and all dissemination restrictions cited or verbally relayed to it by the proper authority.

5. The Department of Energy (DOE) warrants that all information and data submitted by the Authorized Entity to the Department of Energy as part of the frequency coordination and "early entry" process will not be disclosed or released and will be deleted when DOE has terminated operations on the associated frequency assignment.

6. Authorized Entity hereby agrees that material which it has in its possession and containing information covered by this Agreement will be handled and safeguarded in a manner that affords sufficient protection to prevent the unauthorized disclosure of or inadvertent access to such information. Authorized Entity agrees that it shall return all information to which it has had access or which is in its possession 1) upon demand by an authorized individual; and/or 2) upon the conclusion of its association with the United States Government. Authorized Entity agrees that it shall destroy all information to which it has had access once NTIA withdraws the associated Department of Energy frequency assignment.

7. Authorized Entity hereby agrees that it shall promptly report to the appropriate official any loss, theft, misuse, misplacement, unauthorized disclosure, or other security violation it has knowledge of and whether or not it is personally involved. Authorized Entity also understands that its anonymity will be kept to the extent possible when reporting security violations.

8. If Authorized Entity violates the terms and conditions of this Agreement, such violation

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may result in the cancellation of its conditional access to the information covered by this Agreement. This may serve as a basis for denying it conditional access to other types of information, to include classified national security information.

9. Unless and until Authorized Entity is released in writing by an authorized representative of the United States Government, it understands that all conditions and obligations imposed upon it by this Agreement apply during the time that Authorized Entity is granted conditional access.

10. Specifically, Authorized Entity will not disclose or release any information regarding emissions designator, bandwidth, power, and the following transmitter and receiver antenna information: antenna gain, antenna height, antenna elevation, antenna type and manufacturer of antenna, except as permitted in Section 4 of this Agreement. The information provided is as appears in the Government Master File or other Department of Energy sources and there is no warranty on the accuracy of the information.

11. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions shall remain in full force and effect.

12. Authorized Entity execution of this Agreement shall not nullify or affect in any manner any other secrecy or non-disclosure Agreement which it has executed or may execute with the United States Government or any of its departments or agencies.

13. Signing this Agreement does not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

14. Authorized Entity represents and warrants that it has the authority to enter into this Agreement.

15. Authorized Entity has read this Agreement carefully and its questions, if any, have been answered.

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_____ (COMPANY NAME)

By: *(Signature)* _____ *(Date)* _____

(Typed or Printed Name) _____

(Title) _____

Company Vice-President (or Equivalent)