

**FHH Telecom Law**  
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**Three-Year WCS Build-Out  
Extension Granted**

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On December 1, 2006, the FCC granted a three year extension of the construction deadline for a large number of Wireless Communications Services (WCS) licenses. WCS licenses authorize operations in the 2.3 GHz band and permit a wide range of wireless services, including fixed, mobile, and radiolocation services. WCS spectrum has been used extensively in other countries for wireless broadband services. In 1997, the FCC granted 126 WCS licenses to operate in the 2305-2320 MHz and 2345-2360 MHz bands. These licenses have a ten-year term, at the end of which WCS licensees must make a showing of “substantial service” in their licensed area. Thus, the build-out deadline for the WCS licenses issued in 1997 was scheduled to end on July 21, 2007.

In their requests for an extension of this deadline, several WCS licensees asserted that matters beyond their control delayed the build-out of WCS services. The central problem confronting WCS licenses is their next-door neighbor, the Satellite Digital Audio Radio Service (SDARS). The two licensees of this service are “satellite radio” providers Sirius and XM Radio. These services sit directly between the two WCS blocks at 2320-2345 MHz. Sirius and XM Radio use this spectrum not only for their satellite distributed signals but also for terrestrial repeaters or “gap-fillers.” The satellite radio providers claim these gap-fillers are needed to ensure continuous service in areas subject to signal blockage or multipath interference (*e.g.*, downtown urban areas). The FCC has a pending rulemaking to establish rules and standards for these terrestrial repeaters but, in the meantime, they currently operate under special temporary authority (STA) in several markets.

WCS licensees have long been concerned about the potential interference caused by relatively high-powered adjacent band terrestrial operations. The uncertainty caused by these SDARS operations, the WCS licensees claim, has delayed WCS equipment development, network design and facility deployment. An extension is needed, the WCS licensees argued, to allow the FCC to establish permanent rules and standards for these SDARS operations and allow the WCS services to develop equipment and networks that compensate for the SDARS operations. For their part, Sirius and XM Radio opposed the extension requests, arguing that WCS licensees were aware of the difficulties and risks they would face when they bid on the licenses.

For the most part, the FCC agreed with the WCS licensees and granted three-year extensions to several WCS licensees. The FCC noted that WCS licensees face several technical and equipment problems and therefore have relatively limited options for

providing economically viable services. The FCC also noted, however, that new technologies were expected in the near future that would open greater opportunities for WCS licensees. For that reason, the FCC ordered that the three-year extensions would begin at the expiration of the current build out term, rather than the date the SDARS terrestrial repeater rulemaking is completed. The firmer deadline, the FCC reasoned, would push WCS licensees to develop solutions instead of waiting until the rulemaking is complete.

For a list of the licensees affected by the three year extension or for more information about WCS services generally, please contact your communications counsel.