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January 8, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte Notification*

GN Docket No. 14-177, *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*; and
ULS File Nos. 0007652635; 0007652637, *AT&T Mobility Spectrum LLC and FiberTower Corporation Seek FCC Consent to the Transfer of Control of 24 GHz and 39 GHz Licenses*.

Dear Ms. Dortch:

On January 4, John Hunter of T-Mobile and I met by telephone with the following members of the Commission's staff regarding the above-referenced proceedings (all of the Wireless Telecommunications Bureau, except as indicated):

Donald Stockdale
Dana Shaffer
Joel Taubenblatt
Blaise Scinto

Margaret Wiener
Matthew Pearl
Michael Ha (Office of Engineering and Technology)

Auctioning Millimeter Wave Spectrum

We expressed our support for the Commission's continuing efforts to make spectrum in the millimeter wave bands available for mobile wireless broadband services. To ensure continued U.S. leadership in Fifth Generation ("5G") wireless networks, we urged the Commission to initiate the process of auctioning together in 2018 the spectrum that has already been made available for that purpose – in particular, the 24 GHz, 28 GHz, 37 GHz, 39 GHz and 47 GHz bands. We observed that while T-Mobile has petitioned for reconsideration of the Commission's allocation decision governing the 37-37.6 GHz band and the issue of operability in the band

remains open,^{1/} neither matter need delay Commission efforts to conduct an auction for the remainder of the 37 GHz and 39 GHz bands (37.6-40 GHz).

Auctioning the spectrum together is particularly important because much of the 24 GHz, 28 GHz, and 39 GHz bands is already licensed or subject to pending transactions.^{2/} Auctioning all bands together will result in a more robust and competitive auction. That auction can be even more competitive if the Commission upholds its decision to cancel the licenses held by FiberTower Corporation (“FiberTower”) for failure to construct and does not grant the AT&T/FiberTower Applications with respect to those licenses.^{3/} The Commission correctly determined that FiberTower failed to meet its construction requirements despite many opportunities, including extensions of time.^{4/} Reinstating those licenses would be inconsistent with the Commission’s obligation to ensure that spectrum is put to productive use and would undermine its ability to enforce its performance requirements. Rather than reward FiberTower for failing to construct, that spectrum should be available for auction to parties that will put it to use in accordance with the rules adopted in this proceeding.

Making Additional Millimeter Wave Bands Available for Wireless Terrestrial Broadband

In addition to the spectrum bands that the Commission has already designated for mobile terrestrial broadband operations, it is continuing to evaluate additional spectrum for that purpose in its *Second Further Notice of Proposed Rulemaking in the Spectrum Frontiers* proceeding.^{5/} T-Mobile strongly supports the Commission’s ongoing efforts. T-Mobile recently submitted a

^{1/} See Petition for Reconsideration of T-Mobile USA Inc., GN Docket No. 14-177 *et al.* (filed Dec. 14, 2016); *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al.*, Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, and Memorandum Opinion and Order, GN Docket No. 14-177, *et al.*, FCC 17-152, n.35 (rel. Nov. 22, 2017) (“*Second Further Notice*”) (“We also will not act on petitions for reconsideration or issues raised in the FNPRM relating specifically to the 37-38.6 GHz band (37 GHz band) or the operability requirement adopted by the Commission.”).

^{2/} See *Application of Cellco Partnership d/b/a Verizon Wireless and XO Holdings For Consent to Transfer Control of Local Multipoint Distribution Service and 39 GHz Licenses*, Memorandum Opinion and Order, DA 17-1154 (rel. Nov. 29, 2017) (approving transfer of 28 GHz and 39 GHz licenses from XO Holdings to Verizon); *Application of Verizon Communications Inc. and Straight Path Communications Inc. for Transfer of Control of Licenses*, ULS File No. 0007783428 (filed June 1, 2017) (seeking transfer of 28 GHz and 39 GHz licenses from Straight Path to Verizon); *Application of AT&T Mobility Spectrum LLC and FiberTower Corporation for Transfer of Control of Licenses*, ULS File Nos. 0007652635 and 0007652637 (filed Feb. 13, 2017) (seeking transfer of 24 GHz and 39 GHz licenses from FiberTower to AT&T) (“AT&T/FiberTower Applications”).

^{3/} See AT&T/FiberTower Applications, Reply Comments of T-Mobile USA, Inc., ULS File Nos. 0007652635 and 0007652637 (filed Apr. 13, 2017).

^{4/} See *FiberTower Spectrum Holdings LLC*, Memorandum Opinion and Order, 27 FCC Rcd. 13562 (2012).

^{5/} See *Second Further Notice* ¶ 109.

technical paper that supports terrestrial mobile use of the 32 GHz and 50 GHz bands.^{6/} That technical paper, which employs conservative, worst-case assumptions, demonstrates that coexistence between 5G operations and radio astronomy services (“RAS”) and Earth Exploration Satellite Service (“EESS”) is possible in the 32 GHz and 50 GHz bands. As detailed in the report, with very limited constraints needed to protect EESS receivers, 5G deployments and EESS operations in the band can effectively coexist.^{7/} In order to more fully develop the record, the Commission should seek comment on the T-Mobile report so that the Commission can resolve any remaining issues that impede designation of that spectrum for wireless mobile broadband.

The Commission should also begin to work with the National Telecommunications and Information Administration to explore whether commercial licensees may be required to protect or otherwise accommodate incumbent federal operations in those bands, as well as the 25.25-27.5 GHz band (“26 GHz band”), which has been designated for study by the International Telecommunications Union for mobile use.^{8/} In addition, although some of the bands that remain under consideration in the *Spectrum Frontiers* proceeding are, or may be, the subject of international evaluation, the Commission should nevertheless proceed with NTIA to evaluate that spectrum. T-Mobile strongly supports international harmonization, however, as the Commission recognized when it decided to designate the 28 GHz band for terrestrial mobile use, the U.S. need not always follow international action when the domestic public interest dictates a contrary approach.^{9/} More importantly, FCC and NTIA action now will allow the U.S. to take a critical leadership position in the designation of millimeter wave spectrum for mobile terrestrial use, allowing U.S. consumers and businesses to enjoy the benefits of 5G millimeter wave operations sooner.

AT&T Rebidding Proposal

AT&T recently submitted an *ex parte* letter in the *Spectrum Frontiers* proceeding in which it proposed an auction methodology that it asserts would result in more productive use of spectrum

^{6/} Letter from Steve Sharkey, Vice President, Government Affairs, Technology and Engineering Policy, T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177 (filed Oct. 2, 2017); T-MOBILE, UNLEASHING MILLIMETER WAVE SPECTRUM IN THE 32 GHz, 47 GHz, AND 50 GHz BANDS: COEXISTENCE OF MOBILE BROADBAND OPERATIONS WITH THE EARTH EXPLORATION SATELLITE SERVICE AND RADIO ASTRONOMY SERVICE (2017) (“5G Coexistence Study”).

^{7/} *Id.*

^{8/} FINAL ACTS WRC-15, WORLD RADIOCOMMUNICATION CONFERENCE, Resolution 238 (2016), <http://search.itu.int/history/HistoryDigitalCollectionDocLibrary/4.297.43.en.100.pdf>. If the 26 GHz band is allocated for mobile wireless use, it could, combined with the 24.75-25.25 GHz and 28 GHz band, create a contiguous 3.6 gigahertz block of spectrum (24.75 – 28.35 GHz) for mobile wireless operations.

^{9/} See *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-89, 31 FCC Rcd. 8014, ¶ 25 (2016) (“Although WRC-15 omitted 27.5-28.35 GHz from a list of mmW bands that it invited ITU-R to study for mobile service, the record in this proceeding makes it abundantly clear that there are significant benefits to authorizing mobile use in the 28 GHz band regardless of that international decision.”).

in which there are incumbent licensees – the 39 GHz band in particular.^{10/} T-Mobile appreciates AT&T's proposal to facilitate use of wider bandwidths post-auction and to efficiently reconfigure the fragmented existing licenses. Nevertheless, T-Mobile continues to review AT&T's plan to determine if it is the most efficient way to reach that result without unduly delaying the availability of the spectrum and expects to provide additional feedback to the Commission shortly. Regardless of the methodology to ensure the most effective use of the 39 GHz band, the Commission should initiate the auction of this spectrum – and the other millimeter wave spectrum allocated for mobile wireless terrestrial use – in 2018.

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Pursuant to Section 1.1206(b)(2) of the Commission's rules, an electronic copy of this letter is being filed in the above-referenced dockets and a copy is being provided to each member of the Commission's staff with whom we met. Please direct any questions regarding this filing to me.

Respectfully submitted,

/s/ Steve B. Sharkey

Steve B. Sharkey

Vice President, Government Affairs
Technology and Engineering Policy

cc: (each electronically)
Donald Stockdale
Dana Shaffer
Joel Taubenblatt
Blaise Scinto
Margaret Wiener
Matthew Pearl
Michael Ha

^{10/} Letter from Alex Starr, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177 *et al.* (filed Dec. 12, 2017).