Before the

Federal Communications Commission

Washington, D.C. 20554

)

Status of Federal Government ) WT Docket 18-104

Relocation from AWS-3 Bands )

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To: Wireless Telecommunications Bureau

**Comments of Blue Ridge Wireless II, LLC**

These comments are offered by Blue Ridge Wireless II, LLC (“BRW”), the proposed successor to an individual licensee in the AWS-3 band. BRW strongly believes that an extension of the original license term and associated buildout deadlines is warranted for *all* AWS-3 licensees in view of the considerable delays in coordinating the relocation of federal users from this band.

BRW’s predecessor bears the unfortunate distinction of being the last AWS-3 auction applicant to have its long form application granted. The application was finally acted on some three years after the auction ended in February of 2015. During the long period that his application was under review by the Auction Division, the major carriers who had not sought designated entity treatment had been quickly granted their licenses. They were able to begin the complicated process of coordinating with the federal entities who were users of the spectrum to develop a timeline and process for clearing the spectrum for private use. Equally importantly, the early grantees were able to begin investigating equipment options and develop deployment plans for the new spectrum, all of which requires considerable lead time.

It appears that the process of relocating the federal incumbents has not proceeded as the Commission and the industry anticipated. BRW’s predecessor was aware that the long pendency of his own application was delaying the ability of DoD to complete the coordination process since he was projected to be a significant holder of AWS-3 spectrum in a number of markets, but as a mere applicant, he was not in a position to make firm and binding arrangements with DoD and the other affected licensees about the disposition of the federal spectrum. So that process was delayed across the board until his license was finally granted. No one could have anticipated this three year delay in the ability of licensees and federal incumbents to negotiate relocation arrangements since the Spectrum Act required all of these licenses to be issued no later than February 22, 2015.

It would be highly inequitable to grant the early licensees an additional three years to build out their systems without making that relief available to all AWS-3 licensees. The early grantees not only have had the benefit of three years of pre-deployment planning and preparation with the benefit of an actual license, but they were also able to negotiate -- preliminarily at least -- with the federal incumbents, while late-granted licensees were left in the cold. It would add insult to injury to limit late-granted licensees to 12 year build-out terms while granting the early grantees 15 year terms as a bonus to the three year head start they have already enjoyed.

Such an outcome would also run afoul of the statutory scheme set forth in Section 309(j)(3) of the Act which requires that the Commission make special efforts to:

promote the purposes specified in [section 151 of this title](https://www.law.cornell.edu/uscode/text/47/151) and the following objectives: …

(B) promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and *by disseminating* [*licenses*](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=47-USC-166757441-1952898725&term_occur=84&term_src=title:47:chapter:5:subchapter:III:part:I:section:309) *among a wide variety of applicants, including small businesses*, rural telephone companies, and businesses owned by members of minority groups and women (emph. added)…

Similarly, Section 309(j)(4) of the Act provides that:

In prescribing regulations pursuant to paragraph (3), the [Commission](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=47-USC-1283237621-894281730&term_occur=651&term_src=title:47:chapter:5:subchapter:III:part:I:section:309) shall— …

(C) consistent with the public interest, convenience, and necessity, the purposes of this chapter, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of [licenses](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=47-USC-166757441-1952898725&term_occur=85&term_src=title:47:chapter:5:subchapter:III:part:I:section:309) and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services…

These provisions of the Act are designed to ensure that access to spectrum by small businesses is affirmatively promoted and fostered by the FCC, not handicapped by long delays in license issuance. Yet the way things have panned out, small businesses who seek the designated entity discounts that Congress contemplated are subjected to extraordinarily lengthy and protracted investigations to be sure that the applicant genuinely qualifies for special DE treatment. Of course the FCC must check to be sure a DE applicant qualifies, but the current processing system quickly rubberstamps the long-form applications of non-DE’s so they get a significant head start vis a vis DE applicants in the race to market which sometimes occurs. This directly undermines the priorities which Congress sought to establish.

In the present context, allowing the early (mostly non-DE) licensees a considerably longer time for AWS-3 build-outs just adds to the relative advantage which they have *already* been accorded by the licensing process. If additional build out time is to be granted (and BRW believes that it should be) any such additional time should be available to all licensees alike.

**Amount of Time to be Granted**

BRW expects to be entering the federal incumbent relocation discussions soon, but the process has made at least some headway in the three years since the close of the auction. While BRW would not object to a three year extension, it believes that an additional two years will be adequate to resolve the outstanding issues with these incumbents and allow deployment to commence.

Respectfully submitted,

Blue Ridge Wireless II, LLC

By: /s/

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