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VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Notice of Updated 39 GHz Reconfiguration Procedures; Preparation for Incentive Auction of Upper Microwave Flexible Use Service Licenses in the 37 GHz, 39 GHz, and 47 GHz Bands (Auction 103); GN Docket No. 14-177, AU Docket No. 19-59*

Dear Ms. Dortch,

On June 10, 2019, Michael Goggin, Alex Starr, and Jessica Lyons of AT&T met with Simon Banyai (via telephone), Stephen Buenzow (via telephone), Erin Fitzgerald, and Blaise Scinto of the Wireless Telecommunications Bureau, as well as William Huber, Mark Montano, Erik Salovaara (via telephone), and Margaret Wiener of the Office of Economics and Analytics, regarding the above-referenced proceedings.

In the meeting, AT&T expressed its concern regarding the Commission's decision to subject incumbent 39 GHz licensees to the Auction 103 quiet period rules starting on July 15, 2019, rather than starting on the short form filing deadline date.¹ The short form deadline typically marks the start of the quiet period in Commission auctions, and it is both unfair and unnecessary to subject the few incumbent 39 GHz licensees to the strictures of a quiet period months before applicants are made subject to the rule. Moreover, the early imposition of the strictures of the rule against prohibited communications risks deterring the continued provision of 5G service in the band. Accordingly, AT&T asked that the Commission delay the start of the quiet period until the last date on which short forms can be filed. Regardless of when the quiet period begins, the Commission should also clarify that it will narrowly construe its quiet-period rules to ensure that incumbents may continue to make communications necessary to continue deploying and providing 5G services in 37/39 GHz spectrum during Auction 103.

¹ *Reconfigured 39 GHz Incumbent Holdings, Initial Commitment Options and Timeline, Preparation for Incentive Auction of Upper Microwave Flexible Use Service Licenses in the Upper 37 GHz, 39 GHz, and 47 GHz Bands (Auction 103)*, Public Notice, DA 19-503, at ¶ 17 (June 5, 2019) ("Reconfiguration PN"). See 47 C.F.R. § 1.1205(c).

To facilitate the deployment of 5G service in the band in advance of the auction, the Commission set up a process for the issuance of temporary spectrum assignments in the 37/39 GHz band.² AT&T and others have received STAs in multiple Partial Economic Areas, and AT&T currently provides 5G services in 19 markets and is deploying service in additional markets in 2019 using 37/39 GHz spectrum.

To continue to deploy and provide 5G services, AT&T will need to communicate with third parties and the public (including, potentially, other parties subject to the quiet period) regarding operational issues such as access to fiber. Furthermore, AT&T will need to make filings with the Commission regarding its current and planned 5G deployments. All of this activity promotes the public interest.³ As a result, AT&T believes that a reasonable application of the rule against prohibited communications would not reach communications necessary to the continued provision and deployment of 5G services in the 37/39 GHz band.

For the reasons cited herein, AT&T requests that the Commission confirm that communications related to the provision or deployment of 5G service in the 37/39 GHz band prior to and during the auction are not prohibited communications under the quiet period rules. Furthermore, AT&T asks the Commission to delay the start of the quiet period for all auction applicants, including incumbents in the 37/39 GHz band, until short form applications for all applicants seeking to participate in Auction 103 are due.

Please contact me with any questions regarding this submission.

Sincerely,

/s/ Jessica B. Lyons

Jessica B. Lyons

² See, e.g., Letter from Stephen Buenzow, Federal Communications Commission to Michael P. Goggin, AT&T, ULS File Nos. 0008266887, 0008266888, and 0008266889 (Aug. 10, 2018). Existing licenses in the 37/39 GHz band are paired, 50 x 50 MHz assignments in between 38.6 GHz and 40 GHz, while 5G standards for the band require a minimum channel bandwidth of 100 MHz. STAs from the Commission would allow for the use of broader channels to support 5G services.

³ *Id.* at 3 (“Allowing AT&T to use contiguous Upper 37 GHz band spectrum as a temporary replacement for its equivalent noncontiguous holdings in the 39 GHz band in each of these three markets will enable it to provide commercial mobile 5G service to consumers in these markets, as well as to gain practical experience with wideband service deployment in the millimeter wave bands.”).

Cc (via email):

Simon Banyai
Stephen Buenzow
Erin Fitzgerald
William Huber
Mark Montano
Erik Salovaara
Blaise Scinto
Margaret Wiener