



July 17, 2017

**Via ECFS**

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

**RE: NOTICE OF EX PARTE  
WT Docket No. 16-319**

Dear Ms. Dortch:

The Rural Wireless Association, Inc. ("RWA") hereby requests clarification of one aspect of the Bureau's Waiver Letter<sup>1</sup> which RWA had originally opposed and of which RWA has sought reconsideration in the form of an Application for Review.<sup>2</sup> The Waiver Letter granted T-Mobile a conditional waiver of the Section 27.14 buildout requirements that apply to 700 MHz licenses WQJQ805, WQJQ806 and WQJQ807. With respect to all three licenses, the waiver is expressly conditioned upon T-Mobile's compliance with alternative construction benchmarks and a number of other specific conditions. The Waiver Letter also makes clear that T-Mobile's failure to meet any of these conditions will result in the automatic reduction of the relevant license area to the geographic territory that T-Mobile was covering and serving as of June 13, 2017 without any further action by the Commission.<sup>3</sup>

Although the Waiver Letter expressly requires a roll back of T-Mobile's license area(s) to June 13, 2017 in the event that the waiver conditions are not met, the Waiver Letter fails to take into account that T-Mobile is presently under no obligation to submit a construction notification that will show precisely what areas of each license were actually receiving coverage and service as of the June 13, 2017 roll back date. T-Mobile's last construction notification shows coverage

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<sup>1</sup> Letter from Roger S. Noel, Chief, Mobility Division, Wireless Telecommunications Bureau, to Steve B. Sharkey, T-Mobile License LLC, DA 16-1429, WT Docket No. 16-319, rel. December 21, 2016 ("Waiver Letter").

<sup>2</sup> *In the Matter of Bresnan Communications, LLC Request for Waiver*, WT Docket No. 16-319, Application for Review of the Rural Wireless Association, Inc. (filed January 23, 2017).

<sup>3</sup> See waiver conditions 1, 3, 4 & 5. Waiver Letter at pp. 6-7.

only as of December 13, 2016, the deadline for the first buildout requirement. And while the Waiver Letter does require T-Mobile to file a construction progress report by July 21, 2017, it is not at all clear whether that report will contain the maps and shapefiles that would enable the Commission to clearly determine T-Mobile's June 13, 2017 coverage area in order to determine whether a license area reduction is required in the future and what that reduction should be rolled back to as of June 13, 2017.<sup>4</sup> Rather, the waiver condition requires T-Mobile to only "file a sworn statement in WT Docket No. 16-319 describing the specific actions it has taken to ensure that it will be able to satisfy the 40 Percent Coverage Benchmark and 70 Percent Coverage Benchmark described below, and certifying that it expects to be able to meet those benchmarks."<sup>5</sup>

Without the filing of system maps and shapefile data reflecting coverage *as of June 13, 2017*, there will be no way for potential competitors of the Commission to determine the boundaries of T-Mobile's license area in the event that it fails to meet all of the conditions imposed by the waiver letter. This point was specifically acknowledged by the Bureau in its recent decision granting a conditional waiver of section 27.14 of the rules to Alaska Wireless Network ("AWN") for one of its 700 MHz licenses.<sup>6</sup> In that case, the Bureau specifically required AWN to file "a showing demonstrating its geographic coverage area within 15 days of June 13, 2017" so that the June 13, 2017 coverage area could be readily ascertained.<sup>7</sup> These same concerns apply with equal force in the present case and the Bureau should rectify its potential oversight by requiring T-Mobile either to submit a construction notification for each of its licenses subject to the waiver immediately, or to include that data in its upcoming construction progress report.

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<sup>4</sup> See waiver condition 2. Waiver Letter at p. 6.

<sup>5</sup> *Id.*

<sup>6</sup> Letter from Roger S. Noel, Chief, Mobility Division, Wireless Telecommunications Bureau, to Cindy Hall, Alaska Wireless Network, LLC, DA 17-548, WT Docket No. 16-402, rel. June 6, 2017 ("AWN Waiver Letter").

<sup>7</sup> See waiver condition 2. AWN Waiver Letter at p. 9.

Pursuant to Section 1.1206 of the FCC's Rules, this ex parte is being filed electronically with the Office of the Secretary.

Respectfully submitted,

*/s/ Caressa D. Bennet*

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