



Celia Nogales  
AVP - Regulatory

AT&T Services Inc.  
1120 20<sup>th</sup> Street, NW  
Suite 1000  
Washington, DC, 20036  
  
202.457.3014 Phone  
202.457.3071 Fax

July 26, 2017

**BY ECFS**

**Notice of *Ex Parte* Communication**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth St., S.W.  
Washington, D.C. 20554

**Re: WT Docket 10-112**

Dear Ms. Dortch:

On July 25, 2017, Robert Vitanza of AT&T and I spoke with Roger Noel, Kathy Harris, and Joyce Jones of the Wireless Telecommunications Bureau regarding the draft Second Report and Order released by the Federal Communications Commission on July 13, 2017. The discussion centered on the following changes that AT&T proposed to the draft.

**Certifications.** The draft Second Report and Order would adopt safe harbors based on licensee certifications to meet a new renewal standard common to all services. Some certifications would unnecessarily limit licensees' ability to utilize the safe harbors while adding little to ensure the continued provision of service in a market.

***Compliance.*** Under the new renewal processes, a licensee that has been or is the subject of an enforcement action could be precluded from relying on a renewal safe harbor.<sup>1</sup> This restriction disadvantages entities that hold multiple licenses, as any one enforcement action, even if unrelated to the license being renewed or resolved through consent decree, would render the licensee ineligible to use a renewal safe harbor for any license. The end of comparative renewals eliminates the need to compare competing applicants' relative compliance with Commission rules. There are more effective means to deter violations of Commission rules. Thus, the Commission should modify the compliance certification to apply to the license up for renewal.

***Reduction of Service.*** The draft Second Report and Order similarly precludes a licensee of a geographic-based license from using a renewal safe harbor if, after it has reached the performance benchmark, it reduces coverage below that benchmark for any portion of the license term.<sup>2</sup> Yet,

---

<sup>1</sup> *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, WT Docket No. 10-112, Draft Second Report and Order, ¶ 17 & Appendix A (draft rule §1.949(f)) (rel. July 13, 2017).

<sup>2</sup> *Id.* at ¶ 27 & Appendix A (draft rule §1.949(d)(2)) ("*Draft Second Report and Order*").

nearly all licenses experience interim outages due to technology upgrades, disasters, maintenance needs, or other unforeseen circumstances, any of which could cause the licensee's coverage to fall below the performance benchmark. Retaining this restriction would severely limit licensees' ability to use the safe harbors, with minimal to no accompanying benefit, as these types of network events have no bearing on a licensee's capability or commitment to provide service. The Commission should revise the draft to allow for use of the renewal safe harbors even if a licensee has ceased providing service for up to 60 consecutive days or, alternatively, if it continuously provides service at *substantially* the performance requirement.<sup>3</sup>

Partitioning/Disaggregation Performance Requirement. The draft Second Report and Order would allow the parties to a partitioned or disaggregated market to share responsibility for any service specific performance requirement, and explains that "[i]f one or both parties fail to meet their service specific performance requirements, then both parties will be subject to any service-specific penalties."<sup>4</sup> We propose the following language to clarify the shared nature of the performance requirement when a licensee chooses this option:

190 . . . Under the second option, both parties may agree to share responsibility for any service-specific requirements. Upon failure to meet their shared requirements, both parties will be subject to any service-specific penalties.

**§ 1.950 Geographic Partitioning and Spectrum Disaggregation.**

. . .

(g) *Performance Requirements.* . . . Under the second option, both parties may agree to share responsibility for any service-specific requirements. Upon failure to meet their shared service specific performance requirements, both parties will be subject to any service-specific penalties.

Consolidating Partitioned/Disaggregated Markets. AT&T again urged the Commission to develop a process for consolidating partitioned or disaggregated licensed that were originally part of the same market area and are owned or controlled by the same licensee. AT&T explained that hundreds of these licenses could be consolidated, reducing the number of build and renewal filings and simplifying Commission administration. AT&T provided the attached examples.

In accordance with the Commission's rules, this letter is being filed electronically with the Secretary for inclusion in the public record.

Sincerely,

/s/ Celia Nogales

Celia Nogales

---

<sup>3</sup> See, e.g., Letter to Marlene Dortch, Secretary, Federal Communications Commission, from Cathleen A. Massey, Vice President-Federal Regulatory Affairs, WT Docket No. 10-112, at 2 (filed July 25, 2017).

<sup>4</sup> *Draft Second Report and Order* at 31 (note 190) & 52 (draft rule §1.950(g)).

CC:

Roger Noel  
Kathy Harris  
Joyce Jones

**EXAMPLES OF  
PARTITIONED/DISAGGREGATED LICENSES  
FOR POTENTIAL CONSOLIDATION**

<b>LICENSEE</b>	<b>SERVICE</b>	<b>MARKET</b>	<b>MKT ID</b>	<b>BLOCK</b>	<b>CALL SIGNS</b>
AT&T Mobility Spectrum LLC	WCS	Central	REA005	D	WQQA470
					WQVG230
					WQXL727
					WQXZ461
AT&T Mobility Spectrum LLC	PCS	Kalispell, MT	BTA224	C	WPTB388
					WPUI382
					WPZA507
					WQBK375
New Cingular Wireless PCS, LLC	WCS	Great Lakes	REA003	D	WPQL635
					WPQL708
					WPQL709
					WPQL710
					WPQL711
					WPQL712
					WPQL713
					WPQL714