



Tamara Preiss  
Vice President  
Federal Regulatory and Legal Affairs

1300 I Street, NW, Suite 500 East  
Washington, DC 20005  
Phone 202.515.2540  
Fax 202.336.7922  
[tamara.preiss@verizon.com](mailto:tamara.preiss@verizon.com)

July 27, 2017

**Ex Parte**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: 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**

Dear Ms. Dortch:

On July 25, 2017, Tamara Preiss and Andy Lachance of Verizon met with Rachael Bender, legal advisor to Chairman Pai, and on July 26, 2017, we met separately with Daudeline Meme and Jamila Toussaint, legal advisor and intern to Commissioner Clyburn, respectively, and Erin McGrath, legal advisor to Commissioner O'Reilly, to discuss the above-referenced proceeding.

We discussed Verizon's support, in general, for the draft order that would adopt rules on (1) uniform license renewal based on licensee certifications, (2) uniform discontinuance of operation, and (3) geographic partitioning and spectrum disaggregation. But we noted that some of the safe harbor certification requirements applicable to geographic and site-based licenses in the draft order are either unclear or overly broad, making it less likely that licensees will be able to certify compliance and qualify for license renewal through the safe harbors. We support changes to the draft order that would enable more licensees to qualify under the renewal safe harbors, thus reducing burdens on both licensees and Commission staff, while still achieving the Commission's objective of ensuring that licensed spectrum is used to provide service to customers.

First, we asked the Commission to clarify that licensees do not have to certify compliance with any safe harbor criteria for periods of time prior to the effective date of the new rules. Thus, for a license discontinuation rule that does not take effect until January 1, 2019, an applicant filing for renewal on January 1, 2023 would only have to certify that the license was not permanently discontinued after January 1, 2019, not the entire license term. As noted in the draft order (paragraph 63), the 180-day permanent discontinuance rule is a new requirement for PCS licenses, for example, so those licensees should not have to certify compliance with that rule for periods of time prior to the January 1, 2019 effective date.

Second, we asked the Commission to make clear that the safe harbor certifications about the level of service during the license term for both geographic and site-based licensees (paragraphs 19 and 21 of the draft order) allow a renewal applicant to certify compliance when it provided service consistent with the applicable service benchmark, but may have nonetheless fallen below the benchmark at some point during the license term. For example, if a licensee fell below the benchmark because it took sites down for routine maintenance or to perform technology upgrades (e.g., from 3G to 4G or 4G to 5G), or if sites were down due to a temporary service outage, the licensee could still certify compliance. Network maintenance and technology upgrades are activities designed to enhance, rather than degrade, service to customers, and the safe harbors should accommodate them.<sup>1</sup>

Third, we asked the Commission to eliminate the second clause of the regulatory compliance certification (paragraph 41 of the draft order), which requires a renewal applicant to certify that it “is not the subject of any FCC orders finding the licensee to have violated the Communications Act or any FCC rule or policy and is not the subject of any pending proceedings that relate to any matter described in the certification.” This provision is not part of the Part 27 renewal criteria – on which the new rule is based – and could prevent any entity that holds covered licenses that is found to have violated any Commission statutory provision, rule, or policy in a 10-year period from taking advantage of the renewal safe harbors for any of its licenses. Moreover, requiring licensees to certify about “pending proceedings” is both vague and presents due process issues by denying access to safe harbors to entities even when the Commission is merely *investigating* a possible policy or rule violation but has not found the licensee to have committed any violation. In any event, the first clause of the required certification – that the licensee has “substantially complied with all applicable FCC rules, policies, and the Communications Act of 1934, as amended” – is more than sufficient to ensure regulatory compliance. That clause should be modified to require certification of substantial compliance with statutory and rule provisions, but not “policies.” Not only is “policies” a vague term, but policies that do not have the force of law should not be relevant to determining whether a licensee has met its compliance obligations.

Fourth, we asked for a one-year grace period before the site-based licensee performance certification requirement applicable to microwave licensees takes effect. Determining compliance with microwave performance is a complex and time-consuming undertaking because carriers may have as many as microwave 1,500 licenses to renew in a single year, each license may have as many as 60 microwave paths – each of which must be reviewed for compliance, and each microwave path necessarily appears on two licenses (one for the transmit location and one for the receive location). These factors will require licensees to make complicated and

---

<sup>1</sup> Similarly, paragraph 27 of the draft order states that licensees will not qualify for the safe harbor if they discontinue service “for an extended period of time,” short of permanent discontinuance. This language is too vague (encompassing some period of time more than zero days but fewer than 180) to provide licensees sufficient notice as to what constitutes compliance. The Commission should eliminate it or, as explained above, make clear that licensees that discontinue service for, e.g., technology upgrades still qualify for the safe harbor.

Ms. Marlene H. Dortch

July 27, 2017

Page 3

burdensome changes to their tracking systems in order to certify compliance, which warrants additional time to implement such systems.

Fifth, we asked the Commission to expand the draft Further Notice of Proposed Rulemaking to seek comment on Verizon's proposal to sunset service-specific rules or conditions upon license renewal, absent a finding that those rules are necessary in the public interest.<sup>2</sup> Allowing requirements that do not apply to licensees in other service bands to expire at license renewal is consistent with both the Commission's goal in this proceeding to harmonize renewal obligations across all wireless bands and policies favoring competition among licensees and flexibility for licensees to offer services tailored to market demand. We also noted that Verizon has concerns about some of the proposals in the Further Notice, which we will express in comments at the appropriate time. Generally, policies that encourage, rather than mandate, additional build-out may be more effective in realizing the Commission's broadband coverage goals.

Sincerely,



cc: (via e-mail)

Rachael Bender  
Daudeline Meme  
Erin McGrath

---

<sup>2</sup> See Comments of Verizon, WT Docket No. 10-112, Wireless Telecommunications Bureau Seeks to Update the Record in the Wireless Radio Services Proceeding, at 2, 6-7 (filed June 1, 2017).