

November 14, 2019

VIA ECFS

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

Re: Notice of Ex Parte Presentation

GN Docket No. 18-122, *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*
RM-11791, *Petition for Rulemaking to Amend and Modernize Parts 25 and 101 of the Commission's Rule to Authorize and Facilitate the Deployment of Licensed Point-to-Multipoint Fixed Wireless Broadband Service in the 3.7-4.2 GHz Band*
RM-11778, *Fixed Wireless Communications Coalition, Inc., Request for Modified Coordination Procedures in Band Shared Between the Fixed Service and the Fixed Satellite Service*

Dear Ms. Dortch:

On November 12, 2019, Colleen King and the undersigned of Charter Communications, Inc. ("Charter"), along with Howard Symons of Jenner & Block LLP, met with Julius Knapp, Michael Ha, and Bahman Badipour of the Office of Engineering and Technology ("OET"), and Matthew Pearl, Paul Powell (via phone), Peter Daronco (via phone), Anna Gentry, Jeffrey Tignor (via phone), Susannah Larson (via phone), Kamran Etemad (via phone), Kenneth Baker, Jessica Greffenius, Max Staloff, and Janet Young of the Wireless Telecommunications Bureau ("WTB"); and separately met with Thomas Johnson, Michael Carlson, Jacob Lewis, Bill Richardson, David Horowitz, and Deborah Broderon of the Office of General Counsel ("OGC") and Matthew Pearl of WTB to discuss the above-captioned proceedings.

During the meeting with WTB and OET, Charter discussed the importance of ensuring that the 3.7-4.2 GHz band ("C-Band") is fully usable for 5G, *i.e.*, usable for downlink and uplink with 100 percent geographical availability, without the need for frequencies in different bands or limitations on deployment options. Relatedly, the Commission should require that C-Band devices be interoperable on the paired blocks across the entire band, as it did in the 600 MHz Band.¹ These technical requirements will help promote competition in the wireless marketplace

¹ See *In re Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6567, 6866-67 ¶ 732 (2014).

by ensuring that new entrants and smaller carriers can fully rely on the C-Band without the need for alternative spectrum to provide 5G services.

During the meeting with OGC and WTB, Charter discussed the broad scope of the FCC's authority under Section 316 of the Communications Act ("Act") to modify the licenses of incumbent C-Band licensees.² Charter also explained that the Commission has broad authority under Sections 4(i) and 303 of the Act to require auction winners to make payments to incumbent C-Band users to accelerate the reallocation of the band for terrestrial use, just as it has long required winning bidders to make relocation reimbursement payments to incumbent licensees that are displaced in an auction.³ Charter further explained that such payments are not compensation for a government resource or service, or payments covering a government expense or obligation, and thus would not be considered "money for the Government" under the Miscellaneous Receipts Act ("MRA"). Charter noted that while the Act allows the Commission to use auction proceeds to compensate licensees for voluntarily relinquishing their spectrum usage rights through an incentive auction,⁴ the decision whether to utilize this mechanism is within the Commission's discretion.⁵

Please direct any questions regarding the foregoing to the undersigned.

Respectfully submitted,

/s/ Elizabeth Andrion

Elizabeth Andrion
Senior Vice President
Regulatory Affairs

cc: Meeting attendees

² Reply Comments of ACA Connects – America's Communications Association, Competitive Carriers Association, and Charter Communications, Inc. at 25-27, GN Docket No. 18-122, 25-27 (Aug. 14, 2019).

³ *Id.* at 18-24; *Teledesic LLC v. FCC*, 275 F.3d 75, 86-87 (D.C. Cir. 2001).

⁴ *See* 47 U.S.C. § 309(j)(8)(G).

⁵ *Cf.* Comp. Gen., *Whether the Federal Communications Commission's Order on Improving Public Safety Communications in the 800 MHz Band Violates the Antideficiency Act or the Miscellaneous Receipts Statute*, B-303413 (Nov. 8, 2004) (no MRA violation where FCC had authority to award additional spectrum through license modification rather than auction).