

November 9, 2015

BY ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *Ex Parte* Letter

Updating Part 1 Competitive Bidding Rules, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, WT Docket No. 14-170, GN Docket No. 12-268, AU Docket No. 14-252, WT Docket No. 12-269, MB Docket No. 15-146;

Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands, Auction of Advanced Wireless Services (AWS-3) Licenses, GN Docket No. 13-185, AU Docket No. 14-78

Dear Ms. Dortch:

SNR Wireless LicenseCo, LLC ("SNR") hereby requests that the Commission dismiss, as procedurally defective, the T-Mobile US ("T-Mobile") letter dated October 30, 2015 ("T-Mobile Letter Request") submitted in the above-referenced proceedings.¹ The T-Mobile Letter Request asks the Commission to prohibit SNR, as well as Northstar Wireless, LLC ("Northstar") and DISH Network Corporation ("DISH"), from bidding in future auctions involving the AWS-3 licenses on which SNR and Northstar are deemed to have defaulted,² to treat SNR, Northstar, and DISH as "former defaulters" for purposes of the upcoming Incentive Auction and the re-auction of the AWS-3 licenses,³ and to require that any reaucted AWS-3 spectrum be built out in the same timeframe as required for winners of Auction 97.⁴

The letter is an untimely request for reconsideration of the Commission's August 18, 2015 order, which determined, *inter alia*, that the conduct of SNR, Northstar and DISH during Auction 97 did not violate

¹ Letter of Kathleen O'Brien Ham, Senior Vice President, Government Affairs, T-Mobile, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 14-170, GN Docket No. 12-268, AU Docket No. 14-252, WT Docket No. 12-269, MB Docket No. 15-146, GN Docket No. 13-185, AU Docket No. 14-78 (filed Oct. 30, 2015).

² *Id.* at 2-3.

³ *Id.* at 3-4.

⁴ *Id.* at 4.

Commission rules.⁵ It is also an untimely request for reconsideration of the construction requirements applicable to AWS-3 spectrum. Even if the T-Mobile Letter Request had been timely filed, T-Mobile lacks standing to challenge the *SNR Order*, or any subsequent decision by the Wireless Telecommunications Bureau (“WTB”) related to that order, because it did not participate in the SNR or Northstar application proceedings.⁶ Additionally, the T-Mobile Letter Request was not filed in either the SNR or Northstar Application proceedings, includes no proof of service,⁷ and may not have been properly served on any of the relevant parties.⁸

Substantively, the WTB correctly applied the Commission’s rules and precedent regarding selective payment of winning bids in auctions,⁹ and neither the Incentive Auction nor the AWS-3 auction proceedings are appropriate forums for seeking substantive changes to those rules and precedent. SNR reserves its right to submit further comments regarding the T-Mobile requests, should such filings be warranted.

Respectfully submitted,

/s/John Muleta

John Muleta
CEO of Atelum LLC

cc: Roger Sherman (via e-mail)
Jean Kiddoo (via e-mail)
Brian Regan (via e-mail)
Bill Richardson (via e-mail)

⁵ See *Northstar Wireless, LLC and SNR Wireless LicenseCo, LLC Applications for New Licenses in the 1695-1710 MHz, 1755-1780 MHz and 2155-2180 MHz Bands*, Memorandum Opinion and Order, 30 FCC Rcd 8887 ¶¶ 9, 134, 156 (2015) (“*SNR Order*”). Petitions for reconsideration of the *SNR Order* were due on September 17, 2015.

⁶ Cf. 47 C.F.R. § 1.106(b)(1); see also *Shareholders of Stop 26 Riverbend, Inc.*, Memorandum Opinion and Order, 27 FCC Rcd 6516, 6519-20 (2012).

⁷ Cf. 47 C.F.R. § 1.47(g).

⁸ Cf. 47 C.F.R. § 1.106(f).

⁹ See Letter from Roger C. Sherman, Chief, Wireless Telecommunications Bureau, FCC, to Ari Q. Fitzgerald, Counsel to SNR Wireless LicenseCo, LLC, DA 15-1109 at 2 n.13 (Oct. 1, 2015) (citing *LMDS Communications, Inc., Request for Waiver of Sections 1.2109(a) and (c), 1.2104(g) and 101.1105(b) of the Commission’s Rules Regarding BTA117, BTA122, BTA203, BTA215, BTA218, BTA287, BTA317, BTA328, BTA330, BTA335, BTA375 and BTA416*, Order, 15 FCC Rcd 8618, 8622 n.30 (2000); *Application of Baker Creek Communications, L.P. for Authority to Construct and Operate Local Multipoint Distribution Services in Multiple Basic Trading Areas*, Order, 14 FCC Rcd 11529 (1999)).

CERTIFICATE OF SERVICE

I, John Muleta, hereby certify that on November 9, 2015, a true and correct copy of the foregoing letter was sent by United States Mail, first class postage prepaid, to:

Kathleen O'Brien Ham
Senior Vice President, Government Affairs
T-Mobile US
601 Pennsylvania Ave. NW
Suite 800
Washington, DC 20004

/s/ John Muleta
John Muleta