

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Intelligent Transportation & Monitoring Wireless LLC,)
Skybridge Spectrum Foundation, and V2G LLC) WT Docket No 15-282
Request for Five-Year Construction Extension for)
2,132 Part 22 Low Band EA Licenses)

To: Chief, Wireless Telecommunications Bureau

REPLY COMMENTS OF SUSAN L. UECKER, RECEIVER

Susan L. Uecker (“Ms. Uecker”), as court-appointed Receiver to, among other entities, Intelligent Transportation & Monitoring Wireless LLC, Skybridge Spectrum Foundation, and V2G LLC (the “Paging Licensees”) respectfully submits these reply comments to the Federal Communications Commission (“FCC” or the “Commission”) in response to the Public Notice issued by the Wireless Telecommunications Bureau regarding the November 3, 2015 Waiver and Extension Request (the “Waiver Request”) filed by the Paging Licensees. The only entity that filed comments in response to the Waiver Request was the Enterprise Wireless Alliance (“EWA”).

For the reasons set forth herein, Ms. Uecker opposes the comments submitted by EWA and fully supports a grant of the Waiver Request.

I. INTRODUCTION

On November 16, 2015, the Superior Court of Alameda County, California appointed Ms. Uecker as Receiver (the “Receivership Order”) to, among other things, take control and/or possession of all property and assets of the Paging Licensees, including any FCC licenses held

by such entities (collectively, the “Receivership Estate”).¹ On November 18, 2015, Ms. Uecker filed her oath and bond with the Superior Court, thus assuming control of the Paging Licensees on that date.

To comply with applicable Commission regulations, on December 17, 2015, Ms. Uecker filed a series of applications notifying the Commission of the involuntary transfer of control of the FCC licenses held in the Receivership Estate.² These applications remain pending before the Commission’s Wireless Telecommunications Bureau. Consistent with her fiduciary duties to preserve the value of the Receivership Estate, Ms. Uecker submits the instant reply comments in response to the comments filed by EWA and to support the Waiver Request.

II. GRANT OF THE WAIVER REQUEST WILL SERVE THE PUBLIC INTEREST

Ms. Uecker has controlled the Paging Licensees for less than two months and is still in the process of determining the extent to which the more than 2,000 licenses have been built out in accordance with Part 22 of the Commission’s regulations. However, Ms. Uecker respectfully requests that the Commission consider the following four points in support of the underlying Waiver Request.

First, as noted above, EWA was the only entity to file comments with respect to the Waiver Request. EWA has provided no clear basis why its members desire to participate in this proceeding. EWA has not indicated that any of its members bid in the auctions that led to the award of the paging licenses to the Paging Licensees, nor has it indicated that any of its members desire to acquire and/or utilize the paging licenses that are the subject of the Waiver Request. To

¹ See Letter from Brian D. Weimer to Marlene H. Dortch, *Wireless Telecommunications Bureau Seeks Comment on Requests by Intelligent Transportation & Monitoring Wireless LLC, Skybridge Spectrum Foundation, and V2G LLC*, WT Docket 15-282 (filed Dec. 21, 2015).

² See ULS File No. 0007060862 (Lead Application).

the contrary, the EWA comments suggested that the Waiver Request may be “another attempt by Mr. Havens to warehouse spectrum.”³ Pursuant to the Receivership Order, Ms. Uecker – not Warren Havens – now controls the Paging Licensees. To the extent that EWA is concerned with Mr. Havens allegedly warehousing spectrum, that concern is no longer valid. As a court-appointed Receiver, Ms. Uecker has a duty to ensure that the FCC licenses held in the Receivership Estate are operated in compliance with Commission regulations. Ms. Uecker has no intention to “warehouse” spectrum.⁴ Nor does she intend to “explore...fantastic potential uses” of the paging licenses as EWA attributes to Mr. Havens.⁵ Rather, Ms. Uecker is currently undertaking the burdensome process of assessing the regulatory status of the paging licenses held in the Receivership Estate.

Second, EWA indicates its view that there currently is little to no demand for these kind of paging licenses in the wireless marketplace.⁶ Although EWA generically states that its members have a “compelling interest in ensuring that spectrum is placed into productive use on a timely basis,” it is not clear what, if any, harm would accrue to EWA’s members through the grant of an extension.⁷ Given that EWA agrees that low band paging is not presently a viable business opportunity, it is unlikely that EWA’s members would be motivated to obtain or acquire these kinds of paging licenses. Thus, the Waiver Request does not trigger “concern[s] about the number of other potential licensees waiting to use the spectrum” and “would [not] frustrate [the

³ Comments of EWA, p. 2 (filed Dec. 21, 2015).

⁴ *Id.*

⁵ *Id.*

⁶ *See id* at p. 3.

⁷ *Id.* at p. 2.

Commission’s] longstanding policy against spectrum lying vacant while waiting lists of applicants exist.”⁸ No such list of applicants stands ready and eager to provide paging services.

Third, grant of the Waiver Request could facilitate the development of competing technologies, similar to developments in other spectrum bands that were not considered particularly valuable or important. For example, the Commission recently afforded Location and Monitoring Service (“LMS”) licensees relief by briefly extending the relevant build-out requirements for those licenses.⁹ Although the relief provided to LMS licensees was based, in part, on regulatory uncertainty, the Commission noted that extending the build-out deadlines would further the public interest by allowing for the development of competing technologies.¹⁰ EWA states that it “fully supports allowing spectrum to evolve to a higher and better use.”¹¹ EWA also specifically acknowledges that interest in spectrum does not remain static over time, citing the use of Positive Train Control (“PTC”) systems in the “heretofore essentially unmarketable spectrum in the 217-220 MHz band.”¹² The FCC has repeatedly acknowledged the dynamism and perpetual evolution of the wireless marketplace.¹³ As noted in the underlying extension request that initiated this proceeding, Meteor Burst Radio Signaling technology has shown promise in the ever-evolving wireless ecosystem.

⁸ *In re Jamestown Manufacturing Corporation*, Request for Waiver and Extension of Time to Construct Part 22 Paging Licenses, 23 FCC Rcd 764, 770 (2008) (“*Jamestown*”) (internal quotation marks and citation omitted).

⁹ *In re Requests by FCR, Inc., Progeny LMS, LLC, PCS Partners, L.P. and Helen Wong-Armijo for Waiver and Limited Extension of Time; Requests by Skybridge Spectrum Foundation and Telesaurus Holdings GB, LLC for Waiver and Limited Extension of Time*, Order, 29 FCC Rcd 1036, 10368 (2014).

¹⁰ *Id.*

¹¹ EWA Comments at p. 4.

¹² *Id.*

¹³ *See generally, Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Report WT Docket No. 15-125, DA 15-1487 (rel. Dec. 23, 2015).

Fourth, the Commission has previously granted extensions of the build-out deadlines for paging licenses for a variety of reasons.¹⁴ Although not factually analogous, *Jamestown* exemplifies Commission recognition of the challenges involved in enforcing build-out requirements for licenses while encouraging the deployment of viable wireless services utilizing novel technologies.¹⁵ Related to these challenges, the Commission has also explicitly stated that “changed circumstances affecting the business climate for an FCC-regulated service” can be the basis of a build-out extension.¹⁶ Here, an extension of the build-out deadline would recognize not only the changed business case relating to the paging industry, but also the other fundamental change in circumstances: the recent assumption of control over the licensees by Ms. Uecker.

In addition, several requests for extension of the relevant build-out deadline – based on a variety of technological and/or operational challenges – made by other paging licensees remain currently pending.¹⁷ Thus, it is clear that difficulties with respect to satisfying relevant paging build-out deadlines are hardly unique to the Paging Licensees and such extension requests are far from unusual. The Commission should be open to such requests for extensions of the applicable

¹⁴ See, e.g., *John E. Furlough*, Letter, 22 FCC Rcd. 4762 (2009); Kenneth J. Schmier, Letter, 23 FCC Rcd. 2660 (2008); *Raymond J. Quanzon* Letter, 22 FCC Rcd 21042 (2007).

¹⁵ See *Jamestown*, 23 FCC Rcd at 770 (acknowledging that “Jamestown is a licensee seeking to put underutilized paging spectrum to use by introducing a precision-based GPS service, which would compliment [sic] other uses of the paging spectrum, and there are no other potential licensees waiting to use the spectrum authorized to Jamestown.”).

¹⁶ See *In re Maritel, Inc., Request to Extend Construction Deadline for Certain VHF Public Coast Station Geographic Area Licenses*, Memorandum Opinion and Order, 22 FCC Rcd 14074, 14079 (2007).

¹⁷ See, e.g., KAMO Electric Coop. (request to extend build-out deadlines for call signs WQMT887, WQMT891, WQMT895, WQMT896, and WQMT897; File No. 0007006020); New York State Electric & Gas Corp. (request to extend build-out deadlines for fourteen call signs; File No. 0007056167); Diverse Power, Inc. (request to extend build-out deadlines for more than twenty call signs; File No. 0007010393).

build-out deadlines where – as with the Paging Licensees – the party in control of the license is otherwise committed to ensuring full compliance with FCC regulations.

III. CONCLUSION

For the foregoing reasons, Ms. Uecker opposes the comments submitted by EWA and respectfully requests that the Commission grant the Waiver Request and extend the applicable build-out deadlines for the paging licenses held by the Receivership Estate.

Respectfully Submitted,

/s/ Susan L. Uecker

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