

June 13, 2013

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th 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, Imposition of a Freeze on the Filing of Competing Renewal Applications for Certain Wireless Radio Services and the Processing of Already-Filed Competing Renewal Applications, WT Docket No. 10-112*

REQUEST TO WITHDRAW PLEADINGS, PETITIONS & FILINGS

Dear Ms. Dortch:

Green Flag Wireless, LLC, CWC License Holding, Inc., Corr Investments I, LLC, and James McCotter (collectively, “Competing Applicants”) and AT&T Inc. on behalf of AT&T Mobility Spectrum LLC (together with AT&T Inc., “AT&T”; collectively with the Competing Applicants, “Parties”) hereby withdraw the following petitions, pleadings, filings, and application listed in the exhibits attached hereto (collectively, “Competing Applicant Filings”) filed by the Competing Applicants with respect to the WCS authorization formerly held by NTELOS Inc. (“NTELOS” and “WCS Authorization”).

Competing Applicants have filed mutually exclusive applications against, and have otherwise opposed, the WCS authorization renewal applications filed by NTELOS, AT&T, and other WCS licensees.¹ As a result, NTELOS, AT&T, other WCS licensees, and the Competing Applicants have been involved in an ongoing dispute over the WCS authorizations. The Competing Applicants and AT&T have entered into an agreement to settle the dispute (“Settlement Agreement”). The Commission has issued a waiver of the Greenmail rule, 47 C.F.R. § 1.935, in order to permit resolution of the dispute through the

¹ Competing Applications of Green Flag Wireless, LLC, CWC License Holdings, Inc., or James McCotter, ULS File Nos. 0003090868 et al. (collectively with the Competing Applications filed by Snapline Communications, LLC, “Competing Applications”).

Settlement Agreement,² and has approved the Settlement Agreement.³ Subsequent to the Commission's approval, the Parties have not materially amended, or waived, any substantive provision of the Settlement Agreement. As part of the Settlement Agreement, the Competing Applicants are to withdraw their Competing Applications and various filings in stages tied to AT&T's direct or indirect acquisition of the WCS authorizations.⁴

On April 19, 2013, the Commission approved the acquisition by AT&T of the WCS Authorization from NTELOS,⁵ and the parties consummated the transaction on June 5, 2013.⁶ Accordingly, as required by the Agreement, the Competing Applicants withdraw, with prejudice, each Competing Applicant Filing identified in the exhibit attached hereto to the extent it relates to the WCS Authorization formerly held by NTELOS. With respect to the Competing Application identified in the exhibit, the Competing Applicants also request that the Commission dismiss that Competing Application, with prejudice. The Parties will not exchange any financial consideration for dismissal of such Competing Application and related filings until the Bureau issues a public notice dismissing such application and related filings with prejudice.

The Competing Applicant Filings identified in the exhibit include the following categories of documents:

- a. any Competing Application for the WCS Authorization formerly held by NTELOS;

² *Wireless Telecommunications Bureau Grants Limited Waiver to Facilitate Resolution of Competing Renewal Applications*, WT Dkt No. 10-112, Public Notice, DA 12-1407 (WTB rel. Aug. 28, 2012).

³ *Wireless Telecommunications Bureau Approves Settlement Agreement and Dismisses Competing Renewal Applications*, WT Dkt No. 10-112, Public Notice, DA 12-1640 (WTB rel. Oct. 15, 2012).

⁴ Following the consummation of AT&T's previous acquisitions of WCS licensee NextWave Wireless Inc. and of the WCS authorizations formerly held by Horizon Wi-Com, LLC, various subsidiaries of Comcast Corporation, and San Diego Gas & Electric Company, the Commission granted those parties' request for dismissal and withdrawal with prejudice of the Competing Applications and related filings filed by the Competing Applicants and Snapline Communications, LLC against the WCS authorizations that were part of each of those transactions. *See Wireless Telecommunications Bureau Dismisses Competing Applications*, WT Dkt No. 10-112, Public Notice, DA 13-615 (WTB rel. Apr. 4, 2013).

⁵ *See Wireless Telecommunications Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications, Designated Entity Reportable Eligibility Event Applications, and Designated Entity Annual Reports Action*, Public Notice, Report No. 8636, at 11 (Apr. 24, 2013).

⁶ *See ULS File No. 0005809573.*

- b. all Competing Applicant Filings opposing, challenging, or otherwise objecting to the existing build-out of the WCS Authorization formerly held by NTELOS;
- c. all Competing Applicant Filings opposing, challenging, or otherwise objecting to the Joint Proposal of AT&T and Sirius XM Radio Inc. filed with the FCC on June 15, 2012;⁷
- d. the Competing Applicants' August 6, 2010 Petition for Reconsideration filed with the FCC in WT Docket No. 10-112 to the extent that petition objects to the grant of the renewal of, or otherwise relates to, the WCS Authorization, their September 2, 2010 Consolidated Reply to Oppositions to Petition for Reconsideration filed with the FCC in WT Docket No. 10-112 to the extent that petition objects to the grant of the renewal of, or otherwise relates to, the WCS Authorization, and their October 22, 2010 Petition for Reconsideration of the conditional grant of the WCS Authorization, each reply they filed, with respect to the WCS Authorization, to the oppositions filed to such October 22, 2010 Petition for Reconsideration; and
- e. any other Competing Applicant Filing contending that NTELOS, individually or collectively with the other WCS licensees, should not be granted renewal of the WCS Authorization.

To the extent an application, pleading, petition, or filing by the Competing Applicants that fits within one of these five categories inadvertently was omitted from the exhibit, the Competing Applicants also hereby withdraw that application, pleading, petition, or filing with prejudice and seek dismissal of any such application, also with prejudice.⁸

Finally, the Parties request a waiver of the Commission's electronic filing requirement contained in Section 1.913(a)-(b) of the Commission's rules, which requires

⁷ See *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band*, WT Dkt No. 07-293, Written *Ex Parte* Presentation of AT&T Inc. and Sirius XM Radio Inc. - Joint Submission with Proposals That Resolve Open Issues on Reconsideration (filed June 15, 2012) ("Joint Proposal"). On October 17, 2012, the Commission released an Order on Reconsideration in WT Docket No. 07-293 and IB Docket No. 95-91 that largely adopted the Joint Proposal among other decisions. See *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band*, WT Dkt No. 07-293, *Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*, IB Dkt No. 95-91, Order on Reconsideration, FCC 12-130 (rel. Oct. 17, 2012).

⁸ See 47 C.F.R. § 1.934(a)(1)(i) ("If the applicant requests dismissal of its application with prejudice, the Commission will dismiss that application with prejudice.").

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electronic filing in the Commission's Universal Licensing System ("ULS") using the forms specified for various application-related actions.⁹ The purpose of this rule is to promote administrative efficiency.¹⁰ In this case, for reasons of administrative efficiency, the Parties are filing this Request to Withdraw in letter format and via the Commission's Electronic Comment Filing System ("ECFS"), and not in ULS using the form specified by Section 1.913. As adhering to the rule's prescriptions would defeat its underlying purpose, the Parties have shown good cause for waiver of this rule, and grant of this waiver request is in the public interest.¹¹

Respectfully submitted,

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⁹ *Id.* § 1.913(a)-(b).

¹⁰ *See, e.g., Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, Report and Order, 13 FCC Rcd. 21027, 21030-31 ¶¶ 2, 4 (1998) (explaining that requiring the use of ULS will increase the efficiency of the licensing application process, thereby reducing the burdens on the staff and applicants alike; speeding the deployment of service; and increasing the reliability, accuracy, and accessibility of licensing information to the public).*

¹¹ *See* 47 C.F.R. §§ 1.3, 1.925(b)(3).

Exhibit

**Withdrawal of Competing Applicant Filings with Respect to
the WCS Authorization Formerly Held by NTELOS**

- Application of Green Flag Wireless, LLC in ULS File No. 0003090867.
- *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, Imposition of a Freeze on the Filing of Competing Renewal Applications for Certain Wireless Radio Services and the Processing of Already-Filed Competing Renewal Applications*, WT Dkt No. 10-112, Petition of Green Flag Wireless, LLC, CWC License Holding, Inc., James McCotter, NTCH-CA, Inc. for Reconsideration (filed Aug. 6, 2010).
- *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, Imposition of a Freeze on the Filing of Competing Renewal Applications for Certain Wireless Radio Services and the Processing of Already-Filed Competing Renewal Applications*, WT Dkt No. 10-112, Consolidated Reply to Oppositions to Petition of Green Flag Wireless, LLC, CWC License Holding, Inc., James McCotter, NTCH-CA, Inc. for Reconsideration (filed Sept. 2, 2010).
- *Conditional Grant of Renewal Applications in the Wireless Radio Service and Personal Communication Service*, ULS File Nos. 0003023906 et al., Petition of Green Flag Wireless, LLC, CWC License Holding, Inc., James McCotter, NTCH-CA, Inc. for Reconsideration (filed Oct. 22, 2010).