



PUBLIC NOTICE

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May 15, 2008

WIRELESS TELECOMMUNICATIONS BUREAU APPROVES SETTLEMENT AGREEMENT BETWEEN KEYSTONE WIRELESS, INC. AND VERIZON WIRELESS (VAW) LLC

Pursuant to section 4(i) of the Communications Act, 47 U.S.C. § 154(i), and Sections 0.331 and 1.935 of the Commission's rules, 47 C.F.R. § 0.331 and 1.935, the Mobility Division (Division) of the Wireless Telecommunications Bureau (Bureau) hereby approves the Joint Request for Approval of Settlement Agreement (Settlement Agreement) filed by Keystone Wireless, Inc. (Keystone) and Verizon Wireless (VAW) LLC (Verizon) on May 12, 2008.¹

Between September, 2005 and January, 2006, Keystone and Verizon collectively filed four cellular Phase II unserved area applications seeking authority to operate in the Denver-Boulder, Colorado market area (CMA 019).² The parties also filed various pleadings challenging each of the four applications. On February 15, 2007, the Division denied Keystone's request for reconsideration regarding the dismissal of one of its applications (File No. 0002299351), and specifically dismissed all other applications and pleadings in this proceeding, with the exception of two properly filed mutually exclusive cellular Phase II applications under File Nos. 0002387212 (Verizon) and 0002396910 (Keystone).³ The Division's February 15, 2007 action specified that the case would be referred to the Bureau's Auctions and Spectrum Access Division for further processing.⁴ As indicated in the *Competitive Bidding Ninth Report and Order*, all pending mutually exclusive applications for unserved area licenses in the Cellular Radiotelephone Service must be resolved through a system of competitive bidding.⁵ Accordingly, the two

¹ See Joint Request for Approval of Settlement Agreement filed by Keystone Wireless, Inc. and Verizon Wireless LLC (May 12, 2008).

² See File Nos. 0002299351; 0002387212; 0002396910; and 0002437818.

³ See Letter from Roger S. Noel, Chief, Mobility Division, Wireless Telecommunications Bureau, to David J. Kaufman, Esq., counsel for Keystone Wireless Inc., and Michael P. Samsock, Esq., counsel for Verizon Wireless (VAW) LLC, dated February 15, 2007.

⁴ See *id.* at 5, n 45.

⁵ See Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, Amendment of Part 22 of the Commission's Rules to Provide for the Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, *Ninth Report and Order*, 11 FCC Rcd 14769, 14770 ¶ 2 (1996).

above-referenced mutually exclusive applications (File Nos. 0002387212 and 0002396910) were included in the Commission's Public Notice announcing Auction 77, which is scheduled to begin June 17, 2008.⁶

On May 12, 2008, Keystone and Verizon entered into the instant Settlement Agreement. Pursuant to the Settlement Agreement, Keystone has filed a request to withdraw its pending application (File No. 0002396910). Further, Verizon and Keystone have provided certifications that neither party has paid or received any money or other consideration in excess of the legitimate and prudent expenses incurred in preparing and prosecuting the application and related pleadings.⁷

After review of the record, the Division finds that the Settlement Agreement complies with Section 1.935 of the Commission's rules and is in the public interest because it resolves the mutual exclusivity of the subject applications filed by the two parties and facilitates cellular coverage to previously unserved areas. Accordingly, the Settlement Agreement is approved and Keystone's application under File No. 0002396910 is withdrawn.⁸

Action by Deputy Chief, Mobility Division, Wireless Telecommunications Bureau

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⁶ See Closed Auction of Licenses for Cellular Unserved Service Areas Scheduled for June 17, 2008, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 77, *Public Notice*, DA 08-926 (ASAD rel. April 25, 2008).

⁷ See 47 C.F.R. § 1.935(a)(1) and (b)(1).

⁸ The Bureau will release a separate public notice removing mutually exclusive group FGN 002 (File Nos. 0002387212 and 0002396910) from the Auction 77 inventory.