



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU APPROVES SETTLEMENT AGREEMENT AND DISMISSES COMPETING RENEWAL APPLICATIONS

WT Docket No. 10-112

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) approves a Settlement Agreement to resolve mutually exclusive (*i.e.*, competing) applications for 2.3 GHz Wireless Communications Service (WCS) authorizations currently held or to be acquired by AT&T.¹ We grant a related request to dismiss all competing applications filed against AT&T's current WCS authorizations (Dismissal Request).²

Review and Approval of the Settlement Agreement

The dispute leading to the Settlement Agreement before us today commenced in 2007, when the Competing Applicants filed applications against the majority of WCS applications for license renewal.³ The dispute continued in earnest until May 2010, when the Commission commenced a rulemaking to adopt consistent requirements for the renewal of Wireless Radio Services licenses.⁴ The Commission reviewed the dispute between the WCS licensees and the Competing Applicants,⁵ and directed the Bureau to grant the renewal applications, on a conditional basis, subject to the outcome of the rulemaking.⁶ The Commission stated that if it decided to adopt the rules and policies proposed in the rulemaking, it would

¹ The Settlement Agreement is by and among Green Flag Wireless, LLC (Green Flag), CWC License Holding, Inc. (CWC), Corr Investments I, LLC (Corr, the successor-in-interest to CWC), and James McCotter (McCotter) (collectively, the Green Flag Applicants), and Snapline Communications, LLC (Snapline) (each, a Competing Applicant and collectively, the Competing Applicants), and BellSouth Mobile Data, Inc., New Cingular Wireless PCS, LLC, and SBC Telecom, Inc. (together with AT&T Inc., AT&T). The Settlement Agreement is attached to the Joint *Ex Parte* Request for Resolution of Competing Applications, WT Docket 10-112 (filed Aug. 31, 2012).

² See Dismissal Request, WT Docket 10-112 (filed Aug. 31, 2012).

³ Competing Applications of Green Flag, Corr, CWC, McCotter, and Snapline, LLC, ULS File Nos. 0003113283 *et al.* (collectively, Competing Applications).

⁴ 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, *Notice of Proposed Rulemaking and Order*, 25 FCC Rcd 6996 (2010).

⁵ *Id.* at 7035-38 ¶¶106-111.

⁶ *Id.* at 7039 ¶113.

dismiss the Competing Applications.⁷ The rulemaking is pending. In August 2012, the Competing Applicants and AT&T executed the Settlement Agreement to resolve the Competing Applications.

We review the Settlement Agreement pursuant to Section 1.935 of the Commission's rules.⁸ Section 1.935 requires parties that enter into an agreement to resolve mutually exclusive applications by withdrawing or seeking dismissal of one or more applications, to first obtain Commission approval.⁹ Section 1.935 requires moving parties to submit a copy of any related written agreement (here, the Settlement Agreement), and any related request for approval of the withdrawal or dismissal (here, the Dismissal Request). Section 1.935 also limits the consideration that parties may exchange to resolve mutually exclusive applications.¹⁰ In August 2012, the Bureau found that a temporary waiver of this limitation would serve the public interest by helping facilitate possible resolution of the Competing Applications.¹¹ The parties submitted their Settlement Agreement consistent with the Bureau's limited waiver; we therefore do not review the exchange of consideration.

We have reviewed the Settlement Agreement and find that our approval will serve the public interest by reducing the uncertainty cast over the WCS band by the long-pending Competing Applications. Reducing that uncertainty will further the public interest by removing an obstacle to the significant capital investment needed to deploy valuable, next-generation broadband services to the American public in the WCS band.

For the public interest reasons stated above, our approval of the Settlement Agreement will also extend to resolution of any Competing Applications that were filed in 2007 against WCS authorizations that AT&T may acquire, subject to the following conditions and provided that we find such resolution will serve the public interest.¹² To resolve any such Competing Applications, AT&T and the affected Competing Applicants must first jointly file a request in WT Docket 10-112: (1) stating that they have not materially amended, or waived, any substantive provision of the Settlement Agreement; (2) enumerating each Competing Application and related filings to be dismissed under the terms of the Settlement Agreement; and (3) confirming that they will not exchange any financial consideration for

⁷ *Id.* at 7033-34 ¶100.

⁸ 47 C.F.R. § 1.935.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Wireless Telecommunications Bureau Grants Limited Waiver To Facilitate Resolution of Competing Renewal Applications, *Public Notice*, DA 12-1407, 2012 WL 3715808 (rel. Aug. 28, 2012) (waiving “the limitation on the consideration that may be offered or accepted for resolution of the competing renewal applications”). The waiver became effective for a 120-day period commencing on August 28, 2012, the Public Notice release date, and applies to settlement agreements submitted to the Bureau during that period.

¹² *See supra* note 3. AT&T has requested approval to acquire WCS licenses in three separate transactions involving: (1) wholly-owned subsidiaries of Comcast Corporation; (2) Horizon Wi-Com, LLC; and (3) subsidiaries of NextWave Wireless, Inc. *See* AT&T Seeks FCC Consent to the Assignment and Transfer of Control of WCS and AWS-1 Licenses, WT Docket No. 12-240, *Public Notice*, DA 12-1431 (rel. Aug. 31, 2012). AT&T has also requested approval to acquire two WCS licenses held by San Diego Gas & Electric Company. *See* AT&T Mobility Spectrum LLC and San Diego Gas & Electric Company Seek FCC Consent to the Assignment of Two WCS Licenses, WT Docket No. 12-240, *Public Notice*, DA 12-1513 (rel. Sept. 19, 2012). Our approval of the Settlement Agreement does not prejudice any action the Commission may take regarding any of the proposed transactions.

dismissal of such Competing Applications and related filings until the Bureau issues a public notice dismissing such applications and related filings with prejudice.

Review and Approval of the Dismissal Request

Pursuant to the Settlement Agreement, the Green Flag Applicants have filed a request to withdraw their Competing Applications, pleadings, petitions, and other filings relating to the WCS authorizations now held by AT&T. Exhibit A of the Dismissal Request specifies the applications, pleadings, petitions, and other filings to be dismissed in their entirety, while Exhibit B specifies the petitions to be dismissed to the extent they relate to AT&T's WCS authorizations.

We have reviewed the Dismissal Request and Exhibits A and B. We find that grant of the Dismissal Request will serve the public interest by resolving all Competing Applications and related filings pending against AT&T's WCS authorizations. **We therefore grant the Dismissal Request and hereby dismiss, with prejudice and effective immediately, the Competing Applications, related pleadings, petitions, and filings specified in Exhibit A of the Dismissal Request, and the petitions specified in Exhibit B of the Dismissal Request to the extent they relate to AT&T's WCS authorizations.**

For further information, please contact Richard Arsenault, Chief Counsel, Wireless Telecommunications Bureau, Mobility Division, at (202) 418-0920 or Richard.Arsenault@fcc.gov.

Action by the Chief, Wireless Telecommunications Bureau, taken pursuant to Sections 1, 308, and 309 of the Communications Act, and Sections 0.331, 1.3, and 1.935 of the Commission's rules.¹³

¹³ 47 U.S.C. §§ 151, 308, and 309, 47 C.F.R. §§ 0.331, 1.3, and 1.935.