PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUESTS FOR WAIVER AND EXTENSION OF TIME TO CONSTRUCT 700 MHZ A AND B BLOCK LICENSES

WT Docket 12-332

Comment Date: December 13, 2012
Reply Comment Date: December 28, 2012

By this *Public Notice*, the Wireless Telecommunications Bureau seeks comment on multiple requests for an extension of time and for waiver of Section 27.14(g) of the Commission's Rules[1] filed by ten licensees (Licensees) for their lower 700 MHz band economic area (EA) and cellular market area (CMA) licenses.[2]

Section 27.14(g) of the Commission's Rules require EA licensees holding authorizations for Block A in the 698-704 MHz and 728-734 MHz bands and CMA licensees for Block B in the 704-710 MHz and 734-740 MHz bands to provide signal coverage and offer service over at least 35 percent of the geographic area of their license no later than June 13, 2013, or within four years of initial license grant if the initial authorization is granted after June 13, 2009 (Interim Construction Benchmark).[3] If a licensee for these particular blocks fails to meet the Interim Construction Benchmark, the term of that license will

[1] 47 C.F.R. § 27.14(g).

[2] *See* Cox TMI Wireless, L.L.C. (Cox) Request for Extension of the Lower 700 MHz A Block Build-Out Deadline (filed Oct. 12, 2012) (Cox Extension Request); Continuum 700 LLC (Continuum) Request for Limited Extension of Initial Construction Benchmarks (filed Oct. 15, 2012) (Continuum Extension Request); Cincinnati Bell Wireless, LLC (CBW) Exhibit 1 – Extension and Waiver Request (filed Oct. 15, 2012) (CBW Extension Request); Cavalier Wireless, LLC (Cavalier) Request for Extension of the Initial Construction Benchmark (filed Oct. 15, 2012) (Cavalier Extension Request); Cellular South Licenses, LLC (Cellular South) Request for Extension of Build Out Requirements for A and B Block Licenses in the Lower 700 MHz Band (filed Oct. 16, 2012) (Cellular South Extension Request); MetroPCS 700 MHz, LLC (MetroPCS) Exhibit 1 – Extension and Waiver Request (filed Oct. 18, 2012) (MetroPCS Extension Request); Toba Inlet PCS, LLC (Toba Inlet) Request for Limited Extension of Initial Construction Benchmarks (filed Oct. 19, 2102) (Toba Inlet Extension Request); McBride Spectrum Partners, LLC (McBride) Request for Limited Extension of Initial Construction Benchmarks, ULS File No. 0005455474, (filed Oct. 26, 2012) (McBride A Block Extension Request); McBride Spectrum Partners, LLC (McBride) Request for Limited Extension of Initial Construction Benchmarks, ULS File No. 0005455475 (filed Oct. 26, 2012) (McBride B Block Extension Request); Nex-Tech Wireless, LCC (Nex-Tech) Request for Extension of Time and Limited Waiver of Construction Requirements (Nex-Tech Extension Request) (filed Oct. 25, 2102); Triad 700, LLC (Triad) Exhibit 1 – Extension and Waiver Request (filed Oct. 31, 2012) (Triad Request) ("Extension Requests"). The Attachment to this *Public Notice* list the related Universal Licensing System (ULS) file numbers. The call signs, EA's, and CMA's for which Cox, Continuum, CBW, Cavalier, Cellular South, MetroPCS, McBride, Nex-Tech, Toba Inlet, and Triad request an extension are also listed in the Attachment to the *Public Notice.*

[3] *See* 47 C.F.R. § 27.14(g).

be reduced by two years, and the licensee may be subject to enforcement action, including forfeitures,[4] and may lose authority to operate in part of the remaining unserved areas of the license.[5]

In their individual requests, Licensees seek an extension or waiver of the Interim Construction Benchmark for a period of at least two years from the applicable deadlines.[6] All the Licensees generally claim that an extension or a waiver is warranted for two primary reasons: (1) lack of interoperability in the 700 MHz band, and (2) their "meaningful efforts" undertaken to meet the Interim Construction Benchmark.[7] Further, eight of the licensees claim an extension or waiver is warranted because of issues regarding protection of TV Channel 51 stations, and three of the Licensees claim that high power 700 MHz band E Block operations have affected the ability to meet the deadline.[8]

Licensees state in their requests that there is a lack of interoperability in the 700 MHz band due to the development of two Long Term Evolution (LTE) band classes that cover the lower 700 MHz paired spectrum.[9] Licensees assert that vendor resources are directed at only one of the band classes, which does not cover the lower 700 MHz A Block.[10] According to the Licensees, this has made it virtually impossible for small rural and regional carriers, including the Licensees, "to obtain timely and cost effective mobile devices."[11] Due to the lack of available devices, Licensees claim that they cannot offer compelling or competitive services to potential customers and that it does not make economic sense to build out a network.[12]

All of the Licensees also claim that they have each undertaken "meaningful efforts" to utilize their spectrum and meet the Interim Construction Benchmark.[13] For example, Cavalier, Continuum, Toba Inlet, and Triad state they have engaged in engineering analyses and system planning, and initiated site

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[4] *See* 47 C.F.R. §27.14(g)(1).

[5] *See* 47 C.F.R. § 27.14(g)(1). In December 2011 the Commission released a *Public Notice* reminding 700 MHz licensees of their performance requirements and associated penalties. The *Public Notice* states that the Commission intends to use its discretion to impose a reduction in license size only where the Wireless Telecommunications Bureau staff determines that licensees have failed to undertake meaningful efforts to put spectrum to use. *700 MHz Construction and Reporting Requirements*, Public Notice, DA 11-1981, 26 FCC Rcd 16442 (WTB rel. Dec. 6, 2011).

[6] *See generally* Extension Requests. While each of the Licensees seeks an extension of at least two years from the Interim Construction Benchmark, individual licensee requests may vary, *e.g.,* seven of the Licensees seek an extension of the applicable construction requirements for a period of two years but, in no event, less than two years after the Commission renders a final ruling on interoperability in WT Docket No. 12-69. *See e.g.,* Continuum Waiver Request at 1; *see Promoting Interoperability in the 700 MHz Commercial Spectrum,* WT Docket No. 12-69, *Notice of Proposed Rulemaking,* 27 FCC Rcd 3521 (Mar. 21, 2012) (*700 MHz Interoperability NPRM*).

[7] *See generally* Extension Requests.

[8] *See* Cavalier Waiver Request at 13-15; Continuum Extension Request at 7; McBride Extension Request at 6-8.

[9] *See generally* Extension Requests. In the lower 700 MHz band, there are two different 3rd Generation Partnership Project (3GPP) operating bands, Band Class 12 and Band Class 17. Band Class 12 covers operations in the lower A, B, and C Blocks, and Band Class 17 covers operations in the lower B and C Blocks. *See 700 MHz Interoperability NPRM* at ¶ 10. Therefore, Band Class 17 devices do not operate on the lower A block.

[10] *See generally* Extension Requests.

[11] *See* Cellular South Extension Request at 7.

[12] *See generally* Extension Requests.

[13] *Id.*

exploration and lease planning.[14] Further, Cellular South, Cox, Nex-Tech, and Triad claim that they have unsuccessfully attempted to procure equipment that operates on their bands.[15] MetroPCS states that it has been proactive in addressing Channel 51 issues by conducting field tests, seeking technical solutions, and pursuing voluntary negotiations.[16]

Eight of the Licensees claim that the problematic and changing role of Channel 51 presents an additional basis for their requests for extension or waiver of the Interim Construction Benchmark.[17] They point out that an A Block licensee must ensure that its associated transmitters operate to reduce the potential for interference of broadcast stations, such as Channel 51, creating a "protected zone" around such stations.[18] Licensees state that although A Block licensees were aware of certain difficulties associated with Channel 51 when they obtained the licenses, they did not know, or could not reasonably have been expected to know, all of the complications associated with Channel 51.[19]

Additionally, Cavalier, Continuum, and McBride claim that A Block licensees face an interference threat from high power operations in the adjacent E Block.[20] According to these licensees, when the Commission created the 700 MHz band plan, it believed that the A Block would be adequately protected from interference despite the different power limits for the A Block and E Block.[21] However, the three licensees assert that high power operations in the E Block "provide a real, substantial and unanticipated negative impact on A Block operations."[22]

Procedural Matters

Comments on the request are due **no later than December 13, 2012**. Reply comments are due **no later than December 28, 2012**. All filings should reference the docket number of this proceeding, **WT 12-332.**

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[14] *See* Cavalier Extension Request at 20; Continuum Extension Request at 18; Toba Inlet Extension Request at 10-11; Triad Extension Request at 7-8.

[15] *See* Cellular South Extension Request at 7-8; Cox Extension Request at 4-5; Nex-Tech Extension Request at 7-10; Triad Extension Request at 5-7..

[16] *See* MetroPCS Extension Request at 6-8. Cavalier, CBW and Continuum also argue that they haver55x attempted to address Channel 51 issues. *See* Cavalier Extension Request at 12-13; CBW Extension Request at 4-6; Continuum Extension Request at 13.

[17] *See* Cavalier Extension Request at 7-12; CBW Extension Request at 4-12; Continuum Extension Request at 9-13; Cox Extension Request at 7; McBride A Block Extension Request at 8-12; McBride B Block Extension Request at 7-8; MetroPCS Extension Request at 4-8; Toba Inlet Extension Request at 7-8; Triad Extension Request at 3-4. The Lower A Block is adjacent to Channel 51 (692-698 MHz), which has been allocated for TV broadcast operations at power levels of up to 1000 kW. *See 700 MHz Interoperability NPRM* at ¶ 7.

[18] *See generally* Extension Requests; *See* 47 C.F.R. § 27.60.

[19] *See generally* Extension Requests.

[20] *See* Cavalier Extension Request at 13-15; Continuum Extension Request at 7-9; McBride A Block Extension Request at 6-8. The Lower A Block is adjacent to the unpaired Lower 700 MHz E Block, where licensees may operate at power levels up to 50kW. *See 700 MHz Interoperability NPRM* at ¶ 7.

[21] *See* Cavalier Extension Request at 13-14; Continuum Extension Request at 7; McBride A Block Extension Request at 6-7.

[22] *See* Continuum Extension Request at 8; *See* Cavalier Extension Request at 15; McBride A Block Extension Request at 7.

This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[23] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to http:// www.fcc.gov/cgb/ecfs/. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

-Effective December 28, 2009, all hand-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, D.C. 20554. All hand deliveries must be held together with rubber bands or fasteners. Envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m. **PLEASE NOTE:** The Commission's former filing location at 236 Massachusetts Ave., N.E. is permanently closed.

-Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

-U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

[23] *See* 47 C.F.R. §§ 1.1200(a), 1.1206.

Parties are requested to send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

The request, and comments and reply comments filed in response to this *Public Notice* are available for viewing via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, **WT 12-332**. The documents also will be available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail FCC@BCPIWEB.com.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to fcc504@fcc.gov.

For further information, contact Ms. Becky Schwartz of the Mobility Division, Wireless Telecommunications Bureau at (202) 418-7178, or via e-mail at Becky.Schwartz@fcc.gov.

Action by the Chief, Mobility Division, Wireless Telecommunications Bureau.

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ATTACHMENT
File numbers, Call Signs, Markets, and Channel Blocks for which extension and waiver of Section 27.14(g) is requested by licensees

Licensee Name	File Number	Call Sign	Market Code	Market Description	Channel Block
Cavalier Wireless, LLC	0005448538	WQIZ388	BEA005	Albany-Schenectady-Troy, NY	A
Cavalier Wireless, LLC	0005448539	WQIZ389	BEA006	Syracuse, NY-PA	A
Cavalier Wireless, LLC	0005448540	WQIZ390	BEA008	Buffalo-Niagara Falls, NY-PA	A
Cavalier Wireless, LLC	0005448541	WQIZ391	BEA009	State College, PA	A
Cavalier Wireless, LLC	0005448542	WQIZ392	BEA011	Harrisburg-Lebanon-Carlisle, PA	A
Cavalier Wireless, LLC	0005448543	WQIZ393	BEA016	Staunton, VA-WV	A
Cavalier Wireless, LLC	0005448544	WQIZ394	BEA018	Greensboro-Winston-Salem-High Point, NC-VA	A
Cavalier Wireless, LLC	0005448545	WQIZ395	BEA021	Greenville, NC	A
Cavalier Wireless, LLC	0005448537	WQIZ360	BEA022	Fayetteville, NC	A
Cavalier Wireless, LLC	0005448546	WQIZ396	BEA023	Charlotte-Gastonia-Rock Hill, NC-SC	A
Cavalier Wireless, LLC	0005448547	WQIZ397	BEA024	Columbia, SC	A
Cavalier Wireless, LLC	0005448548	WQIZ398	BEA027	Augusta-Aiken, GA-SC	A
Cavalier Wireless, LLC	0005448549	WQIZ399	BEA035	Tallahassee, FL-GA	A
Cavalier Wireless, LLC	0005448550	WQIZ400	BEA037	Albany, GA	A
Cavalier Wireless, LLC	0005448551	WQIZ401	BEA041	Greenville-Spartanburg-Anderson, SC-NC	A
Cavalier Wireless, LLC	0005448552	WQIZ403	BEA047	Lexington, KY-TN-VA-WV	A
Cavalier Wireless, LLC	0005448553	WQIZ404	BEA056	Toledo, OH	A
Cavalier Wireless, LLC	0005448554	WQIZ405	BEA070	Louisville, KY-IN	A
Cavalier Wireless, LLC	0005448555	WQIZ406	BEA087	Beaumont-Port Arthur, TX	A
Cavalier Wireless, LLC	0005448556	WQIZ407	BEA132	Corpus Christi, TX	A
Cavalier Wireless, LLC	0005448557	WQIZ408	BEA133	McAllen-Edinburg-Mission, TX	A
Cavalier Wireless, LLC	0005448558	WQIZ409	BEA147	Spokane, WA-ID	A
Cavalier Wireless, LLC	0005448559	WQIZ410	BEA172	Honolulu, HI	A
Cellular South Licenses, LLC	0005449634	WQIZ423	BEA039	Columbus, GA-AL	A
Cellular South Licenses, LLC	0005449762	WQIZ424	BEA043	Chattanooga, TN-GA	A
Cellular South Licenses, LLC	0005449768	WQIZ425	BEA044	Knoxville, TN	A
Cellular South Licenses, LLC	0005449778	WQIZ426	BEA045	Johnson City-Kingsport-Bristol, TN-VA	A
Cellular South Licenses, LLC	0005449785	WQIZ427	BEA071	Nashville, TN-KY	A
Cellular South Licenses, LLC	0005449792	WQIZ428	BEA073	Memphis, TN-AR-MS-KY	A
Cellular South Licenses, LLC	0005449794	WQIZ429	BEA074	Huntsville, AL-TN	A
Cellular South Licenses, LLC	0005449801	WQIZ430	BEA075	Tupelo, MS-AL-TN	A
Cellular South Licenses, LLC	0005449804	WQIZ431	BEA076	Greenville, MS	A
Cellular South Licenses, LLC	0005449810	WQIZ432	BEA077	Jackson, MS-AL-LA	A
Cellular South Licenses, LLC	0005449818	WQIZ433	BEA078	Birmingham, AL	A
Cellular South Licenses, LLC	0005449823	WQIZ434	BEA079	Montgomery, AL	A
Cellular South Licenses, LLC	0005449828	WQIZ435	BEA080	Mobile, AL	A
Cellular South Licenses, LLC	0005449835	WQIZ436	BEA082	Biloxi-Gulfport-Pascagoula, MS	A
Cellular South Licenses, LLC	0005449837	WQIZ437	CMA226	Florence, AL	B
Cellular South Licenses, LLC	0005449843	WQIZ438	CMA249	Anniston, AL	B
Cellular South Licenses, LLC	0005449848	WQIZ439	CMA252	Pascagoula, MS	B
Cellular South Licenses, LLC	0005449852	WQIZ440	CMA265	Fort Walton Beach, FL	B
Cellular South Licenses, LLC	0005449858	WQIZ441	CMA272	Gadsden, AL	B
Cellular South Licenses, LLC	0005449861	WQIZ442	CMA283	Panama City, FL	B
Cellular South Licenses, LLC	0005449868	WQIZ443	CMA308	Alabama 2 - Jackson	B
Cellular South Licenses, LLC	0005449872	WQIZ444	CMA369	Florida 10 - Walton	B
Cellular South Licenses, LLC	0005449876	WQIZ445	CMA503	Mississippi 11 - Lamar	B
Cellular South Licenses, LLC	0005449879	WQIZ446	CMA648	Tennessee 6 - Giles	B
Cincinnati Bell Wireless LLC	0005448482	WQIZ531	BEA050	Dayton-Springfield, OH	A
Continuum 700 LLC	0005448437	WQLA794	BEA015	Richmond-Petersburg, VA	A
Continuum 700 LLC	0005448438	WQLA795	BEA026	Charleston-North Charleston, SC	A
Continuum 700 LLC	0005448439	WQLA796	BEA028	Savannah, GA-SC	A
Continuum 700 LLC	0005448440	WQLA797	BEA029	Jacksonville, FL-GA	A
Continuum 700 LLC	0005448433	WQLA790	BEA032	Fort Myers-Cape Coral, FL	A
Continuum 700 LLC	0005448442	WQLA799	BEA051	Columbus, OH	A
Continuum 700 LLC	0005448434	WQLA791	BEA150	Boise City, ID-OR	A
Continuum 700 LLC	0005448435	WQLA792	BEA152	Salt Lake City-Ogden, UT-ID	A
Continuum 700 LLC	0005448436	WQLA793	BEA156	Albuquerque, NM-AZ	A
Cox TMI Wireless, L.L.C.	0005445847	WQIZ534	BEA020	Norfolk-Virginia Beach-Newport News, VA-NC	A
Cox TMI Wireless, L.L.C.	0005445848	WQIZ535	BEA038	Macon, GA	A
Cox TMI Wireless, L.L.C.	0005445849	WQIZ536	BEA081	Pensacola, FL	A
Cox TMI Wireless, L.L.C.	0005445850	WQIZ537	BEA083	New Orleans, LA-MS	A
Cox TMI Wireless, L.L.C.	0005445851	WQIZ538	BEA084	Baton Rouge, LA-MS	A
Cox TMI Wireless, L.L.C.	0005445852	WQIZ539	BEA092	Fayetteville-Springdale-Rogers, AR-MO-OK	A

Cox TMI Wireless, L.L.C.	0005445853	WQIZ544	BEA153	Las Vegas, NV-AZ-UT	A
Cox TMI Wireless, L.L.C.	0005445854	WQIZ545	BEA158	Phoenix-Mesa, AZ-NM	A
Cox TMI Wireless, L.L.C.	0005445855	WQIZ546	BEA159	Tucson, AZ	A
Cox TMI Wireless, L.L.C.	0005445856	WQIZ547	BEA161	San Diego, CA	A
McBride Spectrum Partners, LLC	0005455474	WQIZ576	BEA053	Pittsburgh, PA-WV	A
McBride Spectrum Partners, LLC	0005455475	WQIZ577	CMA618	Pennsylvania 7 - Jefferson	B
MetroPCS 700 MHz, LLC	0005452812	WQIZ578	BEA003	Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH-RI-VT	A
Nex-Tech Wireless, LLC	0005464851	WQJQ755	CMA349	Colorado 2 - Logan	B
Nex-Tech Wireless, LLC	0005464856	WQJQ757	CMA352	Colorado 5 - Elbert	B
Nex-Tech Wireless, LLC	0005464846	WQJQ762	CMA434	Kansas 7 - Trego	B
Nex-Tech Wireless, LLC	0005464859	WQJQ766	CMA440	Kansas 13 - Edwards	B
Toba Inlet PCS, LLC	0005455540	WQIZ635	CMA391	Idaho 4 - Elmore	B
Toba Inlet PCS, LLC	0005455541	WQIZ636	CMA617	Pennsylvania 6 - Lawrence	B
Triad 700, LLC	0005470825	WQJU653	BEA014	Salisbury, MD-DE-VA	A
Triad 700, LLC	0005470826	WQJU654	BEA054	Erie, PA	A
Triad 700, LLC	0005470827	WQJU655	BEA151	Reno, NV-CA	A
Triad 700, LLC	0005470828	WQJU656	BEA171	Anchorage, AK	A