



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 13-615

Released: April 4, 2013

WIRELESS TELECOMMUNICATIONS BUREAU DISMISSES COMPETING APPLICATIONS

WT Docket No. 10-112

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) dismisses mutually exclusive (*i.e.*, competing) applications filed against 2.3 GHz Wireless Communications Service (WCS) authorizations held by AT&T Inc. (AT&T) and Stratos Offshore Services Company (Stratos), respectively.¹

Background

In 2007, the Competing Applicants filed applications against most WCS applications for license renewal.² In May 2010, the Commission commenced a rulemaking to adopt consistent requirements for the renewal of Wireless Radio Services licenses, including the 2.3 GHz WCS band.³ The Commission reviewed the dispute between the WCS licensees and the Competing Applicants,⁴ and directed the Bureau to grant the renewal applications, on a conditional basis, subject to the outcome of the rulemaking.⁵ The Commission stated that if it were to adopt the rules and policies proposed in the rulemaking, it would dismiss the Competing Applications.⁶ The rulemaking is pending.

¹ See Request to Withdraw Pleadings, Petitions & Filings, filed by Green Flag Wireless, LLC (Green Flag), CWC License Holding, Inc. (CWC), Corr Investments I, LLC (Corr, the successor-in-interest to CWC), James McCotter (McCotter) and AT&T, WT Docket 10-112 (filed Jan. 3, 2013) (AT&T First Dismissal Request); Request to Withdraw Pleadings, Petitions & Filings, filed by Green Flag, CWC, Corr, McCotter, Snapline Communications, LLC (Snapline) and AT&T, WT Docket 10-112 (filed Jan. 30, 2013) (AT&T Second Dismissal Request). We collectively refer to Corr, CWC, Green Flag, McCotter, and Snapline as the Competing Applicants. See also Request for Dismissal of Applications and Petitions and Approval of Agreement filed by Green Flag and Stratos, WT Docket 10-112 (filed Sept. 24, 2012) (Stratos Dismissal Request).

² ULS File Nos. 0003113283 *et al.*

³ 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).

⁴ *Id.* at 7035-38 ¶¶106-111.

⁵ *Id.* at 7039 ¶113.

⁶ *Id.* at 7033-34 ¶100.

On August 28, 2012, the Bureau found that a temporary waiver of Section 1.935 of the Commission's rules, which limits the consideration that parties may exchange to resolve mutually exclusive applications, would serve the public interest by helping resolve the Competing Applications.⁷

On October 15, 2012, the Bureau approved a Settlement Agreement to resolve the Competing Applications.⁸ The Bureau found that approval of the agreement would serve the public interest by helping eliminate uncertainty regarding the WCS band, thereby removing an impediment to the significant investment needed to deploy next-generation services in the band.⁹ The Bureau dismissed all Competing Applications and related filings regarding AT&T's WCS authorizations.

The Bureau also determined that its approval of the Settlement Agreement would extend to resolution of any Competing Applications that were filed in 2007 against WCS authorizations that AT&T may subsequently acquire.¹⁰ At that time, AT&T had requested consent to acquire WCS authorizations from: (1) wholly-owned subsidiaries of Comcast Corporation (Comcast); (2) Horizon Wi-Com, LLC (Horizon); (3) subsidiaries of NextWave Wireless, Inc. (Nextwave), and (4) San Diego Gas & Electric Company (SDG&E).¹¹ On December 18, 2012, the Commission consented to AT&T's acquisition of those authorizations.¹² AT&T has since consummated acquisition of the authorizations.

Review and Approval of the AT&T Dismissal Requests

We review the AT&T Dismissal Requests under Section 1.935 of the Commission's rules. 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. Section 1.935 requires moving parties to submit a copy of any related written agreement (here, the Settlement Agreement, which the Bureau approved previously), and any related request for approval of the withdrawal or dismissal (here, the AT&T Dismissal Requests).

As required by the Bureau's *WCS Settlement Public Notice*, AT&T and the Competing Applicants: (1) state that they have not materially amended, or waived, any substantive provision of the Settlement Agreement; (2) have enumerated each Competing Application to be dismissed; and (3) have

⁷ Wireless Telecommunications Bureau Grants Limited Waiver To Facilitate Resolution of Competing Renewal Applications, *Public Notice*, DA 12-1407, 27 FCC Rcd 10248 (WTB 2012) (WCS Settlement Public Notice).

⁸ The Settlement Agreement is by and among 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).

⁹ *Id.*

¹⁰ *Id.*

¹¹ 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, 27 FCC Rcd 10329 (WTB 2012); 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, 27 FCC Rcd 11159 (WTB 2012).

¹² See Applications of AT&T Mobility Spectrum LLC, New Cingular Wireless PCS, LLC, Comcast Corporation, Horizon Wi-Com, LLC, NextWave Wireless, Inc., and San Diego Gas & Electric Company for Consent to Assign and Transfer Licenses, WT Docket No. 12-240, *Memorandum Opinion and Order*, FCC 12-156, 27 FCC Rcd 16459 (rel. Dec. 18, 2012).

confirmed that they will not exchange any financial consideration for dismissal of the Competing Applications until the Bureau dismisses such applications and related filings with prejudice.¹³ We have reviewed the Dismissal Requests and find that our approval will serve the public interest by removing uncertainty regarding the WCS Band, and thereby promote intensive use of the spectrum. Accordingly, we hereby grant the AT&T Dismissal Requests and dismiss, with prejudice and effective immediately, the Competing Applications and related filings.

Review and Approval of the Stratos Dismissal Request

Green Flag and Stratos have entered into an agreement for dismissal of Green Flag's Competing Applications against four Stratos WCS authorizations.¹⁴ We have reviewed the terms of the parties' agreement and the Stratos Dismissal Request under Section 1.925 of the Commission's rules,¹⁵ and find that our approval will serve the public interest by removing uncertainty regarding the Stratos WCS authorizations. Accordingly, we hereby approve the parties' agreement, grant the Stratos Dismissal Request, and dismiss, with prejudice and effective immediately, the Green Flag Competing Applications and related filings.

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, Mobility Division, 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.¹⁶

¹³ See AT&T First Dismissal Request and AT&T Second Dismissal Request.

¹⁴ Stratos Dismissal Request at 2.

¹⁵ As explained above, the Bureau previously granted a temporary waiver of the Commission's rule limiting the consideration that parties may exchange to resolve the Competing Applications; we therefore do not review consideration here.

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