



PUBLIC NOTICE

Federal Communications Commission
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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON ATLANTIC TELE-NETWORK, INC., AND SAL SPECTRUM, LLC, PETITION FOR WAIVER TO CLAIM ELIGIBILITY FOR A RURAL SERVICE PROVIDER BIDDING CREDIT IN AUCTION 1002

AU Docket No. 14-252
GN Docket No. 12-268
File No. 0007122225

Comment Date: May 26, 2016
Reply Comment Date: June 2, 2016

On May 3, 2016, Atlantic Tele-Network, Inc. (ATN), and its wholly-owned subsidiary SAL Spectrum, LLC (SAL) (together Petitioners), filed a petition requesting, to the extent necessary, waiver of Section 1.2110(f)(4) of the Commission's rules,¹ to enable SAL to claim eligibility for a rural service provider bidding credit in its application to participate in Auction 1002, the forward auction portion of the broadcast incentive auction.² We seek comment on the petition.

In its application to participate in Auction 1002, SAL seeks a rural service provider bidding credit, which provides an eligible applicant with a 15 percent discount on its winning bid(s).³ To be eligible for this bidding credit, an applicant must, *inter alia*, be a service provider that together with its controlling interests, affiliates, and the affiliates of its controlling interests, has fewer than 250,000

¹ 47 CFR § 1.2110(f)(4) (eligibility standard for rural service provider bidding credit).

² See Petition for Waiver, FCC Form 175 File No. 0007122225 (filed with WTB May 3, 2016) (Waiver Petition). At this point in the application process, which is outside the initial and resubmission filing windows, an applicant is unable to make changes other than administrative changes to its auction application (FCC Form 175). Accordingly, we are making the Waiver Petition available through ECFS in the above-listed dockets.

³ See Waiver Petition at 3. As noted in the *Auction 1002 Status Public Notice*, SAL requested confidential treatment of subscriber information for SAL and its affiliates contained in its application to participate in Auction 1002, and related information submitted by attachment to the application, in support of its request for a rural service provider bidding credit. See *Status of Applications To Participate in the Broadcast Television Spectrum Incentive Forward Auction (Auction 1002); Applications Deemed Incomplete Must Be Resubmitted by April 6, 2016*, Public Notice, DA 16-269 at n.15 (Mar. 18, 2016). During the Auction 1002 resubmission filing window, SAL amended its application to include a request for confidential treatment of all subscriber information for its foreign affiliates. See Waiver Petition at 3-4. The Bureau's Auctions and Spectrum Access Division denied SAL's request on April 20, 2016. See *SAL Spectrum, LLC – Request for Confidential Treatment of Subscriber Information Provided in FCC Form 175*, Letter Order, DA 16-426 (WTB/ASAD Apr. 20, 2016). On May 3, 2016, SAL and ATN filed an application for review of the denial of SAL's request for confidential treatment with respect to certain foreign subscribers. See *SAL Spectrum, LLC, Application To Participate in Auction 1002, File No. 0007122225, Application for Review* (filed May 3, 2016) (Application for Review). SAL and ATN request that the Commission address their application for review after action on this waiver request. *Id.* at 2. Because of the relationship of these two filings, we are also making the application for review available through ECFS in these dockets.

combined wireless, wireline, broadband, and cable subscribers.⁴ Petitioners claim that ATN subsidiaries serve “slightly more than 62,000 wireline, wireless, broadband, and cable subscribers” in the United States, that “ATN’s foreign subsidiaries serve more than 250,000 wireline, wireless, broadband, and cable subscribers,” and that “ATN’s total worldwide subscriber base is fewer than 500,000.”⁵ Petitioners seek a waiver, to the extent necessary, of any requirement that foreign subscribers be considered in determining SAL’s qualifications for the rural service provider bidding credit. They ask for consideration of this waiver petition “on an expedited basis (including an expedited comment period) before the start of the clock rounds of the forward auction.”⁶

We seek comment on the Petition.

Procedural matters

Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). When filing documents, please reference AU Docket No. 14-252 and GN Docket No. 12-268.

- Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: 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, filers 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. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- 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, Express, and Priority mail must be addressed to 445 12th St., SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats (braille, large print, electronic files, audio format) for people with disabilities, send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

⁴ 47 CFR § 1.2110(f)(4)(i)(A). Additionally, an applicant must serve predominantly rural areas, defined as counties with a population density of 100 or fewer persons per square mile. 47 CFR § 1.2110(f)(4)(i)(B).

⁵ *See* Waiver Petition at 3. SAL and ATN have not sought confidential treatment of the foregoing or any other information in their waiver petition or their application for review; they seek confidential treatment only of the specific number of subscribers of their foreign affiliates serving Aruba and Bermuda. *See* Application for Review at 3.

⁶ Waiver Petition at 5.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁷ 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 Section 1.1206(b) of the Commission’s rules.

In proceedings governed by Section 1.49(f) of the Commission’s rules 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.

For further information, contact Mark Montano, Mark.Montano@fcc.gov, 202-418-0660.

By the Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau.

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⁷ See 47 CFR §§ 1.1200(a), 1.1206. Interested parties should note that the Commission’s rules provide that persons who file mutually exclusive auction applications shall not be deemed parties with respect to each other’s applications merely because their applications are mutually exclusive. See 47 CFR § 1.1202(d)(1) Note 1. See also *Commission Announces that Mutually Exclusive ‘Short-Form’ Applications (Form 175) To Participate in Competitive Bidding Process (‘Auctions’) Are Treated as Exempt for Ex Parte Purposes*, Public Notice, 9 FCC Rcd 6760 (1994) (mutually exclusive applications to participate in the auctions process generally treated as exempt proceedings).