

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, S.W.
WASHINGTON, D.C. 20554

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DA 17-705
Released: July 21, 2017

**VERIZON COMMUNICATIONS AND STRAIGHT PATH COMMUNICATIONS SEEK FCC
CONSENT TO THE TRANSFER OF CONTROL OF LOCAL MULTIPPOINT
DISTRIBUTION SERVICE, 39 GHZ, 3650-3700 MHZ,
AND FIXED POINT TO POINT MICROWAVE LICENSES**

ULS File No. 0007783428

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: August 11, 2017
Oppositions Due: August 18, 2017
Replies Due: August 25, 2017

I. INTRODUCTION

Verizon Communications Inc. (Verizon) and Straight Path Communications Inc. (Straight Path) (collectively, the Applicants) have filed an application pursuant to Section 310(d) of the Communications Act of 1934, as amended,¹ seeking Commission consent to the transfer of control of Local Multipoint Distribution Service (LMDS), 39 GHz, 3650-3700 MHz, and common carrier fixed point to point microwave licenses held by Straight Path subsidiary Straight Path Spectrum, LLC (Straight Path Spectrum). The licenses include 735 millimeter wave (mmW) spectrum licenses in the 39 GHz band, 133 licenses in the LMDS bands (28 GHz, 29 GHz, and 31 GHz bands), nine common carrier point-to-point microwave licenses, and one non-exclusive nationwide license in the 3650-3700 MHz band.²

The Applicants state that Verizon plans to use mmW spectrum to launch 5G services. The Applicants claim that Verizon is driving the 5G ecosystem towards rapid commercialization with testing, standards development, fiber deployment and acquisitions for backhaul, and the planned launch of 11 pre-commercial 5G fixed wireless trials in 2017.³ The Applicants argue that acquiring control of the Straight Path Spectrum licenses will help enable Verizon to develop and deliver 5G products and services to the public. The Applicants also state that with the proposed transfer of control, in some counties, Verizon

¹ 47 U.S.C. § 310(d).

² Certain allegations of rule violations involving the 28 GHz LMDS and 39 GHz licenses have been investigated and resolved by the Commission's Enforcement Bureau. *Straight Path Communications, Inc. Ultimate Parent Company of Straight Path Spectrum, LLC*, Order and Consent Decree, 32 FCC Rcd 284 (EB 2017).

³ *Application of Verizon Communications Inc. and Straight Path Communications Inc. for Transfer of Control of Licenses*, ULS File No. 0007783428 (Application), Ex. 1 – Description of Transaction and Public Interest Statement at 1 (filed June 1, 2017) (Public Interest Statement).

will be above the millimeter wave spectrum threshold set out in last year's *Spectrum Frontiers Order*,⁴ but they claim that "a close look at marketplace developments and competitive circumstances reveals no risk to competition."⁵

Our preliminary review of the Applicants' mmW Spectrum Aggregation Exhibit⁶ indicates that post-transaction, Verizon would be attributed across the United States with 100 megahertz to 1650 megahertz of spectrum in total in the 28 GHz and 39 GHz millimeter wave bands.

II. SECTION 310(d) APPLICATION

The application for the transfer of control of licenses has the following file number:

<u>File No.</u>	<u>Transferor</u>	<u>Transferee</u>	<u>Lead Call Sign</u>
0007783428	Straight Path Communications Inc.	Verizon Communications Inc.	WPOT926

III. EX PARTE STATUS OF THIS PROCEEDING

Pursuant to Section 1.1200(a) of the Commission's rules,⁷ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under Section 1.1206 of the Commission's rules.⁸

Parties making oral *ex parte* presentations are directed to the Commission's *ex parte* rules. Parties are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.⁹ More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁰ Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.¹¹

IV. GENERAL INFORMATION

The transfer of control application has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies.

Interested parties must file petitions to deny no later than **August 11, 2017**. Persons and entities that file petitions to deny become parties to the proceeding. They may participate fully in the proceeding,

⁴ See *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014, 8081 n.486 (*Spectrum Frontiers Report and Order*). Pursuant to that order, Straight Path's 28 GHz LMDS and 39 GHz licenses will be converted to the Upper Microwave Flexible Use Service. See 47 C.F.R. § 30.1.

⁵ Public Interest Statement at 7-10.

⁶ Application, Exhibit 2.

⁷ 47 C.F.R. § 1.1200(a).

⁸ 47 C.F.R. § 1.1206.

⁹ 47 C.F.R. § 1.1206(b)(1).

¹⁰ *Id.*

¹¹ 47 C.F.R. § 1.1206(b).

including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts. Oppositions to such pleadings must be filed no later than **August 18, 2017**. Replies to such pleadings must be filed no later than **August 25, 2017**. All filings concerning matters referenced in this Public Notice should refer to ULS File No. 0007783428.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹² A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Under the Commission's current procedures for the submission of filings and other documents,¹³ submissions in this matter may be filed electronically (*i.e.*, through the Commission's Universal Licensing System (ULS)) or by hand delivery to the Commission.

- **To file electronically**, visit the ULS web site at <http://wireless.fcc.gov/uls/> and click on the "Submit a Pleading" link, complete the administrative information, and upload your pleading.
- **To file by paper**, the original and one copy of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All hand-delivered or messenger-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. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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 should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by email or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) Linda Ray, Broadband Division, Wireless Telecommunications Bureau, at linda.ray@fcc.gov or (202) 418-2463 (facsimile); (2) Kate Mataves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at catherine.mataves@fcc.gov or (202) 418-2643 (facsimile); and (3) Jim Bird, Office of General Counsel, at TransactionTeam@fcc.gov or (202) 418-1234 (facsimile).

The application and any associated documents are available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The application also is available electronically through ULS, which may be accessed on the Commission's Internet website. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau

¹² See 47 C.F.R. § 1.45(c).

¹³ See *FCC Announces Change in Filing Location for Paper Documents*, Public Notice, 24 FCC Rcd 14312 (2009).

at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov; phone: (202) 418-0530; or TTY: (202) 418-0432.

For further information, contact Linda Ray, Broadband Division, Wireless Telecommunications Bureau, at (202) 418-0257, or Kate Matraves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 391-6272.

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