



Federal Communications Commission  
Washington, D.C. 20554

August 14, 2017

DA 17-764

Mr. Douglas Minster  
SAL Spectrum, LLC  
600 Cummings Center  
Beverly, MA 01915

**RE: Request for Waiver of Section 27.14(g)(1), WT Docket No. 16-392**

Dear Mr. Minster:

For the reasons stated below, the Mobility Division (Division) of the Wireless Telecommunications Bureau (Bureau) hereby denies the request of SAL Spectrum, LLC (SAL), a wholly owned subsidiary of ATN International, Inc. (ATN), for a waiver of Section 27.14(g)(1) of the Commission's rules.<sup>1</sup> We find that the record before us does not support a grant of SAL's request for additional time to meet the interim construction requirement for its Lower 700 MHz B Block license,<sup>2</sup> or its alternative request for additional time to meet the accelerated end-of-license term construction requirement.<sup>3</sup>

**I. BACKGROUND**

*Construction Requirements.* In the *700 MHz Second Report and Order*, the Commission adopted interim and end-of-license term construction benchmarks for certain 700 MHz band licensees.<sup>4</sup> The Commission required Lower 700 MHz band A and B Block licensees to provide signal coverage and offer service over at least 35 percent of their license area by June 13, 2013,<sup>5</sup> later extended to December 13, 2016<sup>6</sup> (Interim Construction Requirement), and to provide signal coverage and offer service over at least 70 percent of that area by the end of their initial 10-year license term, here June 13, 2019 (Final Construction Requirement).<sup>7</sup> Under Section 27.14(g)(1) if a licensee does not satisfy the Interim Construction Requirement, its license term will be reduced by two years, thereby requiring it to meet the

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<sup>1</sup> SAL Spectrum, LLC Request for Waiver and Extension of Construction/Coverage Thresholds, Call Sign WQJQ812, ULS File No. 0007557048 (filed Nov. 15, 2016), citing 47 CFR § 27.14(g) (Waiver Request). *See also* Comments of SAL Spectrum, LLC, filed Dec. 8, 2016 (SAL Comments); *Ex Parte* Letter from David J. Kaufman, Attorney for SAL Spectrum, LLC, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 16-392 (filed Jan. 10, 2017) (SAL *Ex Parte*).

<sup>2</sup> The license call sign is WQJQ812 (Cellular Market Area (CMA) 652 Texas-1 (Dallam)) (the License).

<sup>3</sup> SAL Comments at 5-6.

<sup>4</sup> *See Service Rules for 698-746, 747-762, and 777-792 MHz Bands*, Second Report and Order, 22 FCC Rcd 15289 (2007) (*700 MHz Second Report and Order*) on recons., *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Memorandum Opinion and Order on Reconsideration, 28 FCC Rcd 2671 (2013).

<sup>5</sup> *See* 47 CFR § 27.14(g).

<sup>6</sup> *See Promoting Interoperability in the 700 MHz Commercial Spectrum*, Report and Order and Order of Proposed Modification, 28 FCC Rcd 15122, 15151-52, paras. 64-65 (2013) (*700 MHz Interoperability Order*).

<sup>7</sup> *See* 47 CFR § 27.14(g); *700 MHz Second Report and Order*, 22 FCC Rcd at 15293-94, 15349, paras. 6, 157; *Implementation of the DTV Delay Act/DTV Consumer Education Initiative*, Second Report and Order and Notice of Proposed Rulemaking, 24 FCC Rcd 2526, 2543, para. 39 (2009) (*DTV Delay Order*).

Final Construction Requirement two years sooner.<sup>8</sup> Further, if a licensee does not meet its 70 percent Final Construction Requirement (whether it is accelerated or not), it will be subject to a “keep-what-you-serve” rule, whereby its “authorization will terminate automatically without Commission action for those geographic portions of its license in which the licensee is not providing service, and those unserved areas will become available for reassignment by the Commission.”<sup>9</sup>

*Station WQJQ812.* SAL was the high bidder for Station WQJQ812 and five other 700 MHz licenses in Auction 73<sup>10</sup> and was granted the License on November 26, 2008.<sup>11</sup> Thus, when SAL filed its Waiver Request on November 15, 2016, it had held the License for nearly eight years.<sup>12</sup>

*Initial Waiver Request.* SAL initially requested six additional months to meet its Interim Construction Requirement for the License, such that by June 13, 2017, it would be required to meet the 35 percent Interim Construction Requirement, and that by June 13, 2019 (the end-of-license term), it would be required to meet the 70 percent Final Construction Requirement.<sup>13</sup> SAL states that it has “devoted substantial resources to completing its construction/coverage obligations for its [five other] 700 MHz licenses on a timely basis, overcoming major environmental hurdles resulting in the loss of multiple superior site locations (and concomitant need to construct more cell sites than otherwise would have been needed)” as to some licenses, as well as “avoiding any harm to areas of cultural or religious significance to various Tribes” in connection with other licenses.<sup>14</sup> SAL asserts that “the personnel devoted to these other call signs are the same team of individuals that are also responsible for call sign WQJQ812 [and its] available resources have been stretched thin.”<sup>15</sup> SAL also asserts that the License area “represents a significant challenge, due to its remote location . . . in the far northwest corner of the Texas Panhandle,” which is “far from the . . . 700 MHz switching facilities in Castle Rock, Colorado,” therefore complicating backhaul.<sup>16</sup>

SAL’s Waiver Request went on public notice for comment on November 18, 2016.<sup>17</sup>

*Alternative Waiver Request.* On December 8, 2016, SAL, but no other party, filed initial comments in response to the public notice in this proceeding. In its Comments, SAL seeks alternative waiver relief. SAL requests that if it is not granted its initial waiver request and its end-of-license term is

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<sup>8</sup> 47 CFR § 27.14(g)(1).

<sup>9</sup> *Id.* at § 27.14(g)(2). See also *700 MHz Second Report and Order*, 22 FCC Rcd at 15348, para. 153.

<sup>10</sup> The five call signs are WQJQ808, WQJQ809, WQJQ810 and WQJQ811, held by SAL, and WQIZ530, held by SAL’s affiliate, Commnet of Nevada, LLC.

<sup>11</sup> See *Auction of 700 MHz Band Licenses Closes, Winning Bidders Announced for Auction 73*, Public Notice, 23 FCC Rcd 4572 (WTB 2013).

<sup>12</sup> On February 20, 2009, the Commission extended SAL’s License term and the term of certain other Lower 700 MHz band licenses by 116 days, to June 13, 2019, pursuant to the DTV Delay Act. See *DTV Delay Order*, 24 FCC Rcd at 2543, para. 39. And in 2013, the Commission extended SAL’s interim deadline and the interim deadline of certain other Lower 700 MHz band licenses until December 13, 2016. See *700 MHz Interoperability Order*, 28 FCC Rcd at 15151-52, paras. 64-65.

<sup>13</sup> See Waiver Request at 1; SAL Comments at 4-5.

<sup>14</sup> Waiver Request at 2-3. See also SAL Comments at 2-3.

<sup>15</sup> Waiver Request at 3. See also SAL Comments at 4.

<sup>16</sup> Waiver Request at 3. See also SAL Comments at 4.

<sup>17</sup> See *Wireless Telecommunications Bureau Seeks Comment on SAL Spectrum LLC Request for Extension of Time to Meet Geographic Coverage Requirement for 700 MHz License in Texas*, Public Notice, 31 FCC Rcd 12620 (WTB 2016).

therefore accelerated to June 13, 2017, we provide it six additional months—until December 13, 2017—to meet its Final Construction Requirement,<sup>18</sup> and that we extend its accelerated end-of-license term by six months until December 13, 2017.<sup>19</sup> SAL also reiterates the arguments in its initial waiver request.<sup>20</sup>

One party, the Rural Wireless Association, Inc. (RWA), filed reply comments in this proceeding.<sup>21</sup> RWA opposes SAL’s initial and alternative waiver requests, asserting that a waiver would be contrary to the underlying purpose of Section 27.14(g)(1), harm competitors, and that no unique or special circumstances exists warranting the requested relief.<sup>22</sup> In response, SAL claims that RWA’s Reply Comments are essentially “an untimely petition to deny,”<sup>23</sup> and therefore should not be considered.<sup>24</sup> SAL also argues that certain waiver relief granted to T-Mobile License LLC (T-Mobile) supports SAL’s request for relief here claiming that its License area is also remote and rural and includes tribal or disadvantaged populations.<sup>25</sup> RWA responds that its timely-filed Reply Comments properly addressed SAL’s Comments,<sup>26</sup> and therefore should be considered,<sup>27</sup> and that the *T-Mobile Waiver* does not support SAL’s request for relief.<sup>28</sup>

## II. DISCUSSION

Before addressing the merits of SAL’s request, we address SAL’s contention that RWA’s Reply Comments were improperly filed and should not be considered. We find good cause to consider RWA’s Reply Comments because: (1) they were timely filed, and (2) they squarely address SAL’s alternative waiver request, a request first made by SAL in its Comments in this proceeding.<sup>29</sup> In the interest of having a complete record to inform our decision-making, we also consider RWA’s subsequent *Ex Parte* filing dated January 27, 2017.<sup>30</sup>

*Waiver Standard.* Under the Commission’s general standard for considering waiver requests, we may grant such a request when: (i) the underlying purpose of the rule(s) would not be served or would be

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<sup>18</sup> See SAL Comments at 5-6.

<sup>19</sup> *Id.*

<sup>20</sup> See *supra* notes 13-16.

<sup>21</sup> See Reply Comments of the Rural Wireless Association, Inc., filed Dec. 19, 2016 (RWA Reply Comments). RWA (f/k/a RTG, the Rural Telecommunications Group) is a trade association representing rural wireless carriers that each serve fewer than 100,000 subscribers. See Rural Wireless Association, About Us, <http://ruralwireless.org/about-rwa/>.

<sup>22</sup> See RWA Reply Comments at 3-6.

<sup>23</sup> SAL *Ex Parte* at 2.

<sup>24</sup> See *id.*

<sup>25</sup> See *id.* at 4, citing *T-Mobile License LLC Request for Waiver of Section 27.14(g)(1)*, Order, 31 FCC Rcd 13379 (WTB 2016), *application for review pending* (granting T-Mobile a waiver of Section 27.14(g)(1) to meet alternative construction benchmarks for three Lower 700 MHz band licenses in Montana and Wyoming) (*T-Mobile Waiver Order*).

<sup>26</sup> Written *Ex Parte* Filing by the Rural Wireless Association, Inc., WT Docket No. 16-392, at 2 (filed Jan. 27, 2017), citing 47 CFR §§ 1.415, 1.419 (RWA *Ex Parte*).

<sup>27</sup> See RWA *Ex Parte* at 3.

<sup>28</sup> *Id.* at 4, citing Application for Review of the Rural Wireless Association, Inc., WT Docket No. 16-319 (filed Jan. 23, 2017).

<sup>29</sup> See RWA Reply Comments at 5-6.

<sup>30</sup> See *supra* note 26.

frustrated by application to the instant case, and a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>31</sup> The Commission's construction obligations serve the important purpose of ensuring that scarce spectrum resources are put to use and deployed to serve all communities<sup>32</sup> and promote the Commission's mandate to make spectrum "available, so far as possible, to all the people of the United States" wherever they live.<sup>33</sup> As with other Commission rules, requests to waive the requirements of the wireless construction rules must "meet a high hurdle even at the starting gate."<sup>34</sup> While we must evaluate each case based on the specific circumstances that it presents, the Commission's construction requirements are intended to ensure intensive use of valuable spectrum,<sup>35</sup> and waiver of those requirements is only appropriate when consistent with that goal and the public interest.<sup>36</sup>

*Initial Waiver Request.* We have carefully reviewed the record before us and find that SAL's request for an additional six months to meet the Interim Construction Requirement is not supported by the record. We find that granting SAL's initial waiver request would not serve the Commission's goal of ensuring intensive spectrum use via its construction rules. Further, granting the initial waiver request would frustrate the purpose of the Commission's construction rules for the 700 MHz band, which are intended to promote rapid service to the public and, in certain circumstances, provide an opportunity for additional licensees to serve smaller license areas not served by the original licensee.<sup>37</sup> The record reflects that, during the eight-year period SAL held the License, it chose to focus on the construction of five other 700 MHz license areas—license areas that SAL also chose to bid on and won in Auction 73. SAL argues that its resources were "stretched thin" as a result of prioritizing that buildout at the expense of even commencing construction of the License for which it seeks a waiver. SAL's decision to bid on six 700 MHz license areas and its decision to use its resources to construct five of those areas, regardless of the challenges it faced constructing those areas,<sup>38</sup> constitute business decisions, as SAL was aware of the geographic location when bidding on these areas and should have properly accounted for resource allocation. In these circumstances, we find that SAL has not demonstrated that relief is warranted here. Additionally, while the requested waiver would have required SAL to meet its 35 percent interim construction obligation by June 13, 2017, it would not have required SAL to undertake any additional construction before the June 13, 2019, end-of-license term. We therefore reject SAL's initial waiver

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<sup>31</sup> 47 CFR § 1.925(b)(3).

<sup>32</sup> See, e.g., 47 U.S.C. § 309. See also, e.g., *Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*, Report and Order and Order of Proposed Modification, 27 FCC Rcd 16102, 16173-74, para. 187 (2012) ("The Commission establishes performance requirements to promote the productive use of spectrum, to encourage licensees to provide service to customers expeditiously, and to promote the provision of innovative services throughout the license area(s), including in rural areas."); *700 MHz Second Report and Order*, 22 FCC Rcd at 15348-49, paras. 154-155 (highlighting several important policy goals advanced by adoption of performance requirements, including to "better promote access to spectrum and the provision of service, especially in rural areas"); *Amendment of the Commission's Rules to Establish New Personal Communications Services*, Memorandum Opinion and Order, 9 FCC Rcd 4957, 5018-19, paras. 154-56 (1994) (imposing construction requirements to ensure effective spectrum use and promote nationwide coverage notwithstanding varying population densities).

<sup>33</sup> See, e.g., 47 U.S.C. § 151.

<sup>34</sup> See *WAIT Radio v. FCC*, 459 F.2d 1203, 1207 (D.C. Cir. 1972).

<sup>35</sup> See 47 U.S.C. § 309(j)(3)(D). Cf. *id.* § 309(j)(4)(B).

<sup>36</sup> See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (1972), *cert. denied*, 93 S. Ct. 461 (1972).

<sup>37</sup> See *700 MHz Second Report and Order*, 22 FCC Rcd at 15348-49, paras. 154-155.

<sup>38</sup> Waiver Request at 2-3. SAL Comments at 2-4.

request as inconsistent with the Commission’s general standards for considering waiver requests.

*Acceleration of End-of-License Term and Final Construction Requirement.* Because we reject SAL’s initial waiver request for additional time to meet the Interim Construction Requirement, SAL has failed that requirement, and its end-of-license term and Final Construction Requirement therefore are accelerated by rule to June 13, 2017, *without further Commission action.*<sup>39</sup> We will update the Commission’s Universal Licensing System database accordingly.

*Alternative Waiver Request.* In its Comments, SAL alternatively requests six additional months, until December 13, 2017, to meet its accelerated Final Construction Requirement.<sup>40</sup> SAL states that during the eight-year period it held the License, it focused on constructing five other 700 MHz license areas it won in Auction 73,<sup>41</sup> and that it faced challenges in obtaining appropriate sites and related approvals in these other markets.<sup>42</sup> SAL further claims that these challenges “stretched to the breaking point” the “limited personnel resources” of its corporate parent ATN.<sup>43</sup> The fact that SAL may have faced challenges in building its other 700 MHz license areas does not support waiver relief for the specific license here.<sup>44</sup>

We do not find that the Division’s grant of a waiver to T-Mobile to meet alternative construction benchmarks for three Lower 700 MHz band licenses in Wyoming and Montana supports grant of the relief SAL seeks here.<sup>45</sup> In the *T-Mobile Order*, the Division found that a waiver would “serve the public interest by enabling T-Mobile to rapidly bring new and advanced wireless services to the citizens of Montana and Wyoming.”<sup>46</sup> The facts before us today, however, differ from those anchoring the grant of relief to T-Mobile and do not warrant affording SAL like relief.

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<sup>39</sup> See CFR § 27.14(g)(1).

<sup>40</sup> See SAL Comments at 5-6.

<sup>41</sup> Waiver Request at 2-3.

<sup>42</sup> See Waiver Request at 2-3; SAL Comments at 2-4.

<sup>43</sup> See SAL Comments at 4.

<sup>44</sup> See, e.g., *Warren C. Havens*, Order, 27 FCC Rcd 5841, 5851-52, para. 24 (WTB 2012) (denying waiver request because the licensee chose to deploy a particular technology and there was a lack of evidence that “shifting plans” would lead to spectrum use soon); *Motient Commc’ns*, Order, 19 FCC Rcd 13086, 13092, para. 13 (WTB 2004) (denying waiver request because the economic downturn resulting in the licensee’s financial difficulties were not unique or unforeseeable and permitting licensee to retain licenses until it becomes more cost-effective to build would not be in the public interest); *Eldorado Commc’ns, L.L.C.*, Order, 17 FCC Rcd 24613, 24616-19, paras. 8-13 (WTB 2002) (denying waiver request for various reasons, including that the licensee was only in preliminary stages of construction toward the end of the construction deadline, despite holding licenses for years; service was being offered by others in the license areas, meaning that granting licensee’s request was not going to result in appreciable benefit of service being offered; the licensee was not serving any customers; and the licensee’s delay in acquiring equipment was its own decision and failed to account for standards changes expected to be part of wireless business). See also RWA Reply Comments at 6-7.

<sup>45</sup> See *T-Mobile Waiver Order*. The *T-Mobile Waiver Order* applied to two Lower 700 MHz A Block licenses (Call Sign WQJQ805, Basic Economic Area (BEA) 144 - Billings, MT-WY; and Call Sign WQJQ806, BEA145 - Great Falls, MT) and one Lower 700 MHz B Block license (Call Sign WQJQ807, CMA527 - Montana 5 – Mineral). The Division granted T-Mobile a waiver of Section 27.14(g)(1), requiring among other things that: (1) by April 21, 2017, it provide coverage and offer service to at least 35 percent of the geographic area of the B Block license; (2) by January 21, 2018, it provide coverage and offer service to at least 40 percent of the geographic area for each license; and (3) by January 21, 2019, it provide coverage and offer service to at least 70 percent of the geographic area for each license. See *id.* at 13384-85.

<sup>46</sup> *Id.* at 13379.

While the six counties comprising SAL's License area may be rural,<sup>47</sup> the area is relatively small (approximately 7,785 square miles),<sup>48</sup> generally flat, and its weather temperate. It is thus dissimilar in key factual respects from the rugged Montana and Wyoming license areas that T-Mobile acquired this year, which are vast (approximately 136,325 square miles), mountainous, and subject to extreme weather.<sup>49</sup> We also note that much of SAL's License area is already served by four service providers.<sup>50</sup> The combination of these factors underscores that buildout is not as difficult for SAL's License area given, for example, its size, the climate, and the long period of time that SAL has had to build.

In support of its Waiver Request, SAL also claims that all its 700 MHz license areas "involve either very poor populations or poor Tribal populations."<sup>51</sup> Although SAL's observations regarding economic challenges faced by residents of its other 700 MHz license areas may be true, SAL has not shown that residents of the License area face atypical economic hardships or that there are impoverished Tribal populations. Census records show that the percentage of residents living below the poverty line in the License area is comparable to the U.S. average,<sup>52</sup> and that 1.6 percent of its residents (approximately the national average) are Native American.<sup>53</sup>

In view of the foregoing, we find that SAL has not demonstrated that grant of its alternative request for wavier relief is warranted under the Commission's general standards for considering waiver requests and hereby deny that request.

*Interim Notification of Construction.* We hereby direct SAL to file an interim notification of construction within 15 days of this Letter Order's release date certifying that it has failed to meet the Interim Construction Requirement, and "includ[ing] information detailing meaningful efforts undertaken to put the spectrum to use."<sup>54</sup>

*Final Notification of Construction.* As explained above, SAL's end-of-license term and Final Construction Requirement have accelerated by rule to June 13, 2017. We hereby waive on our own motion Section 1.946(d)'s requirement to file a final notification of construction within 15 days of the

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<sup>47</sup> The Commission defines a "rural" county as one with a population density of 100 persons per square mile or less. *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, Report and Order and Further Notice of Proposed Rule Making, 19 FCC Rcd 19078, 19087, para. 11 (WTB 2004). See also U.S. Census Bureau, 2010 Census of Population and Housing, Population and Housing Unity Counts, Texas: 2010, Tbl. 5 (Sept. 2012), <https://www.census.gov/prod/cen2010/cph-2-45.pdf>.

<sup>48</sup> See U.S. Census Bureau, Quick Facts, <https://www.census.gov/quickfacts/table/PST045216/00>.

<sup>49</sup> The harsh winter weather in rural Montana and Wyoming moreover limits the number of months when construction can be undertaken, a factor not present in SAL's Texas License area. See *T-Mobile Waiver Order*, 31 FCC Rcd at 13382.

<sup>50</sup> The Commission's Universal Licensing System reflects that AT&T, Sprint, T-Mobile, and Verizon currently provide service in the market area. See <http://wireless.fcc.gov/uls/index.htm?job=home>.

<sup>51</sup> SAL *Ex Parte* at 3.

<sup>52</sup> See U.S. Census Bureau, Quick Facts, <https://www.census.gov/quickfacts/table/PST045216/00>.

<sup>53</sup> *Id.*

<sup>54</sup> *700 MHz Construction and Reporting Requirements*, Public Notice, 26 FCC Rcd 16442, 16445 (WTB 2011) (*700 MHz Requirements Public Notice*). See also 47 CFR § 27.14(k). Section 27.14(g)(1) states that licensees that fail to meet the interim construction requirement may be subject to enforcement action, including forfeitures. 47 CFR § 27.14(g)(1). The *700 MHz Requirements Public Notice* explains that "licensees undertaking no meaningful efforts to build out their networks may lose the authority to operate in part of the remaining unserved areas of the license, at the Commission's discretion." *700 MHz Requirements Public Notice*, 26 FCC Rcd 16442, 16445.

License's accelerated June 13, 2017, Final Construction Requirement.<sup>55</sup> We will provide SAL 15 days from this Letter Order's release date to file a final notification of construction.<sup>56</sup>

If SAL cannot demonstrate that it constructed at least 70 percent of the License area as of June 13, 2017 (the License's accelerated end-of-license term), it will be subject to Section 27.14(g)(2)'s "keep-what-you-serve" rule.<sup>57</sup> Under that rule, SAL's authorization will automatically terminate, without Commission action, for those geographic portions of the License area in which it is not providing service by June 13, 2017.<sup>58</sup> Those unserved areas will become available for reassignment by the Commission in accordance with our rules.<sup>59</sup> Further, if SAL elects not to file the notification, its License will be deemed automatically terminated as of June 13, 2017.

*Renewal Application.* Finally, we hereby waive on our own motion Section 1.949(a)'s requirement to file an application for license renewal no later than the License's accelerated June 13, 2017, end-of-license term.<sup>60</sup> We will provide SAL 30 days from this Letter Order's release date to file a renewal application. If SAL has failed to meet its Final Construction Requirement, it may only seek renewal for the portions of the License area SAL served as of June 13, 2017, as reflected in that construction notification.

### III. CONCLUSION AND ORDERING CLAUSES

For the reasons stated above, and in view of the entire record and specific facts before us, we hereby deny SAL's initial and alternative requests for waiver relief.

Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3) of the Commission's rules, 47 CFR § 1.925(b)(3), the request for waiver of Section 27.14(g)(1) of the Commission's rules, 47 C.F.R. § 27.14(g)(1), filed November 15, 2016, by SAL Spectrum, LLC, ULS File No. 0007557048, and its alternative request for waiver of Section 27.14(g)(1) filed by Comments on December 8, 2016 in WT Docket No. 16-392, are HEREBY DENIED.

And, IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Section 1.3 of the Commission's rules, 47 CFR § 1.3, waivers of Sections 1.946(d) and 1.949(a) of the Commission's rules, 47 CFR § 1.946(d), 1.949(a), are granted on our own motion to the extent specified above.

And, IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 27.14(k) and (g) of the Commission's rules, 47 C.F.R. §§ 27.14(k) and (g), SAL Spectrum, LLC, must file an interim construction notification within 15 days of the release date of this Letter Order as described above.

Action taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's

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<sup>55</sup> See 47 CFR § 1.946(d).

<sup>56</sup> If needed, SAL may contact Jeremy Reynolds, Program Analyst, Mobility Division, (202 418-0447; Jeremy.Reynoldslads@FCC.gov) for assistance with filing its construction notification.

<sup>57</sup> See 700 MHz Second Report and Order, 22 FCC Rcd at 15348, para. 153; 47 CFR § 27.14(g)(2).

<sup>58</sup> Section 27.14(g)(2) states that licensees that fail to meet the final construction requirement may be subject to enforcement action, including forfeitures, and may be subject to license termination. 47 CFR § 27.14(g)(2).

<sup>59</sup> See 47 CFR § 27.14(j).

<sup>60</sup> See 47 CFR § 1.949(a).

rules, 47 CFR §§ 0.131, 0.331.

Sincerely,

Roger S. Noel  
Chief, Mobility Division  
Wireless Telecommunications Bureau