

obligations by the expiration of the applicable period,⁴ and a separate renewal showing of substantial service at the end of the ten-year license term.⁵

3. In the *Order*, the Division denied renewal applications that Cornerstone filed in 2009 for 35 licenses in the 220-222 MHz band. In particular, the Division found that construction of some facilities without providing actual service did not satisfy the substantial service standard for license renewal.⁶ Cornerstone had argued that it faced challenges in securing equipment, while the Bureau determined that the reason was not sufficient because “a licensee’s success or failure at contracting or investing in the manufacture of desired equipment at desired specifications is not the basis for determining substantial service.”⁷ In its Petition now, Cornerstone seeks reconsideration for 16 of those 35 licenses on the ground that it was prepared and willing to offer service. Specifically, Cornerstone contends that “[Section] 90.743(a) does not include any definition of [service to] the public that requires a successful sale of service to third parties”⁸ and that, for guidance in determining what suffices as substantial service, the Commission should refer to Section 22.929 of the Commission rules⁹—a comparative renewal rule for cellular service. According to Cornerstone, that rule recognizes that the provision of actual service is not a *sine qua non* for demonstrating substantial service, and that a licensee’s construction of stations that are capable of providing service, coupled with the willingness to provide such service with those stations, can suffice.¹⁰ To this end, Cornerstone argues that since the subject facilities were constructed and it “was and is entirely willing to sell services reasonably to the public,” the Division should have been found it provided actual service to justify renewal.¹¹

4. With respect to the requirement of “providing service,” Cornerstone also argues that its licenses in and near North Carolina enable a combined regional network and its customers who are primarily using the service in one of the individual license areas can potentially use the service in any of the license areas within the combined regional network. According to Cornerstone, such “networked facilities” allowing potential regional usage should count as providing substantial service in those license areas where otherwise there is no offering of commercial service to the public.¹² Cornerstone adds that under three of the licenses for which it seeks reconsideration here, it is providing continuous service to subscriber taxicab and ambulance companies, and that Cornerstone could provide these subscribers with service outside these three licensed areas from its constructed but currently unused stations in its other

⁴ 47 C.F.R. § 1.946(c).

⁵ 47 C.F.R. § 90.743(a). The Commission defines “substantial service,” for licenses in the 220 MHz band, as “service that is sound, favorable, and substantially above a level of mediocre service that just might minimally warrant renewal.” See 47 C.F.R. § 90.743(a)(1). In addition to meeting the 10-year construction benchmark under Section 90.767 and making this substantial service renewal showing required by Section 90.743(a), a licensee seeking to establish a renewal expectancy must make an additional showing in its renewal application, including an explanation of the licensee’s record of expansion, a timetable of the construction of new stations to meet changes in demand for service, and a description of the licensee’s investment in its system. See *id.* § 90.743(b).

⁶ *Order*, 27 FCC Rcd at 5907 ¶ 16.

⁷ *Id.* at ¶ 13.

⁸ *Id.* at 6.

⁹ 47 C.F.R. § 22.929.

¹⁰ Petition at 5.

¹¹ *Id.*

¹² *Id.* at 7, 8, 9.

licensed areas (*i.e.*, areas covered by the terminated licenses under consideration here) if those subscribers were to travel there.¹³

5. Cornerstone also requests waiver of the end-of-term renewal requirement in Section 90.743(a)(1), to the extent necessary. Section 90.743(a)(1) requires that licensees seeking renewals at the end of their license terms must demonstrate that they have provided “substantial” service during the past license term. Here, Cornerstone argues per Section 1.925 of the Commission’s rules that the purpose of the end-of-term renewal requirement would not be served and would be frustrated by application to the instant case, because the rule is meant to enable licensees to compete effectively, with flexibility from regulatory burdens.¹⁴ Cornerstone further argues that waiver is warranted because application of the rule would be inequitable and unduly burdensome and contrary to the public interest; and because it has heavily invested resources, is starting to derive revenue from its operations, and a contrary decision “will result in Cornerstone’s demise as an entity.”¹⁵

6. Section 308(b) Requests. On December 20, 2012, the Wireless Telecommunications Bureau (Bureau) sought additional information from Cornerstone pursuant to Section 308(b) of the Communications Act of 1934. Specifically, the Bureau asked Cornerstone to provide further support for each of the 16 terminated licenses regarding any way that a potential customer could find out about, comprehend, and be induced to purchase, the combined “networked facilities” described now in the Petition (*e.g.*, marketing outreach materials). The Bureau also sought documentation as to how the licenses were interconnected, actual usage statistics per call sign, unaffiliated customers locally served (not including customers able to be served outside the call signs’ individual coverage areas), and affidavits from unaffiliated customers showing that subscription was purchased for the capability of using all of the licenses as a network.¹⁶ In their response of January 22, 2013, Cornerstone noted that at the time of renewal in 2009, most of Cornerstone’s facilities were not serving local subscribers; Cornerstone also provided some information about service from 2012 forward.¹⁷

7. After reviewing Cornerstone’s response, on July 27, 2016, the Bureau again sought further information pursuant to Section 308(b), this time asking about two specific call signs for which Cornerstone claimed existence of unaffiliated customers (*e.g.*, Cornerstone not just supplying service to its employees for internal business purposes), as of the end-of-term license expiration date. Specifically, the Bureau asked Cornerstone about the status of WPOJ260 and WPOJ550, as of no later than the 2009 expiration date.¹⁸ The Bureau directed Cornerstone to supply the names and contact information of customers using each of the licenses, affidavits, type of service or operations performed, name and model number of base station equipment deployed, and channel bandwidth of equipment deployed and operating.¹⁹ The Bureau also asked for information to support the claim that the 16 licenses at issue are being used as part of an integrated combined network system as of the applicable 2009 license expiration date. Specifically, the Bureau asked for names and model numbers of base station and subscriber

¹³ *Id.* at 9, in reference to WPOJ259, WPOJ260 and WPOJ261.

¹⁴ *Id.* at 11, citing 47 C.F.R. § 1.925(b)(3)(i).

¹⁵ *Id.* at 12, citing 47 C.F.R. § 1.925(b)(3)(ii). We note that Cornerstone received Special Temporary Authority to continue using the licenses after termination. *See Order*, 27 FCC Rcd at 5901-02 ¶ 3.

¹⁶ Letter from Thomas Deringe, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, FCC to Mark Duff, Cornerstone SMR, Inc. and Robert H. Schwaninger, Jr., Esq. (Dec. 20, 2012).

¹⁷ Letter from Robert H. Schwaninger, Jr., Counsel to Cornerstone SMR, Inc. to Paul Moon, Mobility Division, Wireless Telecommunications Bureau, FCC (filed Jan. 22, 2013).

¹⁸ Letter from Thomas Deringe, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, FCC to Mark Duff, Cornerstone SMR, Inc. and Robert H. Schwaninger, Jr., Esq. at 1, 2 (July 27, 2016).

¹⁹ *Id.*

equipment deployed, channel bandwidth for each base station and mobile equipment deployed, and billing statements, loading statistics or other documents demonstrating that customers actually received service in the areas associated with its licenses.²⁰ Finally, the Bureau requested information establishing how any customer prior to the 2009 expiration date could have known that their service area encompasses the areas associated with these 16 licenses, including affidavits, service types, marketing maps and/or advertisements showing coverage, contract terms for customers, and other relevant information.²¹

8. Cornerstone responded to the questions on October 26, 2016,²² and with respect to WPOJ260, produced the names and contact information with invoices for two customers on the system prior to the 2009 license expiration date, but indicated they could not produce affidavits because their business relationships ended on unfavorable terms. However, Cornerstone produced an affidavit from a sales agent/technical consultant affirming the provision of service to these two customers during the relevant period.²³ Also with respect to WPOJ260, Cornerstone produced the name and contact information with invoices for one Cincinnati-based company operating on the system prior to the 2009 license expiration, but was unable to confirm that the customer provided services to both Cincinnati and the neighboring Dayton-Springfield markets using Cornerstone's services.²⁴ Lastly, with respect to all of the other licenses for which the Bureau sought further information (including WPOJ550), Cornerstone represented that it could not find any records that would support its assertion that those licenses were being used, could be used or were intended to be used as part of a "combined network" during the relevant period.²⁵

II. DISCUSSION

9. *Renewal Standard.* In the *Order*, we explained that (1) the relevant substantial service standard for license renewal at end-of-term under rule Section 90.743 is independent from the applicable construction requirements;²⁶ (2) substantial service for license renewal is a standard based upon actual service, assessing how effectively a license was put to use during a license term;²⁷ and (3) the relevant time period for demonstrating the provision of substantial service is before a license expiration date.²⁸

10. We disagree with Cornerstone that a licensee can meet the substantial service renewal standard without providing some actual service even if the licensee has constructed facilities that were

²⁰ *Id.* at 2.

²¹ *Id.* at 3.

²² Letter from Stephen E. Coran and David S. Keir, Counsel to Cornerstone SMR, Inc. to Paul Moon, Mobility Division, Wireless Telecommunications Bureau, FCC (filed Oct. 26, 2016). We note that Cornerstone's October 26 response, while filed after the deadline set forth in the Division's July 27 letter of inquiry, was not untimely, as Cornerstone received two extensions of time within which to respond.

²³ Specifically, Cornerstone produced ongoing invoices for a company called Red Express Delivery Services, and the initial invoice for a company called Sutton Plumbing, Inc. *Id.* at 2.

²⁴ *Id.* The name of this company is Gray's Towing.

²⁵ *Id.* at 3.

²⁶ See *Order*, 27 FCC Rcd at 5906-07 ¶¶ 12, 13.

²⁷ *Id.*, citing, e.g., *Scott D. Reiter, Demonstration of Substantial Service for PCS Station WPTB505*, Order, 25 FCC Rcd 3974 (2010); *Chasetel Licensee Corp., Request for Extension of Broadband PCS Construction Requirements and Construction Notification for Call Sign KNLF468 in Middlesboro-Harlan, KY BTA*, Order, 17 FCC Rcd 9351 (WTB CWD 2002).

²⁸ *Id.*

fully operational, with a willingness to sell services.²⁹ The Commission has repeatedly made clear that, for purposes of the requirements for license renewal, service cannot be regarded as “substantial” without some degree of actual service.³⁰ Again, as we noted in the *Order*, the end-of-term renewal process seeks more information than the mid-term and end-of-term coverage construction benchmarks.³¹ Cornerstone has previously admitted that at the expiration date for most of its licenses, the facilities functioned “to complete the construction deadline, while serving an internal purpose of being poised for further development and investment by Cornerstone.”³² These actions do not amount to the provision of substantial service under a 220 MHz license. A mere showing of some network coverage and a willingness to sell services cannot be construed as actually putting the spectrum into use for license renewal purposes. Accordingly, we requested a variety of information that would demonstrate actual service to the public on or before the relevant deadline. Cornerstone, however, was unable to provide any such information as of its applicable 2009 end-of-term deadline for 15 of the 16 licenses at issue, and, while proceeding to invest in the terminated licenses at its own risk, Cornerstone was only able to demonstrate that it was deriving revenue from the 15 licenses after the Commission issued its order of termination. Previously, the Bureau stated that there is “a clear distinction between construction requirements and service requirements at renewal,” and “[without] a requirement to provide actual service to obtain renewal, a licensee could hold spectrum licenses without providing service indefinitely.”³³ Because there is no evidence in the record that Cornerstone provided actual service to anyone using 15 of the 16 licenses, we deny Cornerstone’s Petition with respect to call signs subject to its Petition, except WPOJ260. With respect to this one license, Cornerstone, after receiving a further opportunity to respond to our second 308(b) request, produced invoices from customers, and an affidavit from a consultant, demonstrating actual service using WPOJ260. We also note again that for this license, Cornerstone had covered two-thirds of the population with land mobile service, sufficient to meet the Commission’s construction requirements. Accordingly, we find that reconsideration for this license is warranted

²⁹ See Petition at 6.

³⁰ See, e.g., FiberTower Spectrum Holdings LLC, *Memorandum Opinion and Order*, 28 FCC Rcd 6822, 6840-41 ¶¶ 38-40 (2013) (*2013 FiberTower MO&O*) (endorsing Bureau view that under longstanding Commission policy the substantial service requirement, defined as a “level of service substantially above mediocre service,” “presumes construction of at least some facilities and some sort of actual service.”) (quoting FiberTower Spectrum Holdings LLC, *Memorandum Opinion and Order*, 27 FCC Rcd 13562, 13569 ¶ 22 (2012)), *reversed in part on other grounds*, *FiberTower Spectrum Holdings, LLC*, 782 F3d 692 (D.C. Cir. 2015)); SpeedUSNY.com, *Memorandum Opinion and Order and Order on Reconsideration*, 22 FCC Rcd 13974, 13984 ¶ 17 (2007) (“declin[ing] to make a finding of substantial service where the licensee is not currently providing [actual] service within the licensed area”); Biztel, Inc., *Memorandum Opinion and Order*, 27 FCC Rcd 15804, 15807 ¶ 7 (2012) (“declin[ing] to make a finding of substantial service where a licensee is not currently providing service within the licensed area, and conclud[ing] that the substantial service requirement presumes some sort of actual service at the substantial service deadline”). Cf. San Diego MDS Company, *Memorandum Opinion and Order*, 19 FCC Rcd 23120, 23124-25 ¶¶ 10-11 (2004) (upholding Division denial of renewal application and waiver request due to licensee’s failure to provide any service during a continuous 12-month period, rejecting as “unreasonable” licensee’s interpretation of “service” as the periodic broadcasting from a fully constructed station of signals that nobody received, stating that “in order to provide a service a provider would, at a minimum, need a customer or other person to serve,” and distinguishing a requirement that a station be “placed in operation” from a requirement for “provision of service”).

³¹ See *Order*, 27 FCC Rcd at 5907 ¶ 14.

³² See, e.g., Letter from Robert H. Schwaninger, Jr., Counsel to Cornerstone SMR, Inc. to James Shaffer, Mobility Division, Wireless Telecommunications Bureau, FCC at 6-20 (filed Sept. 7, 2011).

³³ See Warren C. Havens et al., Applications for Waiver and/or Extension of the Five and Ten Year Construction Deadlines, Applications for Renewal of 220 MHz Licenses, *Order on Reconsideration*, 29 FCC Rcd 1019, 1029 ¶ 23 (2014) (citing 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, 7027-28 ¶ 87 (2010)).

because Cornerstone provided sufficient information to support its claim for renewal that it was providing actual service using this license at the end of its license term.

11. *Combined Network Argument.* Cornerstone also argues for the first time on reconsideration that its provision of actual service at any individual site should also be attributed as providing actual service using its other licenses, given that its licenses, taken together, enable one combined network.³⁴ Cornerstone in essence argues that meeting the end-of-term substantial service renewal requirement for one of its 16 licenses can justify renewal for all of them. This argument is not timely, and as such, is procedurally defective.³⁵ Cornerstone failed to include this argument in its earlier pleadings. We therefore reject it on that basis.

12. We also reject this argument on the separate and independent ground that Cornerstone's underlying premise contravenes FCC rules and precedent. Under this precedent, the Commission has made clear that the rules require substantial service showings to be made on a license-by-license basis.³⁶ This is true even for a licensee that is relying on a showing of substantial service as the basis of its request for renewal of a set of licenses that are used in concert for networking purposes.³⁷ In such a case the Commission will look to a bundle of factors at work within a given licensed service area, and the renewal of each individual license will rise or fall with the showing made for that license. In *Cingular Interactive*, the Commission clarified that for an integrated system, substantial service is not evaluated solely on the basis of a whole purported network, but instead, must be evaluated on a license-by-license basis.³⁸ The Commission took into account the nationwide scope of that network as a relevant consideration to the primary case-by-case assessment, and granted relief within that specific implicitly nationwide service offering to subscribers seeking (and aware of) that multi-MTA access.³⁹ Here, however, Cornerstone cannot rely on the attributes of a purported network to buttress the individual substantial service showings for the subject licenses because Cornerstone has failed to establish that any such network in fact existed. Rather, the evidence in the record provides no indication that any of the licenses were used in any sort of combined networking fashion. To recap, Cornerstone had ample opportunity to provide such evidence in response to our 308(b) inquiries, which specifically requested evidence that Cornerstone's licenses formed a combined networked system that linked any of its licensed locations, by, e.g., providing evidence of actual usage of any of its other facilities other than those operating under the license represented by call sign WPOJ260, prior to the 2009 date of license expiration. Cornerstone failed, for example, to provide any documentation substantiating its claim that a customer in the Dayton-Springfield, Ohio area would make use of a network in the Carolinas, other than generally referring to taxicab and ambulance companies that "can also be provided roamer service via the Carolina network."⁴⁰ There is no evidence in the record substantiating such service ever occurred. Moreover, there are no affidavits, service types, marketing maps and/or advertisements showing coverage, contract terms for customers, and other relevant information to reasonably conclude that Cornerstone was using all 16 licenses as part of a

³⁴ See Petition at 7.

³⁵ See 47 C.F.R. § 1.106(l). Cornerstone states that although it "alluded to the existence of networked facilities," it "regrets that it did not make this clearer" in its earlier pleadings. See Petition at 7, 8. We find that Cornerstone failed to present this argument in its initial pleadings before seeking reconsideration of our decision.

³⁶ See, e.g., *2013 FiberTower MO&O*, 28 FCC Rcd at 6841 ¶ 39 n.155 (stating that "[b]ecause substantial service must be demonstrated on a license-by-license basis, the relevant test is whether there was any service using the spectrum included in the license, rather than a general expenditure for network infrastructure in a license area"); *FCI 900, Inc., Order on Reconsideration*, 17 FCC Rcd 16092, 16094-96 ¶¶ 5-10 (2002) (*FCI 900*).

³⁷ See *FCI 900*, 17 FCC Rcd at 16094-96 ¶¶ 5-10.

³⁸ See *Cingular Interactive Order*, 16 FCC Rcd 19200, 19203 ¶ 7.

³⁹ *Id.* at 19203 ¶ 8.

⁴⁰ Petition at 9.

combined network prior to the 2009 date of license expiration. When the only evidence of actual service provided prior to 2009 is limited to service under one license to less than a handful of customers, we must conclude that Cornerstone did not provide any networking services prior to 2009. And without a network operation, there is no basis for taking into account any service that may have been provided through any other license in conducting the required license-by-license substantial service evaluation the Cornerstone has invoked in requesting renewal of the 16 subject licenses. Of those licenses, Cornerstone failed to show that it provided any actual service under 15 of them. In sum, given that there is nothing in the record substantiating Cornerstone's claim that it constructed facilities under its various licenses (covering non-contiguous service areas in a number of different states) to operate as components of a functioning network, or that it has actually offered and provided service to some subscribers travelling from one area to another prior to the 2009 date of license expiration, we do not need to address the circumstances under which the inclusion of a built-out license in a vibrant network of interconnected licenses may be sufficient to credit the licensee's claim of substantial service for renewal of that individual license, even though no customers have received service from facilities operating under that license.⁴¹

13. *Waiver of Section 90.743(a)*. Cornerstone also seeks waiver of Section 90.743(a) of the Commission's rules as an alternative argument for relief.⁴² Section 1.925(b)(3) of the Commission's rules provides that the Commission may grant a request for waiver if it is shown that: "(i) [t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) [i]n view of 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."⁴³ As with other Commission rules, requests to waive a renewal or construction requirement must "meet a high hurdle at the starting gate."⁴⁴ These requirements serve an important purpose to promote development and efficient use of spectrum in keeping with our statutory obligations.⁴⁵ Waiver of construction requirements is infrequent, and only appropriate when consistent with the statute and the public interest.⁴⁶

14. We disagree with Cornerstone that the purpose of Section 90.743(a) would be frustrated by application to the instant case. The intent behind the rule is not solely to enable licensees to compete effectively, with flexibility from regulatory burdens. Other important public interest objectives of the rule include preventing misuse of scarce spectrum resources and ensuring that those entrusted with using such resources to provide service to the public in fact do so on a continuing basis. If, at renewal, we failed to evaluate the level of service or how the spectrum was used over the license term, such public interest objectives would be frustrated. A licensee, for example, could simply turn on a transmitter, certify that it operated, and hold onto the spectrum indefinitely. Such an outcome would be contrary to the public interest. Although Cornerstone has invested resources and apparently just begun deriving revenue from its operations, albeit after the expiration date of the licenses, we find that application of the rule would not be inequitable and unduly burdensome and contrary to the public interest in this instant

⁴¹ While four other calls signs were renewed in the Order, we note that none of them are adjacent to the Carolina Licenses. *See Order*, 27 FCC Rcd at 5907-08 ¶ 17.

⁴² *See* Petition at 10-13.

⁴³ 47 C.F.R. § 1.925(b)(3).

⁴⁴ *WAIT Radio v. FCC*, 459 F.2d 1203, 1207 (D.C. Cir. 1972).

⁴⁵ 47 U.S.C. § 309(j) (imposing duty on Commission to include safeguards to ensure prompt delivery of service, to prevent stockpiling and warehousing of spectrum by licensees, and to protect the public interest in the use of the spectrum, particularly with respect to "efficient and intensive use of the electromagnetic spectrum").

⁴⁶ *See WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 93 S. Ct. 461 (1972).

case.⁴⁷ As we have routinely reminded prior to auctioning licenses, it is a licensee's responsibility to confirm that it can satisfy construction and service requirements in advance of acquiring spectrum.⁴⁸ Cornerstone also provides, for the purposes of this waiver, no support for its claim that an adverse decision regarding the subset of licenses subject to its Petition would result its "demise as an entity."⁴⁹

15. For all of the foregoing reasons, we grant Cornerstone's Petition with respect to WPOJ260, we deny the Petition with respect to the other 15 above-captioned licenses under reconsideration, and we deny Cornerstone's related waiver request.

III. ORDERING CLAUSES

16. Accordingly, IT IS ORDERED THAT, pursuant to Sections 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 1.106 and 90.743 of the Commission's Rules, 47 C.F.R. §§ 1.106 and 90.743, the Petition for Reconsideration by Cornerstone SMR, Inc. IS GRANTED IN PART AND DENIED IN PART consistent with this Order on Reconsideration.

17. IT IS FURTHER ORDERED THAT, pursuant to Sections 4(i) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309(j), and Sections 1.106 and 90.743 of the Commission's Rules, 47 C.F.R. §§ 1.106 and 90.743, ULS File No. 0004100664 IS GRANTED.

18. Accordingly, IT IS ORDERED THAT, pursuant to Sections 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the request for waiver of Section 90.743(a) of the Commission's Rules, 47 C.F.R. § 90.743(a), by Cornerstone SMR, Inc. IS DENIED.

19. This action is taken under delegated authority pursuant to Sections 0.131 and 0.332 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.332.

FEDERAL COMMUNICATIONS COMMISSION

Roger Noel
Chief, Mobility Division
Wireless Telecommunications Bureau

⁴⁷ See Petition at 12.

⁴⁸ See VHF Public Coast and Location and Monitoring Service Spectrum Auction Scheduled for June 6, 2001, Notice and Filing Requirements for 16 Licenses in the VHF Public Coast and 241 Licenses in the Location and Monitoring Service Auction, Minimum Opening Bids, Upfront Payments and Other Procedural Issues, Public Notice, 16 FCC Rcd 6986, 6993-95 (2001); Auction of Location and Monitoring Service Licenses, Auction Notice and Filing Requirements for 528 Multilateration Licenses Scheduled for December 15, 1998, Minimum Opening Bids and Other Procedural Issues, Public Notice, 13 FCC Rcd 18583, *3-5 (1998).

⁴⁹ See Petition at 12, citing 47 C.F.R. § 1.925(b)(3)(ii).