



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

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DA 20-456

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**OFFICE OF ECONOMICS AND ANALYTICS AND WIRELESS TELECOMMUNICATIONS  
BUREAU SEEK COMMENT ON THE REQUESTS OF COMCAST CORPORATION AND  
MIDCONTINENT COMMUNICATIONS FOR WAIVER OF THE COMMISSION'S RULES  
FOR AUCTION 105**

**AU Docket No. 19-244**

**Comments Due: May 4, 2020**

By this Public Notice, the Office of Economics and Analytics (OEA) and the Wireless Telecommunications Bureau (WTB) seek comment on separate requests for waiver of Sections 1.2105(a)(3) and 1.2105(b)(1)(ii)(B) of the Commission's rules filed by Comcast Corporation<sup>1</sup> (Comcast) and Midcontinent Communications<sup>2</sup> (Midco) (Waiver Requests) so that the parties may each file separate applications to participate in the upcoming auction of Priority Access Licenses in the Citizens Broadband Radio Service in the 3550-3650 MHz band (Auction 105).<sup>3</sup>

According to the Waiver Requests, which were filed on April 15, 2020, Midco is a general partnership between Midcontinent Communications Investor, LLC (MCI) and Comcast Midcontinent, LLC (Comcast Midcontinent), an indirectly owned subsidiary of Comcast.<sup>4</sup> MCI and Comcast

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<sup>1</sup> Petition of Comcast Corporation for Waiver – Expedited Action Requested, AU Docket No. 19-244 (filed Apr. 15, 2020), [https://ecfsapi.fcc.gov/file/1041570070258/Comcast%20Petition%20for%20Waiver%20re%20Auction%20105%20\(PUBLIC%20VERSION%2015Apr2020\).pdf](https://ecfsapi.fcc.gov/file/1041570070258/Comcast%20Petition%20for%20Waiver%20re%20Auction%20105%20(PUBLIC%20VERSION%2015Apr2020).pdf) (Comcast Petition). Pursuant to 47 CFR. §§ 0.457 and 0.459, Comcast has requested confidential treatment of the information contained in Attachment 1, which it has provided separately to Commission staff.

<sup>2</sup> Letter from Christina H. Burrows, Counsel to Midcontinent Communications, to Marlene H. Dortch, Secretary, FCC, AU Docket No. 19-244 (filed Apr. 15, 2020), <https://ecfsapi.fcc.gov/file/10415165580547/Midco%20-%20CBRS%20Auction%20Rule%20Waiver%20Request%204-15-2020.pdf> (Midco Waiver Request). Midco also requests a waiver of any other portions 47 CFR §§ 1.2105(a) and (b) “as needed such that Comcast is not deemed to control Midco and thus will not be considered to be an ‘applicant’ as to Midco’s Auction 105 application for purposes of the Commission’s auction rules.” Midco Waiver Request at 1, n.1.

<sup>3</sup> See *Auctions of Priority Access Licenses for the 3550-3650 MHz Band; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auctions 105; Bidding in Auction 105 Scheduled to Begin June 25, 2020*, AU Docket No. 19-244, Public Notice, FCC 20-18 (Mar. 2, 2020) (*Auctions 105 Procedures Public Notice*); *Auction of Priority Access Licenses for the 3550-3650 MHz Band Rescheduled to Begin July 23, 2020; Auction 105 Short-Form Application Deadline Postponed to May 7, 2020*, AU Docket No. 19-244, Public Notice, DA 20-330 (Mar. 25, 2020) (*Auction 105 Rescheduling Public Notice*).

<sup>4</sup> Comcast Petition at 3; Midco Waiver Request at 1.

Midcontinent each hold a 50% general partnership interest in Midco.<sup>5</sup>

Sections 1.2105(a)(3) and 1.2105(b) prohibit an entity from having a controlling interest in more than one short-form auction application.<sup>6</sup> As such, absent the requested relief, Midco and Comcast would not be permitted to participate in the auction as two separate applicants. The parties assert that such relief is appropriate in this case despite Comcast's general partnership interest in Midco, because the agreement between MCI and Comcast Midcontinent does not grant Comcast day-to-day control of Midco and the parties operate as independent entities.<sup>7</sup>

Additionally, the parties state that they have implemented internal controls that would prevent them from communicating about bids or bidding strategies and that would ensure that both can accurately certify that they have not and will not enter into any joint bidding agreement, arrangement, or understanding regarding the licenses at auction.<sup>8</sup>

Given both parties' request for expedited action and the approaching deadline for filing applications to participate in Auction 105,<sup>9</sup> we seek comment on these two filings on a schedule designed to provide prompt responses to the parties' requests.

### **Procedural Matters**

The requests and comments can be accessed electronically via the Commission's Electronic Comment Filing System, <https://www.fcc.gov/ecfs/>. Search for filings using the docket number shown on the first page of this Public Notice. The full text of the requests and comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, DC 20554, except when FCC Headquarters is otherwise closed to visitors.<sup>10</sup>

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<sup>5</sup> The parties acknowledge that Comcast holds a general partnership interest in Midco. *See* Midco Waiver Request at 1; Comcast Petition at 1.

<sup>6</sup> 47 CFR § 1.2105(a)(3) ("In any auction, no individual or entity may file more than one short-form application or have a controlling interest in more than one short-form application."); 47 CFR § 1.2105(b)(1)(ii)(B) (if "entities commonly controlled by the same individuals or same set of individuals submit applications for any set of licenses in the same or overlapping geographic area in a single auction, then only one of such application may be deemed complete, and the other such application(s) will be deemed incomplete, such applicants will not be found qualified to bid, and the associated upfront payment(s), if paid, will be returned."). *See also* 47 CFR § 1.2105(a)(4)(i) (general partnership interest constitutes a controlling interest).

<sup>7</sup> Comcast Petition at 3-4; Midco Waiver Request at 2-3.

<sup>8</sup> Comcast Petition at 4-6; Midco Waiver Request at 3-5. *See* 47 CFR § 1.2105(a)(2)(viii), (ix)(auction applicant certifications concerning agreements relating to licenses), (c)(prohibition of certain communications).

<sup>9</sup> *See Auction 105 Rescheduling Public Notice* at 1, announcing the Short-Form Application (FCC Form 175) Filing Window Deadline of May 7, 2020.

<sup>10</sup> Note that FCC Headquarters are closed to visitors until further notice. Press Release, FCC, FCC Announces Updated Restrictions On Visitors to Its Facilities (Mar. 12, 2020), <https://docs.fcc.gov/public/attachments/DOC-363007A1.pdf>.

## Comment Filing Procedures

Interested parties may file comments on or before the date indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>11</sup> When filing documents, please reference AU Docket No. 19-244.

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings>. Filers should follow the instructions provided on the website for submitting comments. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number shown on the first page of this Public Notice.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.

Filings in response to this Public Notice may be sent 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.

Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.<sup>12</sup>

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Dr., Annapolis Junction, Annapolis MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

**People with Disabilities:** To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 888-835-5322 (tty).

**Ex Parte Rules—Permit-But-Disclose:** This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>13</sup> 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

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<sup>11</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

<sup>12</sup> See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>

<sup>13</sup> 47 CFR §§ 1.1200(a); 1.1206.

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.<sup>14</sup>

In proceedings governed by Section 1.49(f) of the Commission's rules<sup>15</sup> 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 Mary Lovejoy or Scott Mackoul, at (202) 418-0660, or by e-mail at [mary.lovejoy@fcc.gov](mailto:mary.lovejoy@fcc.gov) or [scott.mackoul@fcc.gov](mailto:scott.mackoul@fcc.gov).

By the Chief, Auctions Division, Office of Economics and Analytics and Chief, Mobility Division, Wireless Telecommunications Bureau.

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<sup>14</sup> *Id.* § 1.1206(b).

<sup>15</sup> *Id.* § 1.49(f).