

Congress of the United States
Washington, DC 20515

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July 31, 2020

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Chairman Pai:

I write as Vice Chair of the House Energy and Commerce Committee to inquire about the status of the two-year-old applications of SNR Wireless LicenseCo, LLC and Northstar Wireless, LLC (collectively, the “Applicants”) pending before the Federal Communications Commission (“FCC” or “Commission”). The Applicants are minority-owned entities that in 2015 won on a combined basis \$13 billion worth of AWS-3 spectrum licenses in Auction 97. After that auction, the Commission denied them requested Designated Entity status and associated bidding credits without affording them an opportunity to address any deficiencies found in their applications, which was contrary to the Commission’s normal practice at the time. The Applicants appealed that decision to the U.S. Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”). In 2017, the D.C. Circuit remanded the Commission’s denial and ordered the Commission to provide the Applicants with an opportunity to cure the issues identified by the Commission in issuing its denial.¹ The FCC began that remand proceeding in 2018, and it has now been more than two years since the Applicants submitted their revised agreements to the Commission. Yet the FCC has not issued a decision, leaving these two minority owned companies in regulatory limbo.²

As you know, I have been a strong advocate for increased minority ownership in the communications industry,³ and I know that you share my goal of creating more opportunity for historically underrepresented groups in this increasingly crucial sector. Yet the racial disparity in FCC spectrum license ownership is a chasm that has only grown wider as the Commission has increased its reliance on auctions while also decreasing the Designated Entity bidding credits available to small businesses. Moreover, the length of time it has taken for the Commission to

¹ See *SNR Wireless LicenseCo, LLC v. FCC*, 868 F.3d 1021, 1046 (D.C. Cir. 2017).

² See Letter from Allen Todd, Assistant Secretary and General Counsel, Northstar Wireless, LLC & John Muleta, Managing Member, SNR Wireless LicenseCo, LLC, to Marlene H. Dortch, Secretary, FCC, ULS File No. 00066706667 *et al.* (filed May 29, 2020).

³ See, e.g., Enhancing Broadcaster DIVERSITY Data Act, H.R. 5564, 116th Cong. (2020).


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act in response to the revised agreements raises another apparent racial disparity. Thus, while I take no position at this time on how the FCC should act in response to the pending applications, in view of the disparate treatment these applications have apparently received, I respectfully ask that you take the steps necessary to ensure that the Commission promptly issues a decision in response to the revised agreements. The Applicants and American people deserve nothing less.

In addition, COVID-19 has made the importance of keeping all Americans connected a high priority. As part of the FCC's pandemic response, the Commission gave Verizon Special Temporary Authority ("STA") to boost its network capacity by using the Applicants' AWS-3 spectrum. At the time, you praised the Applicants for allowing Verizon to use that spectrum temporarily for free and also praised Verizon for quickly incorporating the spectrum into its network.⁴ It is my belief that valuable mid-band spectrum such as this should not go unused for a long period of time, but that is precisely what is happening while the Commission delays a decision in this matter.

In light of the above, I ask that you please respond to this letter by stating when you expect the Commission to act on the pending applications. If you have any questions, please feel free to contact my Chief of Staff Charlyn Stanberry at 202.225.6231.

Sincerely,

A handwritten signature in black ink that reads "Yvette D. Clarke" with "M.C." written in smaller letters below the name.

Yvette D. Clarke
Member of Congress

cc: Commissioner Jessica Rosenworcel
Commissioner Michael O'Rielly
Commissioner Brendan Carr
Commissioner Geoffrey Starks

⁴ See Press Release, Federal Communications Commission, FCC Grants Verizon Temporary Spectrum Access to Keep Americans Connected During COVID-19 Pandemic, DOC-363145 (rel. Mar. 18, 2020) ("I want to thank Northstar and SNR for their willingness to allow this use of the spectrum for which they hold licenses. I'm also grateful to Verizon for seeking out ways to meet increased consumer demand.").