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April 28, 2020

Ex Parte Presentation

By Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: HNS License Sub, LLC
IBFS File Nos. SES-LIC-20170807-00877, SEC-LIC-20170807-00882, SES-LIC-20170807-00888, SES-LIC-20170807-00891, SES-LIC-20170807-00893, SES-LIC-20170807-00894, SES-AMD-20190221-00283, SES-AMD-20190221-00299, SES-AMD-20190221-00302, SES-AMD-20190221-00305, SES-AMD-20190221-00307, SES-AMD-20190221-00309
Call Signs: E170152, E170157, E170163, E170166, E170168, E170169

Dear Ms. Dortch:

Gregory Romano, Catherine Hilke, and Daudeline Meme of Verizon, and Scott Angstreich of Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C. (for Verizon) met via telephone (1) on April 24, 2020 with Blaise Scinto, John Schauble, Tim Hilfiger, Stephen Zak, and Stephen Buenzow of the Wireless Telecommunications Bureau; and (2) on April 27, 2020 with Tom Sullivan, Troy Tanner, and Jennifer Gilsean of the International Bureau. During the meetings, we discussed the points raised in Verizon's February 21, 2020 and March 16, 2020 filings in these dockets.

We discussed how the purpose of the *Spectrum Frontiers* proceeding was to reserve the 28 GHz band primarily for mobile uses, including the future deployment of 5G. That is why the Commission "determined that FSS would be secondary to . . . mobile terrestrial operations in the 28 GHz band" and rejected claims that "FSS should be given co-primary status."¹ While the Commission "maintain[ed] flexibility for FSS operators to choose [among] the areas that fit *within* the[] conditions" in 47 C.F.R. § 25.136(a),² mobile license holders were assured that FSS operators would be limited to those areas. That assurance enables 5G providers to plan their current and future deployment by identifying areas that are – and areas that are not – eligible for future earth stations.

¹ Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, and Memorandum Opinion and Order, *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, 32 FCC Rcd 10988, ¶¶ 142, 144 (2017) ("*Spectrum Frontiers Reconsideration Order*").

² Report and Order and Further Notice of Proposed Rulemaking, *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, 31 FCC Rcd 8014, ¶ 56 (2016) ("*Spectrum Frontiers Order*") (emphasis added).

Despite the flexibility the Commission has provided, Hughes has chosen six areas that are *outside* the restrictions in § 25.136(a). Hughes argues that, unless Verizon can show that it has already deployed 5G service in these areas or will do so shortly, waivers of those restrictions are appropriate. Not so. *Spectrum Futures* protects those areas that will in the future get 5G service using the 28 GHz band, not merely those that already have 5G service or will be getting it in the near term.

For the reasons Verizon has set forth, and that Hughes' latest submissions do not meaningfully refute, Hughes has not satisfied its burden of showing good cause. Rather than identifying particularized circumstances that “prevent discriminatory application and . . . put future parties on notice,” Hughes continues to advocate for the kind of “we-know-it-when-we-see-it” standard that courts have held is unlawful.³ And Hughes continues to argue for the same exception for new earth stations to be collocated with grandfathered earth stations that the Commission expressly rejected in the *Spectrum Frontiers Reconsideration Order*.⁴ The Commission purposefully limited grandfathering to “existing . . . earth stations” and the “terms of their existing authorizations,” as well as those earth stations with then-pending applications, as a “pragmatic” compromise, not as a perpetual right to use those locations for FSS rather than UMFUS.⁵ The O3b grant that Hughes continues to cite also is not evidence that the Bureau can issue the requested waivers on delegated authority. The Bureau there found that O3b could add 0.1 GHz – 27.5-27.6 GHz (Earth-to-space) – to an existing, grandfathered earth station consistent with the language of 47 C.F.R. § 25.136(a)(2). In doing so, the Bureau did not waive any aspect of § 25.136.

For the foregoing reasons, the Bureau should deny Hughes's applications for Santa Clara, CA; Rapid City, SD; Simi Valley, CA; Rifle, CO; Missoula, MT; and Bismarck, ND (collectively, “Noncompliant Areas”). Hughes fails to satisfy the requirements in 47 C.F.R. § 25.136(a) for the licensing of additional 28 GHz earth stations and has not carried its burden of proving that there is good cause for a waiver. Granting a waiver under the facts here would prevent Verizon from using

³ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166-67 (D.C. Cir. 1990).

⁴ *Spectrum Frontiers Reconsideration Order* ¶¶ 140-141.

⁵ *Spectrum Frontiers Order* ¶¶ 49, 59.

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28 GHz spectrum to provide 5G services in the Noncompliant Areas, thereby harming customers who travel across the impacted major roadways and impeding Verizon's ability to serve customers in those areas and meet its build out requirements.

Sincerely,

/s/

Gregory M. Romano

cc: Blaise Scinto
John Schauble
Tim Hilfiger
Stephen Zak
Stephen Buenzow
Tom Sullivan
Troy Tanner
Jennifer Gilsean
Jennifer A. Manner
Kimberly M. Baum