

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, S.W.
WASHINGTON, D.C. 20554

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> <ftp.fcc.gov>

DA 16-394
Released: April 12, 2016

**CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS AND NEXTLINK WIRELESS, LLC, A
SUBSIDIARY OF XO HOLDINGS, SEEK FCC CONSENT TO A LONG-TERM *DE FACTO*
TRANSFER SPECTRUM LEASING ARRANGEMENT INVOLVING LOCAL MULTIPOINT
DISTRIBUTION SERVICE AND 39 GHZ SPECTRUM**

ULS File No. 0007162285

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: May 3, 2016
Oppositions Due: May 13, 2016
Replies Due: May 20, 2016

I. INTRODUCTION

Cellco Partnership d/b/a Verizon Wireless (Verizon Wireless) and Nextlink Wireless, LLC (Nextlink, and together with Verizon Wireless, the Applicants) have filed an application pursuant to Section 310(d) of the Communications Act of 1934, as amended,¹ seeking Commission consent to a long-term *de facto* transfer spectrum leasing arrangement. Under this proposed arrangement, Verizon Wireless would lease from Nextlink spectrum under 93 Local Multipoint Distribution Service (LMDS) and nine 39 GHz licenses. The Applicants also state that under a separate agreement, Verizon Wireless has an option (the Option) to purchase from XO Holdings, the parent company of Nextlink, all of the issued and outstanding limited liability company interests in Nextlink, but Verizon Wireless is not exercising the Option at present.² Finally, by a separate Public Notice being released today, comment is being sought on a series of applications filed by Verizon Communications Inc. (Verizon Communications) and XO Holdings, for consent to the transfer of control to Verizon Communications of various licenses and authorizations held by XO Holdings' subsidiary XO Communications, LLC.³

The Applicants state that the lease agreement would authorize Verizon Wireless to use all of Nextlink's LMDS and 39 GHz spectrum, except for discrete spectrum and geographic areas that are subject to existing leases to third parties or to contractual requirements to reserve spectrum for the use of third parties (Restricted Spectrum). Under the lease agreement, Nextlink also would lease any Restricted

¹ 47 U.S.C. § 310(d).

² See *Application of Cellco Partnership and Nextlink Wireless, LLC for Long-Term De Facto Transfer Leasing Arrangement*, ULS File No. 0007162285, Ex. 1 – Description of Transaction and Public Interest Statement at 1 n.1. (filed March 3, 2016) (Public Interest Statement).

³ See *Applications Filed for the Transfer of Control of XO Communications, LLC to Verizon Communications Inc.*, WC Docket 16-70, Public Notice, DA 16-393 (rel. April 12, 2016).

Spectrum to Verizon Wireless when it is no longer subject to a third-party commitment. The Applicants explain that to ensure that any such lease to Verizon Wireless of newly-available Restricted Spectrum would become effective immediately, they are seeking consent to the leasing arrangement in the instant application with respect to all of Nextlink’s LMDS and 39 GHz spectrum.⁴ The Applicants further state that the proposed lease arrangement will terminate upon the later of: (1) December 31, 2018, or (2) the closing of the purchase by Verizon Wireless of the Nextlink interests if the Option is exercised.⁵

The Applicants assert that the proposed leasing arrangement is in the public interest. They claim that it will help Verizon Wireless in research, development, and early testing of 5G products and services. The Applicants specifically note that “Verizon is moving quickly to make 5G a reality.”⁶ They also assert that the leased spectrum would provide Verizon Wireless additional options to supplement its existing backhaul operations. The Applicants also assert that the proposed leasing arrangement does not raise any competitive concerns. They note that Verizon Wireless currently does not hold or lease any LMDS or 39 GHz spectrum.⁷

We here seek comment generally on whether grant of the application for this *de facto* transfer leasing arrangement will serve the public interest, convenience, and necessity. We also seek comment on the implications, if any, of the proposed leasing arrangement for competition in the provision of business data services (also called special access services).⁸

II. SECTION 310(d) APPLICATION

The application for the long-term *de facto* transfer spectrum lease has the following file number:

<u>File No.</u>	<u>Licensee/Lessor</u>	<u>Lessee</u>	<u>Lead Call Sign</u>
0007162285	Nextlink Wireless, LLC	Cellco Partnership	WPLM397

III. EX PARTE STATUS OF THIS PROCEEDING

Pursuant to Section 1.1200(a) of the Commission’s rules,⁹ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under Section 1.1206 of the Commission’s rules.¹⁰

Parties making oral *ex parte* presentations are directed to the Commission’s *ex parte* rules. Parties are reminded that memoranda summarizing the presentation must contain the presentation’s substance and not merely list the subjects discussed.¹¹ More than a one- or two-sentence description of

⁴ See Public Interest Statement at 1.

⁵ See *id.* at 1-2.

⁶ See *id.* at 2.

⁷ See *id.*

⁸ See *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25.

⁹ 47 C.F.R. § 1.1200(a).

¹⁰ 47 C.F.R. § 1.1206.

¹¹ See 47 C.F.R. § 1.1206(b)(1).

the views and arguments presented is generally required.¹² Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.¹³

IV. GENERAL INFORMATION

The long-term *de facto* transfer spectrum leasing application has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies.

Interested parties must file petitions to deny no later than **May 3, 2016**. Persons and entities that file petitions to deny become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential information that may be filed under a protective order, seeking reconsideration of decisions, and filing appeals of a final decision to the courts. Oppositions to such pleadings must be filed no later than **May 13, 2016**. Replies to such pleadings must be filed no later than **May 20, 2016**. All filings concerning matters referenced in this Public Notice should refer to ULS File No. 0007162285.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹⁴ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Under the Commission's current procedures for the submission of filings and other documents,¹⁵ submissions in this matter may be filed electronically (*i.e.*, through the Commission's Universal Licensing System (ULS)) or by hand delivery to the Commission.

- **To file electronically**, visit the ULS web site at <http://wireless.fcc.gov/uls/> and click on the "Submit a Pleading" link, complete the administrative information, and upload your pleading.
- **To file by paper**, the original and one copy of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, D.C. 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

¹² *See id.*

¹³ 47 C.F.R. § 1.1206(b).

¹⁴ *See* 47 C.F.R. § 1.45(c).

¹⁵ *See FCC Announces Change in Filing Location for Paper Documents*, Public Notice, 24 FCC Rcd 14312 (2009).

One copy of each pleading must be delivered electronically, by email or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) Linda Ray, Broadband Division, Wireless Telecommunications Bureau, at linda.ray@fcc.gov or (202) 418-7247 (facsimile); (2) Kate Mataves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at catherine.mataves@fcc.gov or (202) 418-2643 (facsimile); and (3) Jim Bird, Office of General Counsel, at TransactionTeam@fcc.gov or (202) 418-1234 (facsimile).

The application and any associated documents are available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The application also is available electronically through ULS, which may be accessed on the Commission's Internet website. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov; phone: (202) 418-0530; or TTY: (202) 418-0432.

For further information, contact Linda Ray, Broadband Division, Wireless Telecommunications Bureau, at (202) 418-0257, or Kate Mataves, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at (202) 391-6272.

-FCC-