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What's New in 5G - December 2021

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The next-generation of wireless technologies – known as 5G – is expected to revolutionize business and consumer connectivity, offering network speeds that are up to 100 times faster than 4G LTE, reducing latency to nearly zero, and allowing networks to handle 100 times the number of connected devices, enabling the "Internet of Things." Leading policymakers – federal regulators and legislators – are making it a top priority to ensure that the wireless industry has the tools it needs to maintain U.S. leadership in commercial 5G deployments. This blog provides monthly updates on FCC actions and Congressional efforts to win the race to 5G.

Regulatory Actions and Initiatives

- The FCC accepts additional applications from Tribal entities seeking access to mid-band spectrum in the 2.5 GHz band.
    - On November 18, 2021, the FCC's Wireless Telecommunications Bureau ("WTB") released a Public Notice announcing that an additional 36 applications filed during the Rural Tribal Priority Window for 2.5 GHz spectrum have been accepted for filing. A list of the applications, sorted by file number, is available in Attachment A, and a list of the same applications, sorted by applicant name, is available in Attachment B. Petitions to deny are due December 20, 2021.
- The FCC proposes an Enhanced Competition Incentive Program to increase spectrum access for small carriers and Tribal Nations and expand wireless services, including 5G, in rural areas.
    - On November 19, 2021, the FCC released a Further Notice of Proposed Rulemaking that proposes an Enhanced Competition Incentive Program that would encourage licensees to provide opportunities for small carriers and Tribal Nations to access spectrum and promote the availability of advanced telecommunications services in rural areas through spectrum partitioning, disaggregation, and leasing transactions. In order to qualify for the program, the FCC proposes, among other things, that transactions must include a certain minimum amount of spectrum and geographic

area. Benefits for participating in the program would include extended licensing terms and construction periods as well as potential alternative construction requirements. Comments and replies are due 60 days and 90 days, respectively, after Federal Register publication.

- The FCC's News Release on the item notes that the proposals "would result in greater competition and expanded wireless deployment in rural areas bringing more advanced wireless service including 5G to underserved communities."

- The first phase of bidding in the auction of 3.45 GHz spectrum closes, making it the third highest grossing FCC spectrum auction.

  - On November 16, 2021, the FCC announced the conclusion of bidding in the "clock phase" auction of mid-band spectrum in the 3.45-3.55 GHz ("3.45 GHz") band. The FCC's News Release notes that "[i]n the clock phase, bidders won 4,041 of the 4,060 available generic blocks, and gross proceeds in the clock phase reached over $21.8 billion, which places Auction 110 among the highest grossing auctions in FCC history."

  - A Public Notice was also released on November 23, 2021, announcing that bidding in the "assignment phase" of the auction, where bidders will bid on specific frequencies in the 3.45 GHz band, will commence on December 9, 2021. The Public Notice includes additional information for those participating in the assignment phase of the auction.

- The FCC continues to transition mid-band spectrum in the C-band for commercial wireless services.

  - The FCC released several Orders allowing remaining incumbent satellite operators to receive their first payments for clearing spectrum in the 3.7-4.2 GHz band (or C-band).

    - On November 12, 2021, the WTB released an Order validating the Certification filed by Embratel that it has completed its Phase I clearing activities related to transitioning the C-band for commercial operations. Embratel is now entitled to an Accelerated Relocation Payment ("ARP") of $3,723,000. In addition, it released an Order validating Intelsat's Phase I Certification, as amended, making it entitled to an ARP of $1,197,842,000.

    - On November 17, 2021, the WTB released an Order validating the Phase I Certification, as amended, filed by Telesat, making it entitled to an ARP of $84,790,000.

    - Finally, on November 24, 2021, the WTB released an Order validating the Phase I Certification, as amended, filed by SES – the last of the five incumbent satellite operators that were operating in the C-band. SES is now entitled to an ARP of $976,945,000.

    - New terrestrial licensees will be required to make the payments to the Relocation Clearinghouse within 60 days of receiving notice. If, after the disbursement of the ARP, the WTB subsequently finds that the satellite

operators should have transitioned additional earth stations, they will be required to complete all Phase I transition work relating to those earth stations.

- The WTB dismisses a request to adjust the final Cost Catalog for clearing costs in the C-band transition.

  - On December 1, 2021, the WTB released an Order dismissing a letter request filed by PSSI Global Services, L.L.C. ("PSSI") to modify the Bureau's 2020 Public Notice that included the final Cost Catalog for the C-band transition to take into account specific types of equipment relating to the transportable fixed earth stations that it operates. The WTB dismissed PSSI's request as untimely because it was filed nearly a year after petitions for reconsideration were due and noted that PSSI can submit its costs for such equipment with the Clearinghouse.

- FCC Commissioner Starks discusses the Nation's 5G's progress and the issues the FCC will have to address in the future.

  - On November 15, 2021, Commissioner Starks provided the keynote remarks for the New Street Research/Boston Consulting Group 5G Conference. During his speech, he discussed various 5G use cases and noted 5G's potential to help the U.S. supply chain. He also explained how 5G will be integral in bridging the digital divide and stated that the FCC is ready to work with the Administration to develop a national spectrum strategy. Finally, he stated that the FCC, moving forward, will have to address the following issues with respect to spectrum auctions: spectrum caps, auction formats, reserve prices, and exclusive versus shared licensing.

Legislative Efforts

- President Biden takes action to further secure the Nation's communications networks.

  - On November 11, 2021, the President signed into law the Secure Equipment Act of 2021, which requires the FCC to adopt rules in an ongoing proceeding to clarify that the FCC will no longer approve for sale or use in the United States equipment on the FCC's Covered List of equipment and services that pose a national security risk. The FCC is required to adopt rules by November 11, 2022 (one year from enactment).

  - FCC Commissioner Carr applauded the effort, commenting that the "Secure Equipment Act is now the law of the land and will ensure that insecure equipment from Huawei, ZTE, and other untrustworthy entities can no longer be inserted into our communications networks. . . . I am pleased with the overwhelming support [the] legislation has received in Congress to close the 'Huawei Loophole', and for President Biden's signature today enacting this important reform."

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