

Mar. 30, 2020

Official: FCC Doesn't Plan to Postpone C-Band, RDOF Auctions

The FCC has no plans at this time to postpone its C-Band or Rural Digital Opportunity Fund (RDOF) auctions as a result of the coronavirus outbreak, a senior Commission official said today. The official also said that the agency has no plans to move back deadlines related to the transition of 300 megahertz of C-band spectrum for terrestrial 5G use, although parties can seek milestone extensions.

The C-band auction is currently scheduled to begin Dec. 8, while the RDOF auction is scheduled to start on Oct. 22.

Last week, the FCC postponed by nearly a month an auction of priority access licenses (PALs) in the 3.5 gigahertz band (TR Daily, March 25).

During a background call with reporters this afternoon to discuss FCC telehealth actions (see separate story), the official also said that the Commission has kept in close contact with network providers and so far networks have functioned very well.

The official also said that the FCC has encouraged the industry to release information on network performance, noting that some trade groups have begun doing so. He said the Commission has no plans to release network performance data.

The official noted that the FCC's Wireless Telecommunications Bureau has granted special temporary authority (STA) to a number of carriers allowing them to temporarily use additional spectrum in the AWS-3, AWS-4, 600 MHz, 2.5 gigahertz, and 5.9 GHz bands to bolster network capacity to respond to increased traffic that has been seen during the pandemic (see separate story).

Without the STAs, carriers would not have necessarily experienced service outages, but instead lower-quality service, the official suggested.

The official, without providing specifics, also said that Enforcement Bureau staff is working on issues related to coronavirus scams and robocalls.

In response to a question about whether the FCC was considering issuing a blanket extension of comment deadlines or STAs or blanket rule waivers, the official said the agency has decided to address such issues on a case-by-case basis. It has been willing to show flexibility when asked and has looked for areas where rule waivers would make sense, the official added.

The official also said that the transition to teleworking for the bulk of the FCC's employees during the pandemic has been accomplished as smoothly as could be expected.

In a research note, Blair Levin, an adviser to New Street Research LLP, suggested that while the FCC has postponed the start of its 3.5 GHz band sale by nearly a month, it seems unlikely to delay the start of its C-band auction. However, the transition to repurpose C-band spectrum for terrestrial 5G use could be delayed by the coronavirus pandemic, he said.

Last week, "the FCC announced it would delay the CBRS auction by a month. This immediately raised questions among investors as to whether the same kind of delay could occur with the C-Band auction, thereby having downstream effects of, for example, delaying payments to Intelsat and/or the delivery of spectrum to Verizon. Of course in this environment, there is a high level of uncertainty, but as explained below, we think the C-Band auction is still likely to commence on its current timetable although the transition timing could be affected," Mr. Levin said in the research note, which was released yesterday.

"Our understanding is that the CBRS auction was delayed at the request of the bidders, who communicated to the FCC that they could not adequately prepare for the auction as they had to focus on their response to the Covid-19 crisis. These potential bidders include a number of smaller, localized, and/or non-traditional carriers, who do not have the resources of larger enterprises to both prepare for an auction and address urgent needs. With CBRS, however, there is little cost to a one-month delay," Mr. Levin added. "Those interested in using the band can already do so on a General Access basis. It does not appear that any significant current or potential providers are basing their long-term strategy on a CBRS footprint.

"With C-Band auction, FCC staff [is] likely to be able to meet current deadline," he added. "C-Band is different in some respects but similar in terms of auction mechanics. We think that the FCC staff is capable, even in this period of remote work, of doing the tasks necessary to begin the auction on December 8. Of course, there are a number of variables and potential speed bumps, such as key personnel getting sick for a couple weeks or the country, as it did with the Spanish Flu of 1918, experiencing a second round of contagion in the fall. Still, the work that needs to be done is information-based work that does not require a physical presence."

"Chairman [Ajit] Pai and the bidders want the auction to begin December 8," Mr. Levin said. "There are a lot of reasons, including policy, where the FCC has been criticized for falling behind other countries in getting out mid-band spectrum, market realities, such as Verizon starting to face a spectrum crunch, and personal, such as Chairman Pai wanting to begin the auction before he potentially leaves, regardless of election result, in January. Thus, the motives of the key players are different than with CBRS."

However, Mr. Levin observed that "[w]hile the tasks necessary to start and complete the auction can be done remotely, we doubt the same is true for the tasks necessary to complete the transition. We suspect that a number of those tasks require physical presence and collaborative work at close proximity that may well be delayed by the lost months of the current reality, which may be a matter of months but also may continue through much of the year. We hope to have a better handle on the impact on the transition later this spring. We don't think the FCC will want to adjust its transition timetables but it may be forced to adjust the penalties for missing deadlines, effectively pushing the real deadlines back by some amount."

Mr. Levin also said that “some investors have asked whether DISH will be held to its current timetable for completing its new 5G network. We have no insight into whether DISH will have to make such a request, other than to observe the obvious, which is that all timetables, as FCC actions on other matters have reflected, are subject to some adjustment. If DISH requires such an adjustment, however, we think the governing document will be its agreement with the FCC in which there is an Act of God provision allowing for extension ‘due to unanticipated circumstances beyond the company’s control,’ which we think applies. Further, while either a Republican or Democratic FCC would be reluctant to allow an extension, we think the precedents of other extensions and the terms of the document would likely compel whomever is in leadership to do so.”- Paul Kirby, paul.kirby@wolterskluwer.com

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