

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Parts 1, 22, 24, 27, 74, 80, 90,) WT Docket No. 10-112
95 and 101 To Establish Uniform License Renewal,)
Discontinuance of Operation, and Geographic)
Partitioning and Spectrum Disaggregation Rules)
and Policies for Certain Wireless Radio Services)

To: The Commission

**COMMENTS
OF THE
ENTERPRISE WIRELESS ALLIANCE**

The Enterprise Wireless Alliance (“EWA” or “Alliance”), in accordance with Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) rules and regulations, respectfully submits its comments on the Commission’s proposal in the above-entitled proceeding to adopt renewal term construction obligations for geographic licenses.¹ The Alliance appreciates the Commission’s desire to promote wireless deployment in rural as well as more populated areas. The approaches proposed in the FNPRM may have merit when applied to wireless services such as cellular, AWS, and PCS, where licenses are awarded for substantial amounts of spectrum and are intended to be used to provide service to the consumers. But the Commission is correct to question whether all geographic licenses should be subject to comparable obligations.² As detailed below, the Alliance recommends that licenses awarded in

¹ Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Services, *Second Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 10-112, 82 FR 41580 (rel. August 3, 2017) (“FNPRM”).

² FNPRM at ¶ 110.

blocks of 1 megahertz or less, as well as those being used for private, internal communications, be exempt from any renewal construction obligations adopted by the FCC.

I INTRODUCTION

EWA is a national trade association representing business enterprises, wireless sales and service providers, hardware and software system vendors, and technology manufacturers. Its members hold FCC authorizations in many of the bands addressed in this proceeding, with the majority licensed under Parts 22, 90 and 101 of the FCC rules. Most of these licenses are site-based, although a number of members also hold geographic licenses on spectrum regulated under Part 22, Subpart E; Part 80, Subparts H and J; Part 90, Subparts S and T; and Part 95, Subpart F (“Spectrum-limited Services”).³ These members could be affected by the rule changes proposed in the FNPRM.

II THE FCC SHOULD NOT IMPOSE RENEWAL TERM CONSTRUCTION OBLIGATIONS ON SERVICES WHERE LICENSES ARE AWARDED IN BLOCKS OF 1 MEGAHERTZ OR LESS OR ON LICENSEES OPERATING PRIVATE, INTERNAL SYSTEMS.

The objective of the FNPRM is laudatory:

A core Commission goal is to facilitate access to scarce spectrum resources and ensure that wireless communications networks are widely deployed so that every American, regardless of location, can benefit from a variety of communications offerings made available by Commission licensees.⁴

To the extent the FCC is not satisfied that its current licensing policies adequately promote the availability of wireless offerings for the public in more rural areas, amending those policies may address that concern. However, as suggested in the FNPRM, not all geographic licenses are

³ EWA believes that 1 megahertz or less is a reasonable, easily identified criterion for distinguishing among wireless services. Unquestionably, services in which licenses are authorized for 500 kilohertz or less warrant relief from any additional build-out obligation.

⁴ FNPRM at ¶ 98.

created equal, and imposing additional build-out requirements on certain licensee classes would be unduly burdensome without advancing the Commission's desired goal.

There are fundamental differences between the geographic licenses operated by the great majority of EWA members in Spectrum-limited Services and those used by national, regional, and even more local commercial network operators that provide service to the consumer public. These differences dictate against a uniform regulatory approach with respect to this specific issue.

First, the Spectrum-limited Services issue licenses of between 5 kilohertz and 1 megahertz bandwidth.⁵ Most Alliance members use Part 22, Subpart E, so called "paging" channels, as control channels in local centralized or hybrid trunked systems.⁶ Each of these channels has an authorized bandwidth of between 10 and 30 kilohertz, a tiny sliver of spectrum by comparison with the bandwidths allocated for commercial services like cellular and PCS. Under the FCC rules, each of these very narrow channels has a separate build-out obligation and must be deployed at enough locations to satisfy that requirement.⁷

Because these channels are so narrow to begin with, they cannot be disaggregated with only portions of the limited bandwidth used at a given location. Thus, it already is a challenge for most licensees to reuse them at enough sites in the geographic area to meet the current construction requirement without causing intra-system interference.⁸ Mandating that they build additional facilities and reuse these same channels at even more sites will, in the great majority of cases, result in intractable interference that will make this spectrum unusable. It serves no

⁵ Non-ESMR geographic SMR licenses granted under Part 90, Subpart S are not authorized for contiguous spectrum, but are assigned channels interleaved with licenses issued to public safety and Industrial/Business entities.

⁶ A hybrid trunked system is one that due to the lack of available exclusive channels employs at least one exclusive channel and multiple shared use channels.

⁷ 47 C.F.R. § 22.503(k).

⁸ In rare instances, licensees deploy simulcast systems in which the same channels are used at all locations.

public interest purpose to require licensees to invest in infrastructure that is not needed to serve the fundamental purpose of the communications system, in order to adhere to construction mandates that should not be applied to channels of such limited bandwidth. By contrast, cellular, AWS and other commercial networks use only a subset of their assigned bandwidth at any location, but those subsets are considered collectively for purposes of satisfying the build-out requirement. They have sufficient capacity to support frequency plans where the same band sub-segments can be used at locations with sufficient separation to avoid interference, but they are allowed to include each site in calculating their cumulative coverage, irrespective of the amount of bandwidth used at the site.

Second, the geographic licenses in the Spectrum-limited Services were awarded pursuant to overlay auctions, meaning that they may have to contend with incumbent site-based systems whose contours must be protected. These geographic licensees are not necessarily free to add sites wherever they might wish, because doing so might impinge on an incumbent's protected service area. This further limits their system design flexibility and might make it impossible for them to expand their coverage to meet a renewal build-out requirement. Each geographic license would have to be evaluated individually to determine whether incumbency would even permit additional deployment, assuming it could be accomplished without resulting in intra-system interference.

The Commission's purpose is to promote greater coverage in rural areas by commercial networks that are designed to address broad consumer requirements. The Spectrum-limited Services do not have sufficient capacity to add any meaningful input into that spectrum pool. In fact, these systems serve local business dispatch requirements or meet private internal communications needs, as discussed below. They do not compete with the commercial wireless

carriers and are not used by the general consumer public. Their expansion, even if it could be accomplished, would be sufficiently *de minimis* that it would go unnoticed by the American public and would not advance the FCC's objective.

The Alliance also submits that licensees operating private, internal systems pursuant to geographic licenses should be exempt from any additional construction obligation. These entities have a defined service area they need to cover to meet their operational requirements. Additional coverage requirements would impose a cost on them with no corresponding benefit to them or to the American public as they do not provide commercial service.

In most cases, these entities hold licenses for FCC-defined geographic areas because there is very limited spectrum made available by the FCC, except in auctioned geographic packages. They have no choice but to acquire spectrum either in an auction or more frequently in the secondary market and attempt to tailor what they purchase as closely as possible to their actual operating requirements. They have every motivation to partition their authorizations to assign unneeded geography to a third party when such a party exists, but that is the rare exception, particularly for licenses in the Spectrum-limited Services. There is effectively no business interest in the "doughnut hole" surrounding the doughnut when such limited spectrum bandwidths are at issue.

Whether public safety, utility, transportation, or other business enterprise users, these licensees must conform their coverage needs to a geographic licensing scheme that is designed for consumer-based commercial wireless operations. Imposing additional build-out obligations on them would not serve the FCC's purpose and would constitute an undue burden on these non-commercial entities.

III CONCLUSION

For the reasons discussed above, EWA urges the Commission not to impose a renewal term construction obligation on geographic licensees in the Spectrum-limited Services or on licensees operating private, internal systems.

Respectfully submitted,

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