

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Process for Relicensing 700 MHz Spectrum in)	WT Docket No. 06-150
Unserved Areas)	

REPLY COMMENTS OF THE RURAL WIRELESS ASSOCIATION, INC.

The Rural Wireless Association, Inc. (“RWA”) files these reply comments in response to the comments filed by T-Mobile USA, Inc. (“T-Mobile”) and CTIA in connection with the Public Notice (“Notice”) issued by the Federal Communications Commission’s (“FCC” or “Commission”) Wireless Telecommunications Bureau (“Bureau”) seeking comment on the process for relicensing 700 MHz spectrum in unserved areas.¹

I. T-Mobile’s County-Based Approach to Defining Areas Eligible for Relicensing Will Deter Buildout in Rural Areas and is Inconsistent with the Intent of the Keep-What-You-Serve Rule.

T-Mobile proposes a county-based approach to defining areas that 700 MHz licensees who fail to meet their end-of-term buildout requirements will be permitted to retain and be required to divest. Under this approach, licensees that serve over 50% of the geography of a county would be able to retain the entire county. T-Mobile argues that use of counties will simplify the relicensing process. However, a desire for simplification does not outweigh the purpose of the keep-what-you-serve (“KWYS”) rule, which is to ensure that area which a licensee chooses not to serve is made available for other interested entities to serve. Allowing a

¹ *Wireless Telecommunications Bureau Seeks Comment on Process for Relicensing 700 MHz Spectrum in Unserved Areas*, Public Notice, WT Docket No. 06-150, DA 17-810, rel. Aug. 28, 2017 (“Notice”).

licensee to retain the license for an entire county when it has chosen not to serve half of that county or huge portions of the county disserves the public interest. Many counties, particularly in the rural areas served by RWA members, contain vast land masses. For example, half the counties in Alaska² contain over 20,000 square miles. Accordingly, to allow a licensee to retain a licensee for a county like Yukon-Koyukuk Census Area in Alaska, with 147,842.51 square miles would allow at least 73,921 square miles of that county to go unserved, an area larger than all but 17 *U.S. states*,³ which totally defeats the purpose of the KWYS rule. Outside of Alaska, in San Bernardino County, California, T-Mobile's proposal would allow 10,053 unserved square miles to remain with the original licensee, unavailable for relicensing, an area larger than six *U.S. states*. Contrary to T-Mobile's proposal, the Bureau's proposed use of contour showings allows licensees to keep the area *actually served*, as intended by the KWYS rule. T-Mobile's county-based approach for determining eligible areas should be rejected.

RWA also opposes T-Mobile's proposal that licenses that cover 50% or less of a county would lose the license for that county. Apart from the patent unfairness of forcing a licensee that serves 49.99999 percent of a county to lose its ability to serve *any portion* of that county, while allowing a licensee that serves 50.00001 percent of a county to keep the *entire* license, this aspect of T-Mobile's proposal is also entirely inconsistent with the purpose of the

² Alaska is organized by boroughs rather than counties. References to counties in the context of Alaska are to boroughs.

³ 50% of the Yukon-Koyukuk Census Area, area that could go unserved yet remain licensed to an entity that chose not to serve it under T-Mobile's proposal, constitutes area larger than the entire geographic area of each of the following states: Washington, North Dakota, Oklahoma, Missouri, Florida, Wisconsin, Georgia, Illinois, Iowa, New York, North Carolina, Arkansas, Alabama, Louisiana, Mississippi, Pennsylvania, Ohio, Virginia, Tennessee, Kentucky, Indiana, Main, South Carolina, West Virginia, Maryland, Hawaii, Massachusetts, Vermont, New Hampshire, New Jersey, Connecticut, Delaware, and Rhode Island. Outside of Alaska, in San Bernardino County, California, T-Mobile's proposal would allow 10,053 unserved square miles to remain with the original licensee, unavailable for relicensing, an area larger than six *U.S. states*.

KWYS rule. That the keep-what-you-serve rule is intended to allow a licensee to *keep the area it serves* is obvious from its name. Taking away the ability to serve a county from a licensee that may serve up to half of the geography of that county is Draconian, would effectively eradicate the KWYS rule, and is not in the public interest.

T-Mobile argues that if the Bureau rejects its county-based approach, it should defined geographic areas retained and surrendered “consistent with geographic areas defined in other reporting contexts, such as census tracts.”⁴ Just like the use of counties, the use of alternative geographic areas will result in unserved area being retained by the licensee in contravention of the KWYS rule. There is no need for the Bureau to go to a geographic measurement standard or stray from the KWYS rule. Accordingly, RWA supports adoption of the Bureau’s proposed approach to defining eligible areas.

II. Failure to Submit End-of-Term Performance Notifications Should Result in Automatic Loss of License.

RWA agrees with T-Mobile that if licensees fail to submit end-of-term performance notifications at all, the entire license will be deemed recaptured. However, the Bureau should make clear that such loss of license is not automatic, and that a licensee that is unable to timely file its performance notification should be allowed additional time, *if requested in a timely manner*, to make such showing.

III. The Proposed Relicensing Process Can be Simplified

RWA agrees with CTIA that the Bureau can streamline the application process by (1) permitting applicants for reclaimed spectrum in unserved areas to list within a single application all the unserved areas for which they seek a license; (2) simplifying the means by which applicants can electronically select the unserved areas covered by the applicant by providing a

⁴ T-Mobile Comments at p. 5.

drop-down menu of unserved areas from which the applicant may select; and (3) undertaking a *pro forma* evaluation of ownership, including both *de jure* and *de facto* control of the original licensee and the applicant. RWA also agrees with CTIA that the Bureau should provide additional time for settlement discussions following the Phase I filing window, beyond the 30 day window, contemplated by the Notice.

Respectfully submitted,

RURAL WIRELESS ASSOCIATION, INC.

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