

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Wireless Telecommunications Bureau)	WT Docket No. 06-150
Seeks Comment on Process for)	
Relicensing 700 MHz Spectrum in)	
Unserved Areas)	

REPLY COMMENTS OF DISH NETWORK CORPORATION

I. INTRODUCTION AND SUMMARY

DISH Network Corporation (“DISH”) respectfully submits these reply comments in response to the *Public Notice*¹ in the above-captioned proceeding seeking comment on relicensing rules for 700 MHz spectrum deemed to be “unserved” by the original licensee. DISH supports the Wireless Bureau’s effort to provide guidance on how the relicensing process will be implemented, but urges the Commission to avoid unnecessarily restrictive and arbitrary procedures for relicensing 700 MHz spectrum. Given the impending paradigm shift to Internet of Things (“IoT”)/5G wireless technologies, the Bureau should approach coverage metrics with maximum flexibility and allow market-based decisions about the most efficient way to deploy spectrum.

II. BACKGROUND

DISH holds 168 FCC licenses in the Lower 700 MHz E Block (722-728 MHz) through its indirect, wholly-owned subsidiary, Manifest Wireless L.L.C. (“Manifest”).² DISH won these licenses in the 700 MHz auction held in 2008, and paid nearly \$712 million for them. DISH expects that its E Block licenses will be used, along with other spectrum assets, to deploy a next-

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

² DISH’s E Block licenses together form a nationwide footprint, except for New York, Boston, Philadelphia, Los Angeles, and San Francisco.

generation 5G-capable network, focused on supporting IoT, and anticipates meeting the applicable final FCC construction milestones for the E Block licenses by March 2020.³ This network will not be burdened with a requirement to be backward compatible with legacy services, and will focus on, among other things, providing low cost, extended coverage, long battery life, and increased connectivity solutions to the market.⁴ The forthcoming 5G evolution represents a paradigm shift to a new era of communications and connectivity, and the Commission should adopt flexible rules that allow efficient, market-based decisions about spectrum deployment.

III. THE ARBITRARY COVERAGE SHOWINGS PROPOSED IN THE *PUBLIC NOTICE* SHOULD BE REJECTED IN FAVOR OF A FLEXIBLE, TECHNOLOGY NETURAL APPROACH THAT WILL SUPPORT THE COMING 5G TRANSITION

The *Public Notice* seeks comment on the process for implementing “keep what you serve” (“KWYS”) rules for 700 MHz Lower A, B, and E Block, and Upper C Block spectrum.⁵ Under the KWYS rules, if a licensee fails to meet its end-of-term construction deadline, its authorization to operate will terminate automatically without Commission action for those geographic areas of its license in which the licensee is not providing service by the end-of-term deadline, and those areas will become available for reassignment by the Commission.⁶ DISH supports the Bureau’s effort to provide guidance on how the KWYS rules will be implemented. But, DISH agrees with CTIA that the framework proposed in the *Public Notice* is arbitrary and

³ See DBSD Services Limited, Gamma Acquisition LLC, and Manifest Wireless LLC, Consolidated Interim Construction Notification for AWS-4 and Lower 700 MHz E Block Licenses, File Nos. 0007690885 et al., at 3-4 (filed Mar. 7, 2017).

⁴ *Id.* at 5-6.

⁵ *Public Notice* ¶ 1.

⁶ *Id.* ¶ 4.

should be rejected in favor of a more efficient, flexible, and technology-neutral approach.⁷ In particular, DISH agrees with CTIA that “additional efforts should be made to ensure that 700 MHz licensees have the ability to accurately determine coverage provided by their networks in a flexible fashion.”⁸

A. The Proposed Smooth/Alternative Smooth Contour Framework Is Not an Appropriate Metric for Determining Actual Service

The *Public Notice* proposes that licensees would identify the “served” area of the license to be “kept” by filing a shapefile showing a smooth enclosed 40 dBμV/m field strength contour (“Smooth Contour”) of existing facilities as of the end-of-term construction deadline.⁹ In the alternative, a 700 MHz licensee could demonstrate its service area using a lower dBμV/m field strength smooth contour (“Alternative Smooth Contour”), by demonstrating that: (1) the licensee is operating a viable service at the lower field strength; and (2) the service area, as measured using the lower dBμV/m field strength Alternative Smooth Contour, is at least 25 percent larger than it would be using the 40 dBμV/m field strength Smooth Contour.¹⁰ DISH agrees with CTIA that the Smooth/Alternative Smooth Contour construct, however, is arbitrary and inappropriate as a method for predicting actual service coverage.¹¹ As CTIA notes, the 40 dBμV/m field strength limit proposed for determining the Smooth Contour was designed to protect adjacent-area licensees (i.e., for interference protection), not to predict coverage by a licensee.¹²

⁷ CTIA Comments at 3.

⁸ *Id.* at 1.

⁹ *Public Notice* ¶ 7.

¹⁰ *Id.*

¹¹ *See* CTIA Comments at 3.

¹² *Id.*

Because the proposed Smooth/Alternative Smooth Contour framework is not an appropriate metric for actual service by licensees, the *Public Notice*'s proposal would, as CTIA observes, "unnecessarily penalize licensees providing service to consumers at a lower field strength."¹³ DISH agrees. Under the proposal, only 700 MHz licensees whose actual service is greater than 25 percent as predicted by the Smooth Contour proposal would be able to utilize the Alternative Smooth Contour methodology to demonstrate coverage and seek to retain an entire license. Only if the Smooth Contour model under-predicts coverage by *more* than 25 percent would a 700 MHz licensee even be permitted to use an alternative method to prove coverage.¹⁴

If neither contour faithfully shows the areas where the licensee is actually providing service, the licensee would lose a portion of its licensed area, even in areas where customers are relying upon and expecting the services they have been receiving. DISH agrees that this framework punishes 700 MHz licensees and is "hardly fair to 700 MHz licensees or to consumers who are being provided service at a lower field strength, as it would grossly underestimate actual coverage within market areas."¹⁵ For the same reasons, DISH also opposes one commenter's proposal¹⁶ to measure coverage on a county basis, and revoke an entire county from a licensee that is serving 50 percent or less of the county's geographic area. This proposal would be unfair to licensees, could strand investment, and could cause customers to suffer a loss of service.

¹³ *Id.* at 5.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ T-Mobile USA Comments at 3-5.

B. Given the Rapid Changes in Technology, the Bureau Should Provide Licensees with Flexibility in Making Coverage Showings

Rather than basing the KWYS rule on an arbitrary metric that could disenfranchise operators and consumers alike, DISH supports CTIA’s proposal that “700 MHz licensees instead be permitted to provide a coverage showing that is based on real-world service to the public and not be bound to a particular metric or technology in doing so.”¹⁷ The wireless industry has rapidly innovated through several successive generations of technology, and the paradigm shift to 5G is coming. A field strength metric that might have been appropriate for 3G may fail to capture actual service levels for IoT/5G technologies. And individual licensees may develop technology strategies and business plans within a given wireless technology generation that vary widely from what others in industry are doing.

Rather than dictate particular metrics or service contours, the Commission should let market-based forces and individual operator technology choices guide how actual service areas are measured. DISH supports CTIA’s proposal that the licensee, not the Commission, “should be empowered to determine the appropriate methodology for accurately depicting coverage,” which will be “a more technologically neutral approach” that will “allow operators to seamlessly change technologies (e.g., moving to 5G from 4G LTE) without the need to change Commission rules.”¹⁸ Consistent with this proposal, DISH also support’s CTIA’s suggestion that 700 MHz licensees should retain the option of relying upon their existing construction showings or, alternatively,

¹⁷ CTIA Comments at 6.

¹⁸ *Id.*

providing a separate coverage showing to delineate the served area within their licensed market, in the event they face a KWYS license reduction.¹⁹

IV. CONCLUSION

The Bureau's procedures to implement the KWYS rules for 700 MHz licenses should be flexible, technology neutral, not strand network investments, and maintain services that consumers are expecting. DISH urges the Bureau to follow CTIA's proposed framework for letting the market and technological innovation determine actual service coverage in implementing the KWYS rules.

Respectfully submitted,

_____/s/_____
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¹⁹ *Id.* at 7.