

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

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

**REPLY COMMENTS OF AT&T**

AT&T provides these reply comments to the Further Notice of Proposed Rulemaking released by the Federal Communications Commission (“Commission”) on wireless radio services reform.<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

AT&T supports the Commission’s effort to improve coverage to rural Americans, but prefers targeted incentives, such as increased license terms for increased rural build-out, and special funding mechanisms, such as the Mobility Fund, over incremental increases in mandated coverage benchmarks during renewal terms, which are less effective and more likely to harm consumers. The record demonstrates that adding new performance benchmarks on wireless licensees at renewal would force carriers into uneconomic and inefficient builds and siphon limited financial resources from projects that increase network capacity and lay the framework for new

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<sup>1</sup> 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 Radio Services, WT Docket No. 10-112, *Report and Order and Further Notice of Proposed Rulemaking* (2017).

advanced technologies like fifth generation (“5G”) wireless networks. These actions would ultimately harm consumers and are not in the public interest.

Arbitrary increases in performance benchmarks after licenses have been purchased and awarded also distort wireless investment because they change the rules in the middle of the game. Licensees evaluate the network build and other compliance costs when deciding whether to acquire a license at auction or in the secondary market. Modifying performance benchmarks would disrupt those investment-backed expectations and create uncertainty for existing and potential future licensees, leading to reduced value for licenses on the secondary market. A healthy secondary market is important to a vibrant wireless marketplace, as it transfers assets to those who value them the most and will put them to use.

## **II. ANALYSIS**

### **A. Incentives would more effectively promote rural expansion because heightened buildout mandates would harm consumers by forcing uneconomic builds and distorting investment decisions, reducing carriers’ ability to meet booming data demands.**

#### **1. Incremental performance benchmarks at renewal forces uneconomic builds and distorts investment decisions.**

As CTIA explains, heightened buildout mandates would force uneconomic builds and distort investment decisions to the detriment of consumers.<sup>2</sup> Carriers would be forced to direct limited resources away from improving capacity in high demand areas to cover great expanses of land with little to no population to support that build. For example, CTIA estimates about 300,000

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<sup>2</sup> Comments of CTIA, WT Docket No. 10-112 at 2 (filed Oct. 2, 2017) (“[I]mposing new, heightened buildout mandates on licensees as a condition of license renewal would not necessarily benefit rural consumers because those mandates would not (unlike the Mobility Fund) directly target unserved rural areas, but could force uneconomic buildouts, distort investment decisions, and depress spectrum valuations – all of which could harm rural consumers by discouraging investment in sparsely populated areas.”)

small cells will be needed in the next 3-4 years to support the evolution to 5G<sup>3</sup> and that wireless carriers are expected to deploy those small cell facilities around the country, leading to increases in network broadband capacity in locations with a critical need.<sup>4</sup> These deployments will pave the way for the United States to continue to lead the world in broadband deployment. However, increased build requirements during license renewal terms will force carriers to divert capital from small cell and other advanced technologies to cover sparsely populated areas. These are not small considerations, as AT&T has explained in the Commission's open docket on Accelerating Wireless Broadband Infrastructure:

AT&T's wireless data traffic has grown by 250,000% since 2007 and is expected to grow 10x more by 2020. Massive small cell deployments will be essential for carriers to meet this growing demand. They also are necessary to the deployment of 5G networks, which will revolutionize the way consumers and businesses use mobile broadband emerging Internet of Things ("IoT"), which is predicted to grow 15-fold from 2016 to 2021.<sup>5</sup>

This redirecting of resources is not justified by a speculative improvement in rural coverage.<sup>6</sup>

Verizon accurately explains that the "proposed rules would likely result in inefficient investment of capital by forcing all existing licensees into duplicative buildouts."<sup>7</sup> The proposed rules would apply to all wireless licenses, reducing current licensees' flexibility to decide how and

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<sup>3</sup> Letter from Brian M. Josef, Ass't V.P. Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 16-421, Attachment at 5 (filed April 13, 2017).

<sup>4</sup> Comments of CTIA, WT Docket No. 16-421 at 2 (filed Mar. 8, 2017).

<sup>5</sup> Comments of AT&T Services, Inc., WT Docket No. 17-79 at 1-2 (filed June 15, 2017).

<sup>6</sup> Comments of Sensus USA Inc. and Sensus Spectrum LLC, WT Docket No. 10-112 at 5 (filed Oct. 2, 2017) ("[T]he Commission's proposal could not only render Sensus's business model infeasible, it actually could have the perverse effect of discouraging investments in rural areas. This result would not achieve the Commission's objectives nor serve the best interests of end-users.")

<sup>7</sup> Comments of Verizon, WT Docket No. 10-112 at 12 (filed Oct. 2, 2017) ("Verizon Comments").

where it is best to deploy their licensed spectrum. For example, licensees holding licenses with overlapping service areas may choose to provide service in some areas using less than all of their licenses. The proposed rules would reduce this flexibility by requiring licensees to expand service on all of its licenses, even if they overlap or if the area cannot support additional providers or bands.<sup>8</sup> This proposal runs contrary to the Commission’s recent Incentive Auction Order, wherein build-out requirements were designed to ensure that the 600 MHz band spectrum is put to use expeditiously “while providing 600 MHz Band licensees with flexibility to deploy services according to their business plans.”<sup>9</sup>

Some commenters support additional renewal performance benchmarks for only large providers<sup>10</sup> But, even those commenters recognize that heightened performance benchmarks could “force investment where it might not be financially feasible to do so”<sup>11</sup> and may not be financially feasible to meet where “there exist no additional potential subscribers from which to recover investment resources.”<sup>12</sup> And, Blooston expresses its concern that “there will be circumstances . . . where sound business judgment will dictate that it is not feasible to install additional transmitters

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<sup>8</sup> *Id.* at 13.

<sup>9</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6877 ¶ 764 (2014).

<sup>10</sup> Comments of NTCA–The Rural Broadband Ass’n, WT Docket No. 10-112 at 5 (filed Oct. 2, 2017) (“NCTA Comments”); Comments of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, WT Docket No. 10-112 at 5 (filed Oct. 2, 2017) (“Blooston Comments”).

<sup>11</sup> Blooston Comments at 4.

<sup>12</sup> NCTA Comments at 4.

for the sake of installing transmitters to meet an artificial build out requirement.”<sup>13</sup> These factors impact large and small wireless carriers alike.

These commenters also unjustifiably question large carriers’ commitments to serve rural areas. But, many wireless licenses are in their initial term, with sufficient time to expand rural builds before renewal. Current builds also demonstrate carriers’ continuing commitment to rural coverage. “As of year-end 2016, nearly 99 percent of the rural population had access to at least one mobile LTE provider, more than 95 percent had access to at least two mobile LTE providers, and at least 84 percent had access to three or more mobile LTE providers[,]” a 30% increase since July 2015.<sup>14</sup> Undoubtedly, much of this rural service is provided by large carriers. AT&T also offers Fixed Wireless Internet Service in rural and underserved areas in 18 states.<sup>15</sup> AT&T’s fixed wireless service, currently available at over 160,000 locations, is expected to provide access to over 400,000 locations by year end 2017 and over 1.1 million locations by year end 2019.<sup>16</sup> Other nationwide carriers also tout their investments in rural America.<sup>17</sup>

## **2. Rural expansion is best promoted through targeted programs, such as incentives and special financing mechanisms.**

Commenters support a market-oriented incentive-based approach to enhancing rural build-out over mandated additional performance benchmarks. “As the Commission has recognized in other

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<sup>13</sup> Blooston Comments at 6.

<sup>14</sup> CTIA Comments at 3-4.

<sup>15</sup> Press Release, *AT&T Launches Fixed Wireless Internet in Rural and Underserved Areas in 9 New States* (Sept. 27, 2017), [http://about.att.com/story/fixed\\_wireless\\_internet\\_in\\_9\\_new\\_states.html](http://about.att.com/story/fixed_wireless_internet_in_9_new_states.html).

<sup>16</sup> *Id.*

<sup>17</sup> *See, e.g.*, Verizon Comments at 4; CTIA Comments at 8.

contexts, it makes sense to take actions and pursue policies that encourage efficient private investment to the maximum extent possible, supplemented by targeted assistance to reach areas where, ultimately, there is unlikely to be a business case for making the substantial investment of capital needed to build out wireless networks.”<sup>18</sup> AT&T supports that approach, as it encourages licensees to expedite rural builds to ensure that their licenses receive an extended term and gives licensees more time to further expand into rural areas during that extended term. 700 MHz and AWS licensees face renewals in 2019 and 2021, respectively, and are planning their future builds. Timely action in this docket to incent rural broadband expansion combined with targeted action by the Commission using the Mobility Fund could be a catalyst for increased investments in rural America within a relatively short period of time.

**B. If imposed, enhanced performance benchmarks should apply only to newly issued licenses and not subject licensees to loss of license if those benchmarks are missed.**

**1. Applying enhanced performance benchmarks to existing licenses would undermine investment back expectations, creating uncertainty and reducing the value of existing licenses.**

Commenters explain that increased build benchmarks for existing licenses undermine the investment-backed expectations of licensees that acquired their licenses through auction or on the secondary market.<sup>19</sup> AT&T agrees that when a licensee acquires a spectrum license, it considers all potential costs associated with holding that license, including the cost of compliance and certainly, the costs to meet any required build benchmark. Imposing more stringent build

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<sup>18</sup> Verizon Comments at 4-5.

<sup>19</sup> Sensus Comments at 2-4 (“[I]mposing additional construction requirements on existing licenses as a condition of license renewal would fundamentally undermine the value calculation made by licensees when deciding to acquire geographic wireless licenses, would impact the results of future auctions and the prices paid for licenses in the secondary market, and is not necessary to provide incentives for existing licensees to deploy facilities in rural areas.”); CTIA Comments at 15; Verizon Comments at 13-14.

requirements on that licensee unexpectedly increases those compliance costs, creating uncertainty in the minds of future potential license holders and potentially deterring future investment in licenses (or, at best, reducing the value of those licenses). As Blooston explains:

Application of additional construction requirements to existing licensees would be fundamentally unfair and unduly burdensome. In making decisions to participate in the auctions (and spend millions of dollars in auction bids and construction costs in many cases), applicants developed detailed business plans in order to determine the feasibility of obtaining a license and providing service to the public. To impose additional service requirements well after critical financial decisions have been made would only serve to upend sound financial planning . . . .<sup>20</sup>

Hence, any increase in performance benchmarks during license renewal terms or rural specific coverage benchmarks should be imposed only on newly awarded wireless licenses.

**2. Loss of all of a license for failure to meet enhanced performance benchmarks during renewal terms is contrary to the public interest.**

Commenters likewise oppose a forfeiture that requires a licensee to surrender its license as a penalty for failure to meet any enhanced performance requirements.<sup>21</sup> As even the Further Notice recognizes, such a penalty would “result in loss of longstanding service to the licensee’s subscribers and the disruption of a network that satisfied the renewal standard at the end of the initial license term.”<sup>22</sup> And, there is no assurance that a new license would acquire the license or, if acquired, would provide coverage greater than the original licensee’s end-of-term build. Moreover, removing license service areas imposes additional administrative costs on the Commission because those unserved areas must be reassigned.

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<sup>20</sup> Blooston Comments at 4. *See also* NCTA Comments at 3 (“[T]he Commission must be cautious to not upend the business plans of small providers who developed a build out strategy based on the Commission’s rules in effect at the time the applicants decided to enter an auction.”).

<sup>21</sup> CTIA Comments at 18; Verizon Comments at 16; Sensus Comments at 6.

<sup>22</sup> Further Notice at ¶116.

**C. The burden and costs of additional reporting obligations substantially exceed the value of the data it would generate.**

AT&T agrees with commenters opposing the imposition of new reporting obligations on wireless licensees during the license renewal process.<sup>23</sup> Additional reporting obligations would undermine one of the “major objectives identified by the Commission” when this docket began seven years ago—“to simplify the regulatory process for licensees.”<sup>24</sup> Even with recent modifications adopted in the Report & Order in this docket, the Commission’s license renewal process is fairly straightforward. Introducing even more reporting obligations for licensees would substantially add to the burdens on licensees filing for license renewals, especially for larger carriers holding many licenses. The time and resources needed to gather, analyze, record, and file that information at renewal and the real costs to develop systems that would facilitate those activities will be considerable.

Also, the Commission already collects broadband data in the Form 477 process, a process that is currently under review with a goal of also “identifying and eliminating unnecessary or overly burdensome filing requirements.”<sup>25</sup> Commenters agree that additional reporting at renewal will provide no greater clarity and in fact, would be less beneficial because renewal filings are made for discrete license areas at different time intervals and would not provide comprehensive broadband data.<sup>26</sup> In contrast, “[t]he Form 477 process enables the Commission to assess obstacles

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<sup>23</sup> CTIA Comments at 18-19; Verizon Comments at 17-19.

<sup>24</sup> *Report and Order and Further Notice of Proposed Rulemaking* at ¶3.

<sup>25</sup> Modernizing the FCC Form 477 Data Program, *et al*, WC Docket No. 11-10, *Further Notice of Proposed Rulemaking*, 32 FCC Rcd 6329, 6330 (2017); *See also* Modernizing the FCC Form 477 Data Program, WC Docket No. 11-10, *Notice of Proposed Rulemaking*, 26 FCC Rcd 1508, 1509 (2011) (“We are focused on giving careful consideration to the benefits and burdens of our data collections, and eliminating unnecessary collections where possible.”)

<sup>26</sup> CTIA Comments at 19; Verizon Comments at 18.



to adoption and affordability across a geographic area because all providers in that area report at the same time.”<sup>27</sup> The burdens and costs for licensees to generate and make additional reports substantially outweighs their value.

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Respectfully submitted,



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Robert Vitanza  
Gary L. Phillips  
David Lawson

AT&T Services, Inc.  
208 S. Akard Street  
Rm 3031  
Dallas, Texas 75202  
(214) 757-3357 (Phone)

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<sup>27</sup> Verizon Comments at 18.