

May 30, 2019

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *ORAL EX PARTE PRESENTATION – Transforming the 2.5 GHz Band
WT Docket No. 18-120*

Dear Ms. Dortch:

I am writing pursuant to Section 1.1206(b)(1) of the Commission's Rules to notify the Commission that on May 28, 2019, I had a phone conversation with Erin McGrath, Wireless Legal Advisor to Commissioner Michael O'Rielly, on behalf of the Wireless Communications Association International ("WCA"). During the course of the conversation, I focused on four issues: (1) the May 13, 2019 request by the Schools, Health & Libraries Broadband Coalition ("SHLB") and others asking the Commission to further delay the adoption of rules that will permit the licensing of the Educational Broadband Service ("EBS") white space; (2) the study SHLB filed four days later purporting to establish economic benefits of preserving the EBS eligibility rule; (3) the proposal by the Wireless Internet Service Providers Association ("WISPA") to limit bidders in an auction for the EBS white space to no more than 63 megahertz of spectrum in a given area; and (4) deferring the start date of any new EBS discontinuance rule.

No Further Delay Is Warranted

I noted WCA's strong opposition to the issuance of a public notice soliciting additional comment in this proceeding. This is hardly the type of docket where the Commission calls for additional comment. The *NPRM* was issued a year ago and raised each and every issue that is being debated by the parties. EBS interests and their allies have made in excess of 350 filings in the docket, so clearly they have had ample opportunity to have their say. To the extent that many EBS licensees have not been heard from, that silence likely reflects what is clear from the record – the overwhelming majority of EBS lease the maximum permissible amount of capacity and do little with what they must reserve. Furthermore, even if this item becomes scheduled for a vote at the next Commission meeting (scheduled for July 10, 2019) and normal "sunset" rules apply, EBS

Marlene H. Dortch
May 30, 2019
Page 2

interests still have over a month to submit their views on their usage, the recent SHLB economic analysis, or anything else through the *ex parte* process.

The extension request asserts that a further delay is required because “there is no reasonable way for the public to determine where EBS white space exists.” As WCA noted in its September 7, 2018 reply comments in this proceeding, that is simply not the case. The Universal Licensing System (“ULS”) currently identifies for every EBS license the coordinates of the centroid for its 35-mile radius circular Geographic Service Area (“GSA”). Indeed, four days after the filing of the extension request, *SHLB filed with the Commission a study prepared by Dr. Raul Katz that includes maps specifically identifying the EBS white space!* And SHLB is not alone, as Voqal, Mobile Beacon and North American Catholic Programming Foundation (all signatories to the extension request) have at various times submitted into the docket maps that illustrate the EBS white spaces. While WCA continues to believe that rationalizing GSAs to county boundaries will simplify the auction process, it is simply not true that the EBS white space cannot today be ascertained from ULS.

The SHLB Study Is Flawed By Unrealistic Assumptions

I also explained how the Raul Katz study submitted by SHLB in support of retaining the EBS eligibility requirement is flawed by unrealistic assumptions. Most fundamentally, it assumes that educators have the funding, interest and capability to develop stand-alone broadband systems that will meet the current and future needs across all EBS white space territory. That is a stretch given that stand-alone EBS systems are today few and far between. While some have expressed interest in developing stand-alone systems, history has shown that the overwhelming majority of EBS licensees lease the maximum permissible capacity and ride over the top of whatever system their operators build.

In essence, what the SHLB study states is that if EBS licensees provide an uncapped service at \$10.00/month, they will drive increased penetration of broadband. WCA doesn’t argue with that proposition; it is true no matter who offers such a service at that price. While Mobile Beacon and Mobile Citizen are cited by the study as providing service for that price, the fundamental difference is that they are reselling Sprint service to a limited number of users as a result of their lease agreements with Sprint. They have not built their own networks, and it is economically not possible for a stand-alone EBS system to widely offer such pricing while providing a broadband service that closes the digital divide. Indeed, even Northern Michigan University charges \$34.95 monthly (not including equipment rental or purchase) for its general residential service. <https://www.nmu.edu/ean/>. The \$10.00 rate is far below the commercial marketplace, and it is at best doubtful that even educators would be able to provide a viable service at that rate.

Marlene H. Dortch
May 30, 2019
Page 3

Capping The Spectrum Available At Auction Will Codify The Digital Divide

At a time when the Commission is confronting the challenge of assuring that rural America has the benefit of upcoming 5G services, WCA opposes the proposal by WISPA that future EBS white space auction participants be limited to no more than 63 megahertz. I noted that GSMA has at a minimum recommended that “Regulators should aim to make available 80-100 MHz of contiguous spectrum per operator in prime 5G mid-bands.” <https://www.gsma.com/spectrum/wp-content/uploads/2018/11/5G-Spectrum-Positions.pdf>. A 63 megahertz cap could deny residents of EBS white space areas access to the 2.5 GHz band 5G services that will be available to other Americans.

Deferral of EBS Discontinuance Rule

WCA has no objection to subjecting EBS licensees to Section 1.953, the general Wireless Radio Service discontinuance rule. However, I explained that WCA recommends that the Commission do what it did when that rule was first adopted and defer the effective date of an EBS discontinuance obligation for approximately 18 months after adoption out of fairness to licensees being subjected to the rule for the first time. 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, *Second Report and Order and Further Notice of Proposed Rulemaking*, 32 FCC Rcd 8874, 8898 (Par. 64)(2017).

Pursuant to Sections 1.1206(b)(1) and 1.49(f) of the Commission’s Rules, this letter is being filed electronically with the Commission via the Electronic Comment Filing System. Should you have any questions regarding this presentation, please contact the undersigned.

Respectfully submitted,

/s/ Mary N. O’Connor
Mary N. O’Connor

Counsel to the Wireless Communications
Association International

cc: Erin McGrath