

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

In the Matter of)	
)	
Partitioning, Disaggregation, and)	WT Docket No. 19-38
Leasing of Spectrum)	

REPLY COMMENTS OF THE RURAL CARRIERS

FTC Management Group, Inc. (“FTC”), Horry Telephone Cooperative, Inc. (“Horry”), Peoples Telephone Cooperative, Inc. (“Peoples”), and West Central Wireless (“WCW”) (together, the “Rural Carriers”), by their counsel, hereby reply to comments in response to the *Notice of Proposed Rulemaking* (“NPRM”) in the above-captioned proceeding,¹ in which the Federal Communications Commission (“FCC” or “Commission”) is considering modifying its existing rules for partitioning, disaggregating, and leasing spectrum licenses in order to promote the provision of service to rural areas and to increase access to spectrum by small, rural carriers, as directed by the Making Opportunities for Broadband Investment and Limiting Excessive and Needless Obstacles to Wireless Act (“MOBILE NOW Act”).²

The Rural Carriers agree that “[p]olicies that provide flexibility to partition and disaggregate spectrum will promote opportunities for carriers to acquire spectrum in a particular geographic area and enhance buildout efforts.”³ The Rural Carriers generally support the position of the Competitive Carriers Association (“CCA”) that the Commission should extend the interim and final construction deadlines of the receiving party of a partitioned or disaggregated license to provide an additional year to meet performance requirements when (i)

¹ *In the Matter of Partitioning, Disaggregation, and Leasing of Spectrum*, Notice of Proposed Rulemaking, WT Docket No. 19-38, FCC 19-22 (released March 15, 2019) (“NPRM”) at ¶ 1.

² MOBILE NOW Act, Pub. L. No. 115-141, Division P, Title VI, § 601 et seq. (2018).

³ Comments of Competitive Carriers Association, WT Docket No. 19-38, at 1 (filed June 3, 2019) (“CCA Comments”).

the receiving party is a rural carrier or the partitioned or disaggregated licenses include “rural areas,” and (ii) the receiving party elects to meet the construction requirement independently for its partitioned or disaggregated license area.⁴ The record in this proceeding demonstrates significant support for the Commission’s proposal to extend construction deadlines for a partitioned or disaggregated license.⁵ The Rural Carriers believe this is the best solution to achieve the Commission’s goals of promoting buildout in rural areas, incentivizing secondary market transactions for underutilized spectrum, and getting spectrum into the hands of invested rural carriers.

The Rural Carriers also agree that the Commission should expand the class of licensees that benefit from modified performance obligations to include providers of broadband services rather than merely “common carriers,” and that the Commission should adopt policies that allow for the “reaggregation” of licenses that have been partitioned or disaggregated.⁶ Allowing for such reaggregation will facilitate efficient administration of licenses.

The Rural Carriers oppose the adoption of any new conditions that apply heightened performance requirements to spectrum that has already been licensed, including proposals to impose additional construction requirements,⁷ a “use it or share it” regulatory framework,⁸ or a

⁴ See CCA Comments at 5; *see also* *NPRM* at ¶ 17.

⁵ See CCA Comments at 5; Comments of CTIA – The Wireless Association, WT Docket No. 19-38, at 11 (filed June 3, 2019) (“CTIA Comments”); Comments of Google, WT Docket No. 19-38, at 16 (filed June 3, 2019) (“Google Comments”); Comments of the Wireless Internet Service Providers Association, WT Docket No. 19-38, at 7-8 (filed June 3, 2019) (“WISPA Comments”).

⁶ See CCA Comments at 3 & 6.

⁷ See Comments of NTCA – The Rural Broadband Association, WT Docket No. 19-38, at 2-3 (“NTCA Comments”); Comments of the Rural Wireless Association, Inc., WT Docket No. 19-38, at 3-4 (filed June 3, 2019) (“RWA Comments”).

⁸ Comments of Dynamic Spectrum Alliance, WT Docket No. 19-38, at 7-11 (filed June 3, 2019) (“DSA Comments”); Google Comments at 17-19; WISPA Comments at 3, 7 (seeking a combination of “use it or share it” *and* “keep what you use” mechanisms).

“use it or lose it” requirement in a second license term for licenses covering PEA-sized geographic areas or larger.⁹ These types of performance requirements should be considered in future licensing proceedings on a band-specific basis, but should not be applied retroactively as new conditions on previously issued licenses. The retroactive application of such increased requirements would frustrate the purpose of this proceeding and would adversely affect small and rural carriers. Because rural areas are inherently difficult to serve, increased performance requirements may result in the return of economically marginal areas that may someday be re-licensed, but that are more likely be served by expansion by the existing licensee over time as technology and economics justify. Increased performance requirements can inherently disadvantage small companies who have limited resources. The retroactive application of heightened requirements may derail a small company’s business plan. One commenter recommends adopting new construction benchmarks that mirror the 700 MHz performance requirements,¹⁰ but the struggle to meet those benchmarks experienced by many small, rural 700 MHz licensees exemplifies the real challenge that meeting significant geographic coverage requirements can present for a small provider trying to serve difficult and expensive to serve rural areas. Therefore, the Commission should refrain from retroactively adopting any such increased performance requirements for previously issued licenses because it would likely function as a substantive barrier to rural companies contrary to the purpose of this proceeding.

I. Conclusion

The Rural Carriers support the Commission’s proposal to extend construction deadlines by one year for partitioned or disaggregated licenses when the receiving party is a rural carrier or the license covers rural areas. The Commission should reject any proposal for the retroactive

⁹ See NTCA Comments at 3-4.

¹⁰ See NTCA Comments at 3.

application of more rigorous buildout requirements or “use it or share it” or “use it or lose it” mechanisms, as the adoption of those proposals may have adverse effects on rural carriers that would be contrary to the purpose of this proceeding.

Respectfully submitted,

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