

**Before the  
Federal Communications Commission  
Washington, DC 20554**

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

**REPLY COMMENTS OF CALIFORNIA INTERNET, L.P. DBA GEOLINKS**

California Internet, L.P. DBA GeoLinks (“GeoLinks” or the “Company”) submits these Reply Comments in response to comments filed on the Notice of Proposed Rulemaking (“NPRM”) issued March 15, 2019 in the aforementioned proceeding.<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

As stated in its opening comments, GeoLinks commends the work that the Commission is doing to explore making additional bands available for wireless broadband uses. As the Commission looks to implement new rules for spectrum partitioning and disaggregation the goal must be to create rules that promote spectrum use in rural and unserved areas, deter spectrum warehousing by large spectrum holders, and allow small broadband providers and new technologies access to spectrum resources on a permanent basis.

**II. DISCUSSION**

**A. The Commission Should Adopt a Broad Definition of “Carrier”**

Many commenters assert that limiting the scope of rules regarding the sale and lease of spectrum to “common carriers” is too limited.<sup>2</sup> WISPA, for example, asserts that “limiting the benefits and build-out incentives to established “carriers” would exclude many broadband

---

<sup>1</sup> Partitioning, Disaggregation and Leasing of Spectrum, Notice of Proposed Rulemaking, WT Docket No. 19-38, FCC 19-22 (rel. March 15, 2019) (“NPRM”).

<sup>2</sup> See Comments of the Wireless Internet Service Providers Association, WT Docket No. 19-28 (filed June 3, 2019) (“WISPA Comments”) at 4; *see also* Comments of Midcontinent Communications, WT Docket No. 19-28 (filed June 3, 2019) (“Midco Comments”) at 3-4; *see also* Comments of American Petroleum Institute, WT Docket No. 19-28 (filed June 3, 2019) (“API Comments”) at 1.

providers that are not deemed at this time to be “common carriers.”<sup>3</sup> As the Commission works to create rules for the disaggregation and partition of spectrum for the benefit of rural and unserved markets, GeoLinks agrees with these commenters that the definition of “carrier” should be more broad in order to include other kinds of service providers that seek to serve unserved areas.

In its comments, Midco suggests a broader list of what kinds of service providers should be included in the definition of “carrier.” Specifically, Midco suggests that the definition should include incumbent or competitive local exchange carriers, cable operators, and terrestrial fixed wireless providers (i.e. WISPs).<sup>4</sup> GeoLinks agrees that these entities should be included in any definition adopted by the Commission. Moreover, GeoLinks suggests that the Commission consider language that would include other entrants that may leverage other technologies (perhaps those not even developed yet) in the definition so long as those technologies are able to provide highspeed broadband services.

In addition, GeoLinks believes that so long as any entity is an established service provider, its ability to obtain spectrum in the secondary market should not be limited to existing or adjacent service territories. While WISPA suggests that eligibility for the being considered an “unaffiliated covered small carrier” and/ or an “unaffiliated carrier to serve a rural area” should be limited to those carriers that have filed an “FCC form 477 for census blocks that overlap or are adjacent to the license area to be disaggregated, partitioned or leased for at least the two calendar years preceding the transaction,” GeoLinks believes that this is too limited and does not allow service providers seeking to expand their service territory the ability to benefit from new rules. And, in turn, limits rural or unserved areas to only those service providers that are either already in the area or nearby. Instead, GeoLinks urges the Commission not to limit a service provider’s ability to obtain spectrum in an area based on existing service territory. That said, GeoLinks does agree that the general threshold of filing of a form 477 for at least two years is a good benchmark for eligibility to participate in the secondary market as shows the service provider seeking spectrum is an experienced provider.

Moreover, GeoLinks urges the Commission to craft rules that prevent large carriers from selling or leasing spectrum to other large carriers. Along that vein, GeoLinks agrees with WISPA

---

<sup>3</sup> WISPA Comments at 4.

<sup>4</sup> See Midco Comments at 5.

that the definition of a “small carrier” should be a service provider that “together with its controlling interests, affiliates, and the affiliates of its controlling interests has fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers.”<sup>5</sup>

## **B. The Commission Should Implement Strong Performance Requirements for Spectrum Holders**

Without proper policies in place that incentivize license holders to either use the spectrum they have or let someone else use it, the underuse and warehousing of spectrum resources (the very issue that the Commission seeks to solve) will continue. GeoLinks agrees with RWA that “the solution is not reduced performance requirements...rather, the solution is to limit the amount of spectrum that goes into the ‘warehouses’ of the county’s largest carriers and spectrum speculators...”<sup>6</sup> GeoLinks maintains that the Commission should take firm action to ensure spectrum is fully utilized.

GeoLinks agrees with the comments of NCTA, which asserts that the Commission adopt “construction benchmarks for large geographic area licensees that mirror those applicable to 700 MHz licensees, including an accelerated license term for any licensee that fails to meet the interim construction benchmark and an automatic return to the Commission of any areas within the license that do not meet the final construction benchmark.”<sup>7</sup> As GeoLinks advocated in its opening comments, if the original licensee is held to a strict performance standard (subject to potential enforcement actions) and is unable or unwilling to meet those standards, then it will be more likely to be proactive about either selling or leasing the spectrum it is not using within its license area. Conversely, reduced performance requirements will only trickle down to new entrants seeking to utilize the band, resulting in rural and unserved areas still missing out on advanced wireless technologies.

GeoLinks notes the recommendation by NRECA that the Commission consider the rural nature of a licensed area as a factor in determining whether performance requirements have been

---

<sup>5</sup> WISPA Comments at 6.

<sup>6</sup> Comments of the Rural Wireless Association, WT Docket No. 19-28 (filed June 3, 2019) (“RWA Comments”) at 4.

<sup>7</sup> Comments of NTCA-The Rural Broadband Association, WT Docket No. 19-28 (filed June 3, 2019) (“NCTA Comments”) at 3.

met, etc.<sup>8</sup> Specifically, NRECA provides an example of areas where broad buildout may have occurred but due to the sparsely populated nature of the license area the population benchmark may not be possible to meet. GeoLinks sees merit in NRECA's recommendation given the Company's experience with large license areas in California that contain both large metropolitan areas and sparsely populated rural areas.<sup>9</sup> In this respect, GeoLinks supports the idea of benchmark "shifting" to accommodate the specific needs/ characteristics/ etc. of a license area so long as the licensee can make a good faith showing that all or significantly all of the license area has been built out. To reiterate, however, GeoLinks, like NRECA, "does not support a blanket relaxation or extension of performance requirements for rural areas."<sup>10</sup>

### C. "Use It or Share It" is Not the Complete Solution

Many commenters urge the Commission to adopt a "use it or share it" methodology whereby other broadband providers may utilize unused spectrum within a band until the license holder is ready to use it.<sup>11</sup> While at first glance this may seem like a good solution – let smaller carriers use the spectrum that the large carrier is just sitting on – the operative word is "until." This limitation is even noted by the advocates of "use it or share it."<sup>12</sup> At best, "use it or share it" is a temporary solution for the smaller carriers.

While it is true that smaller carriers may benefit from the use of these spectrum "holes" within a license-holder's area for a time, under "use it or share it" there is no certainty regarding how long that use will be possible. Under this methodology a smaller carrier could obtain the right to use a portion of spectrum in a license area and invest capital in equipment, land use leases,

---

<sup>8</sup> Comments of the National Rural Electric Cooperative Association, WT Docket No. 19-28 (filed June 3, 2019) ("NRECA comments") at 7.

<sup>9</sup> GeoLinks has often used the example of PEA 2 which encompasses eight counties and includes both large populous areas and large swaths of rural areas that are currently deemed "unserved" by high-speed broadband services.

<sup>10</sup> NRECA Comments at 7.

<sup>11</sup> See generally Comments of Google LLC, WT Docket No. 19-28 (filed June 3, 2019); see also Comments of Open Technology Institute at New America and Public Knowledge, WT Docket No. 19-28 (filed June 3, 2019) ("OTI and PK Comments") at 8, Comments of the Dynamic Spectrum Alliance, WT Docket No. 19-28 (filed June 3, 2019) ("DSA Comments") at 7.

<sup>12</sup> See e.g. OTI and PK comment at 15 stating, "another provider gains the opportunity to put that spectrum to use until the licensee is ready to commence service in that area." See also DSA Comments at 7 stating that a licensee will only bear a *de minimus* burden to inform the database coordination prior to commencing service "so that any opportunistic users will be *immediately* denied permission to operation on that frequency band." (Emphasis added).

permits, marketing, etc. just to have the large carrier decide at any point that the area now seems appealing. As WISPA notes, “a standalone ‘use it or share it’ approach does make some spectrum available opportunistically, but this provides only a basis for interim unlicensed use, and not more reliable exclusive licensed use for a definitive period.”<sup>13</sup>

GeoLinks fails to see the wisdom in promoting a methodology that could lead to stranded investment. Moreover, this does nothing to promote better spectrum management on the part of larger carriers. If a larger carrier knows that they can over purchase spectrum, avoid buildout thresholds by letting smaller carriers utilize the spectrum they don’t want to use, and then reclaim that spectrum at any point once the smaller carrier has done all the work to create a sustainable business model in an area, it does nothing to avoid the issue of warehousing. In fact, it may only serve to PROMOTE this bad behavior.

DSA claims that one of the benefits of “use it or share it” is the fact that smaller carriers will not need to pay the costs of exclusive use and interference protection.<sup>14</sup> While that may lower upfront costs associated with utilizing a specific spectrum band, it does not account for the costs associated with losing the use of that band. There is a tremendous amount of engineering and spectrum management involved in designing, constructing and maintaining of a robust wireless network capable of servicing multiple customers and providing highspeed throughput. GeoLinks prides itself on its enterprise-grade broadband service, capable of providing gigabit and near gigabit symmetrical speeds to customers. But this level of service is only possible because of the significant investment (in time and capital) that GeoLinks has dedicated to its network – knowing that the spectrum it’s using will continue to be available. If a spectrum band suddenly becomes unavailable, wireless equipment can’t simply be switched to another frequency without some major recalculation and expense. The more likely result is the need to completely reengineer the network or large portions thereof, purchase new equipment, etc. to ensure the same services without interruption or withdrawal from the area.

GeoLinks supports NCTA’s suggestion that the Commission implement a “use it or *LOSE* it” methodology for spectrum disaggregation and partition.<sup>15</sup> GeoLinks urges the Commission to

---

<sup>13</sup> WISPA Comments at 3

<sup>14</sup> DSA Comments at 10.

<sup>15</sup> See NCTA Comments at 2 (emphasis added).

look to solutions that promote good spectrum use policies from the start – before a company even contemplates seeking a license at auction. Larger carriers generally advocate for larger spectrum license areas even if they don’t intend to serve the entire area. Because current rules do little to discourage over buying there is no reason for these carriers to take a different approach. The result, as we’ve seen, is spectrum resources that could be put to use by smaller companies laying fallow, to the detriment of consumers in rural and unserved areas. If the Commission creates rules that force carriers to truly consider how much spectrum they need - to weigh the costs vs. benefits of sitting on broad swaths of spectrum vs. finding another company that wants to utilize it – it will either encourage selling or leasing excess spectrum on the secondary market, cause carriers to advocate for more targeted license areas to avoid overbuying, or encourage carriers to build out within an entire license area. In any event, the result will be better utilization of spectrum in rural and unserved areas.

GeoLinks believes that a “use it or lose it” methodology is the better choice to promote more efficient spectrum use. If however the Commission does choose to implement a “use it or share it” methodology, or allows license holders the option to share vs. lease or sell, GeoLinks strongly urges the Commission to also implement safeguards for smaller carriers. As Google asserts, the Commission could “build incentives or procedures into its ‘use it or share it’ model that would enable secondary market spectrum users to take over frequencies permanently.”<sup>16</sup> Along this vein, GeoLinks believes that the Commission should implement rules that allow smaller carriers (i) a path to retain the spectrum they use and (ii) ways to recoup some portion of their investment costs or offset the costs associated with relocating services to a different band from the original licensee choosing to reclaim the spectrum. These options will help alleviate the risk of smaller carriers losing the value of their investments (which will encourage more robust buildout) and will deter license holders from reclaiming previously unused spectrum unless they intend to truly utilize it.

#### **D. The Commission Should Also Look to Other Incentive Options**

In it’s opening comments, GeoLinks proposed alternative incentives that may encourage disaggregation and partition of unused spectrum. Specifically, GeoLinks suggested that the

---

<sup>16</sup> Google Comments at 19.

Commission consider using the percentage of un or underutilized spectrum across a license holder's license areas during future spectrum allocation processes, including auctions. A similar concept was proposed by API which suggested the Commission implement additional positive incentives for larger carriers/ licensees including a reward of bidding credits.<sup>17</sup> While structured differently than GeoLinks' suggestion, the end goal is the same – create incentives that discourage spectrum warehousing. GeoLinks urges the Commission to consider these alternative incentives when crafting final rules.

#### **E. The Commission Should Implement an Automated Database to Track Spectrum Usage and Promote Efficiencies in Secondary Market Transactions**

As some commenters point out, at present, the Commission does not know where within a license area a licensee is actually utilizing spectrum.<sup>18</sup> As Google explains, “simply finding what spectrum resources are available is often a challenge for potential buyers.”<sup>19</sup> As OTI and PK note, “the Commission itself has no idea what portions of a license area are built out and serving customers.”<sup>20</sup> Without this information it seems an impossible task for the FCC to accurately assess whether build out benchmarks are met or how much spectrum there is currently being warehoused by large carriers. As such, GeoLinks supports the creation of a database as suggested by a number of commenters whereby the Commission can collect this information and then utilize the database to facilitate secondary market transactions.

As an initial matter, GeoLinks believes that a database would be an invaluable enforcement tool for the FCC to have visibility over spectrum usage by existing licensees and where spectrum is being warehoused. Not only could the Commission use information tracked within the database to make decisions regarding specific carriers and potential enforcement actions but could also be used when developing rules for future auctions or in other proceedings where large carriers with large swaths of unused spectrum are seeking more spectrum in other bands. As such, contrary to the suggestion by Federated Wireless that “licenses could, on a voluntary basis, confidentially

---

<sup>17</sup> API Comments at 2.

<sup>18</sup> See OTI and PK Comments at 6, *see also* Google Comments at 8.

<sup>19</sup> Google Comments at 8.

<sup>20</sup> OTI and PK Comments at 6.

enter information regarding [their] existing deployments,” GeoLinks asserts that such reporting should be mandatory.<sup>21</sup>

Secondly, GeoLinks believes that implementation of an automated database for secondary market purposes would promote more efficient use of spectrum by streamlining the process of finding available spectrum and sale and lease transactions themselves. As Google explains such a database could be queried to find a “match.”<sup>22</sup> In addition, such a database could also be used to streamline spectrum transactions. As suggested by Federated Wireless, current licensees could upload the terms and conditions on which spectrum access would be made available to allow for instantaneous agreement.<sup>23</sup> GeoLinks believes such an automated database could be leveraged for many purposes that would streamline the secondary market process and urges the Commission to consider implementation of such a database for secondary market transactions.

#### **F. The Commission Should Not Allow Reaggregation of Previously Partitioned or Disaggregated Spectrum**

Some commenters assert that licensees should be able to reaggregate spectrum that has been partitioned or disaggregated on the secondary market.<sup>24</sup> GeoLinks maintains its position that allowing large carriers to lease off undesired spectrum within their license area and then reaggregate pieces later when they become desirable does little to further the Commission’s efforts to “increase spectrum access by small and rural carriers.”<sup>25</sup> GeoLinks agrees with RWA and WISPA that “allowing the reaggregation of spectrum creates the potential for abuse by large carriers” and “would defeat a critical benefit of encouraging secondary market spectrum transactions and would potentially lead to gamesmanship by larger carriers.”<sup>26</sup>

While in its comments CCA supports the concept of reaggregation, CCA’s interest seems to pertain more to the efficiencies of consolidation rather than the merits of whether reaggregation

---

<sup>21</sup> Comments of Federated Wireless, Inc., WT Docket No. 19-28 (filed June 3, 2019) (“Federated Wireless Comments”) at 3.

<sup>22</sup> Google Comments at 12.

<sup>23</sup> See Federated Wireless Comments at 4; *see also* DSA Comments at 11-12.

<sup>24</sup> See Comments of Competitive Carriers Association, WT Docket No. 19-28 (filed June 3, 2019) (“CCA Comments”) at 3; *see generally* Google Comments.

<sup>25</sup> NPRM at para. 1.

<sup>26</sup> RWA Comments at 5, WISPA Comments at 8-9.



is good spectrum policy.<sup>27</sup> GeoLinks is not opposed to the concept of consolidation of licenses if it pertains to carriers obtaining spectrum on the secondary market (i.e. a smaller carrier obtains a portion of a license area from the licensee and then obtains another portion of the license area from either the same licensee or another carrier) but remains staunchly opposed to the concept of reaggregation of licenses by the original licensee.

### **III. CONCLUSION**

For the reasons set forth herein, GeoLinks asserts that the Commission must create rules for spectrum partitioning and disaggregation that promote spectrum use in rural and unserved areas, deter spectrum warehousing by large spectrum holders, and allow small broadband providers and new technologies access to spectrum resources on a permanent basis. To reach these goals, GeoLinks urges the Commission to i) expand the definition of “carrier” to be more inclusive, ii) refrain from reducing buildout requirements, iii) adopt a “use it or lose it” approach to spectrum ownership, iv) create an automated database to track spectrum usage and promote efficiencies in secondary market transactions, and v) disallow spectrum reaggregation by large licensees.

Respectfully submitted,

**California Internet, L.P. DBA GeoLinks**

/s/ Skyler Ditchfield, Chief Executive Officer

/s/ Melissa Slawson, General Counsel/ V.P of Government  
Affairs and Education

July 1, 2019

---

<sup>27</sup> See CCA Comments 3.