

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

In the Matter of	)	
	)	
Amendment of Parts 1, 21, 73, 74 and 101	)	
of the Commission's Rules to Facilitate the	)	
Provision of Fixed and Mobile Broadband Access,	)	WT Docket No. 18-120
Educational and Other Advanced Services in the	)	
2150-2162 and 2500-2690 MHz Bands	)	
	)	
Transforming the 2.5 GHz Band	)	

**REPLY COMMENTS OF  
HISPANIC INFORMATION AND TELECOMMUNICATIONS NETWORK, INC.**

Hispanic Information and Telecommunications Network, Inc. ("HITN"), pursuant to Section 1.415(b) of the Commission's Rules, hereby submits Reply Comments in the above-captioned proceeding regarding the licensing of presently unassigned EBS spectrum (the "Unassigned EBS Spectrum") and options to transform the 2.5 GHz band.<sup>1</sup>

**I. The Leasing Model Has Been and Can Continue to be an FCC Success Story.**

HITN takes issue with commercial commenters that would seek to use misconceptions about the present educational use and current availability of EBS spectrum in an attempt to invalidate the present leasing system to promote auctions by which they may obtain existing and newly available spectrum for themselves. Some commenters point to the present unavailability of EBS spectrum in rural areas as a sign of the failure of the current licensing and leasing model

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<sup>1</sup> *Transforming the 2.5 GHz Band*, WT Docket No. 18-120, *Notice of Proposed Rulemaking*, FCC 18-59 (May 10, 2018) ("Notice"). The Commission extended the reply comment date to September 7, 2018. *Transforming the 2.5 GHz Band*, WT Docket No. 18-120, *Order*, DA 18-647 (June 21, 2018). By order released on June, 12, 2018, the Commission provided an extension of time for the filing of Reply Comments, until September 7, 2018.

and urge the FCC to take drastic action.<sup>2</sup> As HITN and others have pointed out in comments, the present unavailability of educational EBS services as well as commercial services on leased EBS capacity in rural areas has been the result of a protracted twenty year freeze on the licensing of EBS channels.<sup>3</sup> As NEBSA and CTN aptly put it “EBS does not need fixing, it needs finishing” by licensing the presently unassigned rural EBS spectrum.<sup>4</sup>

Other commenters eager for access to EBS spectrum have claimed that the present educational licensing rules have outlived their purpose and that educators no longer provide video or independent services.<sup>5</sup> However as comments demonstrate EBS licensees currently provide educational services of many kinds. For example, some licensees continue to provide traditional video programming services to their schools,<sup>6</sup> while others have deployed WiMAX and LTE platforms on their campuses,<sup>7</sup> and still others use Sprint provided equipment to provide mobile broadband services to students to further their educational missions and to bridge the homework

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<sup>2</sup> See e.g. Comments of AT&T at 1.

<sup>3</sup> HITN Comments at 3; Comments of Wireless Communications Association International (WCAI) at 4; Joint Comments of South Florida EBS Licensees (Joint Comments of SF-EBS) at 1; Comments of Voqal at 5; NEBSA & CTN Comments at 3.

<sup>4</sup> NEBSA & CTN Comments at 8.

<sup>5</sup> Wireless Internet Service Providers Association (WISPA) Comments at 1; Verizon Comments at 4-5.

<sup>6</sup> See e.g. Joint Comments of SF-EBS at 3 and n5 (identifying the School Boards of Broward and Miami Dade Counties, two of the largest school districts in the country as having made an expenditure in excess of ten million dollars to modernize their video distribution systems serving more than 800 schools using EBS channels).

<sup>7</sup> See e.g. Comments of Kings County Superintendent of Schools at 4 (providing LTE services to 27,000 students over a 1,400 square mile area); Comments of Northern Michigan University at 4 (providing LTE services to 9,000 students over a 12,764 square mile area); Comments of Consortium of School Networking at 8-9 (identifying Albemarle County Public School District as providing LTE services to 14,000 students over a 700 square mile area and Desert Sands Unified School District that is constructing an LTE platform for deployment in 2019).

gap.<sup>8</sup> Comments indicate that many educational and state entities that do not currently hold licenses are eager to obtain such licenses to offer similar services.<sup>9</sup>

A few commercial commenters have stated that existing leases frustrate robust commercial deployment.<sup>10</sup> However, contrary to such assertions, as WCAI has noted, the current leasing and secondary markets model has promoted robust commercial deployments in areas where EBS has been licensed.<sup>11</sup> In fact, Sprint has indicated in its comments that leased EBS spectrum capacity now constitutes the backbone of its tri-band 3G/4G LTE network.<sup>12</sup>

Another commercial commenter has opined that most educational services are merely an overlay and have so converged with those of their commercial operators that they call into question whether the leasing model promotes spectral efficiency and the highest and best use of the band.<sup>13</sup> However, the convergence of use and overlay services to which such entity refers are not a sign of failure, but rather suggest that the present model has worked to allow operators to develop service platforms of use to their EBS Lessors and that this unique partnership has driven the spectrum toward its highest and best use for all participants.<sup>14</sup>

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<sup>8</sup> See e.g. HITN Comments at Attachment 1; Comments of Voqal at 7; Comments of North American Catholic Educational Programming Foundation and Mobile Beacon at 2; Joint Comments SF-EBS at 2-3 & n3; Comments of Americas Public Television Stations and CPB at 4 (describing the SCETV laptop program).

<sup>9</sup> See e.g. Joint Comments of the Nebraska Department of Education, NET and OCIO at 6 (expressing interest in using EBS to build a statewide network); Comments of The Imperial County Office of Education and California K-12 High Speed Network at 4-18 (Looking to build on success of Kings County to build out EBS platforms in six other rural California Counties).

<sup>10</sup> Verizon Comments at 5; Comments of AT&T at 8.

<sup>11</sup> See WCAI Comments at 3-4 (conceding that where licensed, EBS spectrum excess capacity has been generally available for varied and dynamic commercial deployments); Comments of Sprint Corporation at 14 (noting that Sprint maintains long term leases on 1,600 EBS stations).

<sup>12</sup> Comments of Sprint Corporation at 2.

<sup>13</sup> WISPA Comments at 1.

<sup>14</sup> WCAI Comments at 4 (stating that present robust commercial lessees are constantly adjusting their full range of wireless service offerings to reflect the highest and best use of the band).

As indicated by HITN and many other EBS licensees in comments, the Leasing model established by the FCC in 1983 has been a success story that has allowed the FCC to maintain reserved spectrum for educational licensing and deployment and has provided such licensees with a private funding mechanism for the development and deployment of educational communications services<sup>15</sup> Additionally, this model has provided spectrum availability for commercial development, and as a result the lower cost availability of equipment suitable for educational applications on the band.<sup>16</sup> Therefore, HITN does not see a need for opening up eligibility, changing rules to promote commercial ownership or conducting overlay or incentive auctions. HITN further maintains that the Commission should take no action that would significantly interfere with existing EBS leases.<sup>17</sup> The flexibility of the current leasing and secondary market system can continue to serve as a useful means to avoid spectrum warehousing and to continue to rapidly allocate 2.5GHz excess capacity to its highest and most valued uses on a market by market, as well as on a national basis.

## **II The FCC Should First Automatically Rationalize Existing GSA to County Boundaries.**

HITN and most commenters supported the proposed initial automatic expansion of existing GSAs to county boundaries, rather than census tracts in order to remove service gaps and rationalize service area boundaries, before addressing the remainder of the Unassigned EBS

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<sup>15</sup> See e.g. NEBSA and CTN Comments at 7; Joint Comments SF-EBS at 5; Comments of Voqal at 7-8.

<sup>16</sup> Comments of WCAI at 3; Comments of Sprint at 2; Joint Comments SF-EBS at 4-5; Comments of North Michigan University at 3; Comments of Imperial County Office of Education and California K-12 High Speed Network at 4.

<sup>17</sup> Most Commenters agree that, the Commission should take no action that will invalidate or substantially interfere with existing private contractual leasing arrangements See e.g., WCA Comments at 29; WISPA Comments at 10; and Sprint Comments at 9, n. 24

Spectrum.<sup>18</sup> HITN would support the reasonable minimum threshold of 10% proposed by Sprint for existing area coverage within a county before a GSA is eligible for expansion as well as an exception for extremely large counties, in order to avoid conferring unfair windfalls on certain licenses.<sup>19</sup> However, in order to protect existing lease arrangements and deployments, the Commission should ensure that no GSA is reduced in size as part of the automatic existing GSA rationalization.

### **III Major Changes to the EBS Rules Are Not Necessary.**

HITN continues to maintain that wholesale changes to the EBS rules are unnecessary to achieve the Commission's main objectives. To the extent that any spectrum in the EBS band is licensed through auction to a commercial entity, such license could easily be subject to the commercial BRS rules already existing in Part 27 of the Commission's Rules, and therefore, there is no need to streamline existing EBS operational rules to facilitate any potential commercial licensing.<sup>20</sup>

While HITN has already acknowledged that the usage rules are somewhat awkwardly tied to the original educational distance learning video service provided on the band, a few proposals made by commenters seeking to offer potential replacements to the current time/content based rule

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<sup>18</sup> See Comments of HITN at 4-5; Sprint Comments at 4, WISPA Comments at 8-9, WCAI Comments at 13; Comments of AT&T at 6, Comments of Northern Michigan University at 6; Comments of VIYA at 14; Comments of Rural EBS Coalition at 4; Comments of Educators and Broadband Providers for Rural American Communities (EBPARC) at 8-9; Comments of Americas Public Television Stations and CPB at 5-6; Comments of The Imperial County Office of Education and California K-12 High Speed Network at 20; Comments of Voqal at 17-18; and Joint Comments SF-EBS at 9-10.

<sup>19</sup> See Comments of Sprint at 5 (proposing 10% threshold). See also Comments of EBPARC at 9. The Commission would need to select a square mileage threshold to be considered an extremely large county, but such an exception could avoid the types of windfalls feared by the Commission and identified by some commenters. See Comments of The School Superintendents Association and the Association of Educational Service Agencies at 9.

<sup>20</sup> See HITN Comments at 5-6: Comment of Gallatin Wireless Internet, LLC at 5.

demonstrate the difficulties encountered in seeking to make such an adjustment. One party proposed a shift to a capacity based model that would attach to existing licensees at the conclusion of their current leases.<sup>21</sup> The model would require a dynamic annual reassessment of commercial lessee capacity and an adjustable set aside that would likely prove difficult to police and would no doubt inject unacceptable uncertainty for operators regarding their long term financial models, which in turn might affect their ability to secure capital and their ability to plan for commercial usage capacity. Another commenter somewhat awkwardly proposed that each licensee be required to provide low cost uncapped broadband accounts to 20% of its customers.<sup>22</sup> Such a proposal is unworkable, as most EBS licensees are educational entities that don't or can't sell services.

As HITN has previously stated, if the FCC attempts to update the reserved capacity and usage requirement, care should be taken to create a standard that can be achieved by both large urban and small rural educational institutions and nonprofits serving such institutions. The standard should not be so burdensome as to require expensive or technologically complex usage tracking capabilities and should allow for the myriad of different educational applications relied upon by licensees and their end users. Further, the Commission should be mindful not to adopt changes that would require a wholesale renegotiation of existing agreements, which could in turn lead to the radical disruption of existing commercial deployments and service to existing commercial customers.

## **CONCLUSION**

For the reasons set forth herein and in its Comments, HITN urges the Commission to retain the current eligibility restrictions on the EBS band to ensure that spectrum remains available for

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<sup>21</sup> Comments of North American Catholic Educational Programming Foundation and Mobile Beacon at 28-32.

<sup>22</sup> Comments of The Schools, Health & Libraries Broadband (SHLB) Coalition at 4-5.

educational use, while continuing to rely on voluntary leasing and a robust secondary market to ensure that spectrum in this band remains available for advanced wireless broadband service deployments and may be quickly shifted to its highest and best use. HITN also requests that the FCC initially expand the GSAs of current EBS licensees to county boundaries, in order to eliminate gaps and create a more rational and consistent licensing scheme, before proceeding with the licensing of currently Unassigned EBS Spectrum. Finally, HITN urges the Commission to avoid any unnecessary, or potentially service-disruptive rule changes and to implement only rule changes that are based on existing standards previously used in conjunction with EBS or which are sensitive to the special needs of both large urban and small rural educational institutions and nonprofits serving such institutions and which allow for the myriad of different educational applications relied upon by such licensees.

Respectfully Submitted,

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