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September 22, 2020

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: ***Facilitating Shared Use of the 3.1-3.55 GHz Band
WT Docket No. 19-348
Notice of Ex Parte Communications***

Dear Ms. Dortch:

On September 18, 2020, Louis Peraertz, Vice President of Policy for the Wireless Internet Service Providers Association (“WISPA”), and Stephen Coran, outside counsel to WISPA, met by telephone with Bill Davenport, Legal Advisor to Commissioner Geoffrey Starks, and with Sean Spivey, Legal Advisor to Chairman Ajit Pai. On September 21, 2020, Messrs. Peraertz and Coran met by telephone with Umair Javed, Legal Advisor to Commissioner Jessica Rosenworcel. The purpose of both meetings was to discuss the above-referenced proceeding.¹

In proposing rules for commercial use of the 3.45-3.55 GHz band, the WISPA representatives asked the Commission to propose rules that would incorporate licensing and technical rules similar to those the Commission employed in the adjacent Citizens Broadband Radio Service (“CBRS”) band. Specifically, CBRS spectrum should be auctioned by using county license areas in 10-megahertz spectrum blocks, with opportunistic “license by rule” use permissible when and where licensees and federal operations are not using this spectrum. For areas where not all spectrum licenses are sold at auction, the Commission should permit opportunistic use of that spectrum. The technical rules should promote consistency across the 3.45-3.7 GHz band to, among other things, prevent harmful inference to CBRS fixed client devices and other CBRS operations.

In support of these proposals, we pointed to the recent results of the successful CBRS Priority Access License (“PAL”) auction in which 91.1 percent of 22,631 county-based licenses were sold in 3,225 counties.² The CBRS PAL auction design attracted 271 different qualified bidders and 228 different winning bidders. Successful bidders included large nationwide mobile wireless companies, large cable companies, and small fixed wireless companies with 500 or fewer subscribers. Nearly 70 WISPA members – small companies which generally serve hard to

¹ *Facilitating Shared Use of the 3.1-3.55 GHz Band*, Report and Order and Further Notice of Proposed Rulemaking, FCC-CIRC2009-01 (Sept. 9, 2020) (“*Draft FNPRM*”).

² PALs were available in a total of 3,233 counties. This means there were only eight counties that did not attract any winning bids for PALs.



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reach rural communities – placed winning bids for more than 3,600 licenses in more than 1,350 counties, representing more than 17 percent of all the licenses won. WISPA members spent \$100.4 million in Auction 105, an unprecedented amount when considering the fixed wireless industry’s historical reliance on Part 15 unlicensed spectrum to serve its customers.

We also pointed out that because each PAL holder has a buildout obligation at the county level, the results of the CBRS PAL auction mean that rural areas in 3,225 counties are much more likely to be expeditiously served with licensed services than had that auction involved licensing by Partial Economic Area (“PEA”). In light of the Commission’s buildout rules, which are based on a percentage of population for point-to-multipoint and mobile services and a number of links per population for point-to-point services, licensing by PEAs, as proposed in the *Draft FNPRM*, would incentivize more rapid buildout in dense and wealthier urban areas, and deter buildout in sparsely populated rural counties and low-income counties of the PEAs. For these reasons, a spectrum auction using county-sized geographic license areas would help bridge digital divides more effectively than one using PEAs.

Depending on whether current Federal incumbents are relocated to another band, a frequency coordinating system may or may not be necessary. The Commission should consider an “incumbent informing” system where the Federal incumbents provide the coordinating system with notice of activations without the need to deploy Environmental Sensing Capabilities. The Commission should carefully consider the ramifications on relocating Federal incumbents to the CBRS band given their impact on both GAA and PAL use. WISPA requests that the *Draft FNPRM* should specifically propose appropriate protection for adjacent CBRS operations, including considering use of time division duplex (TDD) synchronization and out of band emission (OOBE) limits to mitigate harmful interference between these two bands. WISPA further recommends that power limits should be lower than those permitted on the 3.7-3.98 GHz band. Lowering the power limits will limit interference to CBRS and help reduce the size of federal protection zones.

To invite comment on the licensing scheme and technical rules that WISPA supports, the *Draft FNPRM* should be revised to incorporate the following line edits (proposed additions are underscored and deletions stricken, and footnotes omitted):

Para. 71. “We seek comment on appropriate technical rules to maximize the potential uses of the 3.45-3.55 GHz band, particularly for the next generation of wireless services, while minimizing the impact on adjacent band incumbents, consistent with the public interest. In order to promote maximum flexibility for 5G deployments, we propose to align the technical rules for this band with those adopted in the 3.7 GHz band. We seek comment on this overarching proposal and its potential impact on operations in adjacent bands. We also seek comment on alternative approaches. ~~For example,~~ We anticipate that fixed wireless providers will deploy fixed client



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devices in this band. What technical standards should apply to such devices, particularly when mounted outdoors? In order to prevent interference to fixed and mobile operations in the CBRS band, should the technical rules for this band more closely resemble those for the Citizens Broadband Radio Service in the 3.5 GHz band? We seek comment on the technical approach that will maximize the spectral efficiency of 3 GHz spectrum. In addition, we seek comment on appropriate power limits, out-of-band emissions limits, antenna height limits, service area boundary limits, international coordination requirements, and any other technical rules that would maximize flexible use of the band while protecting new, non-federal licensees and federal incumbents in adjacent bands.

Para. 95. *Geographic License Area.*— Considering the opportunity presented here to align the 3.453-3.55 GHz band with other mid-band spectrum, we seek comment on the appropriate geographic license area for the band to best facilitate robust band use. In determining the appropriate geographic license size, the Commission must consider several factors, including: (1) facilitating access to spectrum by both small and large providers; (2) providing for the efficient use of spectrum; (3) encouraging deployment of wireless broadband services to consumers, especially those in rural areas and Tribal lands; and (4) promoting investment in and rapid deployment of new technologies and services. In light of these statutory considerations, we propose to issue flexible use licenses on a county ~~Partial Economic Area (PEA)~~ basis, as we adopted for the recently concluded CBRS PAL auction 3.7 GHz Service. We note that county-based licensing in that auction led to successful results. It attracted 271 qualified applicants and 228 winning bidders. Only eight of the 3,233 counties did not receive winning bids for PALs in that auction. We ask commenters to discuss and quantify the economic, technical, and other public interest considerations of licensing on a county ~~PEA~~ basis, or if offering alternatives, to discuss and quantify the same considerations for that alternative. We invite commenters to discuss which set of considerations is most applicable for the circumstances of the 3.45-3.55 GHz band. Or do the considerations in this band indicate a different geographic license area is more appropriate? As we have for the adjacent CBRS band, should we allow “license-by-rule” use for some spectrum in the band? Should we permit opportunistic use when and where licensees and federal users are not using the spectrum? For areas where not all spectrum licenses are sold at auction, should we permit opportunistic use of that spectrum? We ask commenters to address the costs and benefits of their recommended licensing approach.



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Pursuant to Section 1.1206 of the Commission's Rules, this letter is being filed in ECFS in above-referenced docket. Please contact the undersigned with any questions.

Respectfully submitted,

/s/ Louis Peraertz

Louis Peraertz, Vice President of Policy

cc: Bill Davenport
Sean Spivey
Umair Javed