

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

In the Matter of)	
)	
Process for Relicensing 700 MHz Spectrum in)	WT Docket No. 06-150
Unserved Areas)	

COMMENTS OF THE RURAL WIRELESS ASSOCIATION, INC.

The Rural Wireless Association, Inc. (“RWA”)¹ files these comments in response to the Public Notice (“Notice”) issued by the Federal Communications Commission’s (“FCC” or “Commission”) Wireless Telecommunications Bureau (“Bureau”) seeking comment on the process for relicensing 700 MHz spectrum in unserved areas.² RWA limits these comments to a discussion of the construction requirement applicable to licensees of 700 MHz licenses acquired through the relicensing process. Pursuant to Section 27.14(j)(3) of the Commission’s rules, such licensees will have one year from the date the new license is issued to complete construction, provide signal coverage, and offer service over 100 percent of the geographic area of the new license area. That rule also provides that if the licensee fails to meet this construction

¹ RWA is a Washington, DC – based trade association that ensures wireless carriers with fewer than 100,000 subscribers have a strong voice in our nation’s capital. RWA’s members have joined together to speed the delivery of new, efficient, and innovative communications technologies to underserved rural communities across the United States of America. RWA’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone/broadband companies that are passionate about ensuring rural America is not left behind.

² *Wireless Telecommunications Bureau Seeks Comment on Process for Relicensing 700 MHz Spectrum in Unserved Areas*, Public Notice, WT Docket No. 06-150, DA 17-810, rel. Aug. 28, 2017 (“Notice”).

requirement, its license will automatically terminate without Commission action and it will not be eligible to apply to provide service to this area at any future date.³

To “prevent potential gaming of the relicensing process,” the Bureau has proposed to treat any modification, cancellation, or assignment of a license as a failure to meet the 100% buildout requirement resulting in automatic termination of the license.⁴ While RWA understands the Bureau’s concern with use of the spectrum relicensing process to engage in spectrum warehousing and other activities that contravene the public interest, the proposal fails to recognize the legitimate reasons that may prompt a need for a license modification during the relicensing process. Due to the vagaries of RF radiation, it is difficult for a licensee to ensure that it provides the requisite level of signal coverage to every square inch of its license territory. In some instances, real world propagation may not allow a licensee to duplicate predicted coverage, and coverage may fall short of 100%. Accordingly, a *de minimis* shortfall in meeting the 100% coverage requirement should be permitted without subjecting the licensee to automatic termination of its license. It is not necessary to modify the 100% buildout requirement in order to do so, however. The Bureau simply has to permit the licensee to modify its license prior to the one year benchmark in order to reduce the size of the area it is required to cover. In order to prevent abuse of this process, RWA suggests that such modification be permitted only to the extent the reduction in license area is considered *de minimis*. RWA suggests that the Bureau use 10% as a *de minimis* standard. Under such standard, a licensee would be permitted to modify its license prior to its one year construction benchmark as long as the modification does not result in a reduction greater than 10% in the size of its license area. This will balance the occasional need of a licensee to reduce the size of its coverage area by a *de minimis* amount to account for real

³ 47 C.F.R. §27.14(j)(3).

⁴ Notice at par. 22.

world technical impediments against the Bureau's desire to deter manipulation of its relicensing process.

RWA recognizes the existence of another option for dealing with a *de minimis* shortfall issue – filing a request for rule waiver. However, the preparation and filing of a waiver request requires a large expenditure of resources of the licensee and FCC staff, resources that small carriers like RWA's members cannot afford to expend without incurring harm to their ability to provide services to their rural customers. Waiver requests also necessarily entail a degree of uncertainty which may in itself deter small rural carriers from participating in the relicensing process due to the risk of potentially investing substantial resources in building out portions of their network that may potentially be lost as a result of strict enforcement of the buildout requirement. The Notice recognizes that some of its proposed restrictions may need to vary depending on whether the licensee is a small entity, and this is exactly such an example where the Bureau should afford additional flexibility to small entities.⁵

Finally, while RWA agrees generally that licensees of relicensed 700 MHz spectrum should only be permitted to file applications to assign licenses acquired through relicensing after they have demonstrated that they have met the construction benchmark, it notes that there should be an exception to allow such assignment of licenses and pending applications where the assignment is part of a larger transaction. For example, companies that are exiting the wireless business and selling all of their licenses should not be forced to lose a 700 MHz license where the construction benchmark has not been met or the application is still pending when it is part of a larger overall transaction.

⁵ See, e.g., Notice at par. 22.

If the Bureau adopts its proposal to treat any modification or assignment of a license as a failure to provide signal coverage and offer service to the entire relicensed area, small rural carriers like RWA members may be deterred from applying for relicensed spectrum. Such a result would harm the interest of those in need of wireless services in these typically small rural areas that original 700 MHz licensees have chosen not to serve. Allowing the modification or assignment of licenses for relicensed 700 MHz spectrum as proposed above will enable small rural carriers to comfortably devote the resources needed to bring the public interest benefits of additional wireless service to these currently unserved and underserved areas without hindering the Commission's goals in this proceeding.

Respectfully submitted,

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