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December 6, 2017

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

Re: **Wireless Internet Service Providers Association
GN Docket No. 17-258
Notice of Oral Ex Parte Presentation**

Dear Ms. Dortch:

On December 5, 2017, on behalf of the Wireless Internet Service Providers Association (“WISPA”), Jimmy Carr, CEO of All Points Broadband and a member of WISPA’s Board of Directors, Ari Storch, and undersigned counsel to WISPA met with Chairman Ajit Pai, his Legal Advisor Rachael Bender, and his Communications Director Brian Hart to discuss issues related to the above-referenced proceeding.¹

The WISPA representatives noted that our members are deploying private, at-risk capital, to bridge the digital divide in rural America, where 23 million rural Americans lack broadband access. We emphasized that licensed, mid-band spectrum in the form of Priority Access Licenses (“PALs”) in the Citizens Broadband Radio Service (“CBRS”) band will be critical for connecting unserved and underserved Americans in rural areas, because it (1) enables wireless internet service providers (“WISPs”) to offer service to customers lacking line-of-site to transmit locations, and (2) provides additional capacity in areas where WISPs are using all available unlicensed spectrum, and are therefore unable to connect additional customers.

The WISPA representatives emphasized that the current CBRS rules that were adopted in 2015 should be maintained to harness private capital to connect underserved Americans and to support innovation. In particular, we urged that census tracts be retained as the geographic area for all seven PALs in all areas of the country. Allocating PALs on the basis of census tracts will

¹ *Promoting Investment in the 3550-3700 MHz Band; Petitions for Rulemaking Regarding the citizens Broadband Radio Service*, GN Docket No. 17-258, RM-11788 (Terminated) and RM-11789 (Terminated), FCC 17-134 (Oct. 24, 2017) (“*CBRS NPRM*”).



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enable mobile carriers and a broad variety of other use cases – such as WISPs, schools, hospitals, internet-of-things companies, agribusinesses, mining and industrial users, airports, seaports, hotels, stadiums, arenas and race tracks (collectively, “Non-Mobile Users”) – to compete in PAL auctions. By contrast, proposals in the *CBRS NPRM* to enlarge PAL areas to Partial Economic Areas (“PEAs”) or counties, and to significantly extend license terms, would foreclose auction participation for all but a few large mobile wireless carriers.

Mr. Carr encouraged Chairman Pai to ensure that the large mobile carriers should not be permitted to use the regulatory process to undo the rules adopted just two years ago and thereby further cement their dominance in the wireless marketplace. The WISPA representatives explained that modifying the PAL rules in the manner proposed in the *CBRS NPRM*, which would only benefit the mobile-carrier use case to the competitive detriment of all other use cases, would be tantamount to picking winners and losers, a result the Commission should not permit.

The WISPA representatives reviewed the attached maps to demonstrate that licensing by census tracts will, in rural areas, enable WISPs and other competitive providers to bid for PALs of mid-band spectrum that they can use to help bridge the digital divide that has left 23 million rural Americans without fixed broadband access. Among other things, the maps show that census tracts are the most logical geographic area for PALs, because mobile carriers *and* Non-Mobile Users can maximize their bids in the discrete areas where they will be the highest and best users of the spectrum, but that requiring bidders to acquire PEAs or PEAs would significantly raise barriers to entry by dramatically increasing the amount of money it would take to purchase PALs for such large geographic areas. In addition, we noted that unserved and extremely high cost areas preliminarily designated for Connect America Fund (“CAF”) Phase II support frequently straddle PEA boundaries – as opposed to lying within PEA boundaries – a circumstance that would make it more difficult for PAL spectrum to be used to connect the underserved using private capital and/or CAF support.

Citing the successful incentive auction the Commission recently conducted, the WISPA representatives rejected the suggestion that conducting a PAL auction on the basis of census tracts would be “too complex” for the Commission, and noted that an auction process on the basis of census tracts would, in fact, consist of a large number of *very simple* auctions. Even if one accepts the suggestion that an auction on the basis of census tracts would be complex, we asserted that administrative convenience is not a sufficient justification for changing the *CBRS* rules in a way that will frustrate the national imperative of connecting millions of rural Americans who lack broadband access today.

The WISPA representatives also explained that disaggregating and partitioning larger geographic areas is not a viable substitute or “remedy” for a shift to larger geographic areas for PALs. Historically, mobile carriers have been unwilling to enter into agreements with smaller competitive providers to make their spectrum available on the secondary market, even in areas where such spectrum is not being used by mobile carriers. We also indicated that build-out obligations are wholly inconsistent with the “use-it-or-share-it” regime for the *CBRS* band,



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which would be frustrated if the rules incentivize pro-forma deployments in rural areas that occupy spectrum without delivering service to end users.

The WISPA representatives also noted that WISPs, other Non-Mobile Users, equipment manufacturers, SAS vendors and others have *already made* substantial investments in reliance on the current CBRS rules adopted in 2015. In particular, WISPs have invested millions of dollars in base stations and CPE that currently only operate in 3650-3700 MHz, but that will, without the need to purchase hardware or roll trucks, have the ability to operate over the entire 3550-3700 MHz band once the Commission has certified SAS and ESC systems. If the changes proposed in the *CBRS NPRM* are enacted and WISPs are therefore precluded from competing in the PAL auctions, these investments (which are substantial in relation to the balance sheets of the small business members of WISPA) will be stranded. Such an outcome is the very definition of realized regulatory risk, and would further impede the ability of WISPs and other competitive providers to attract private capital to connect rural Americans.

In sum, we pointed out that the *CBRS NPRM* would undo rules the Commission unanimously adopted just two years ago. The existing rules will accelerate fixed broadband deployment to rural areas, and support many different business models, including but not limited to those of national carriers. The rules proposed by the *CBRS NPRM*, however, would practically foreclose access to PALs by any company other than the few large mobile wireless carriers that operate over large geographic areas.

This letter is being filed electronically via the Electronic Comment Filing System in the above-captioned proceedings.

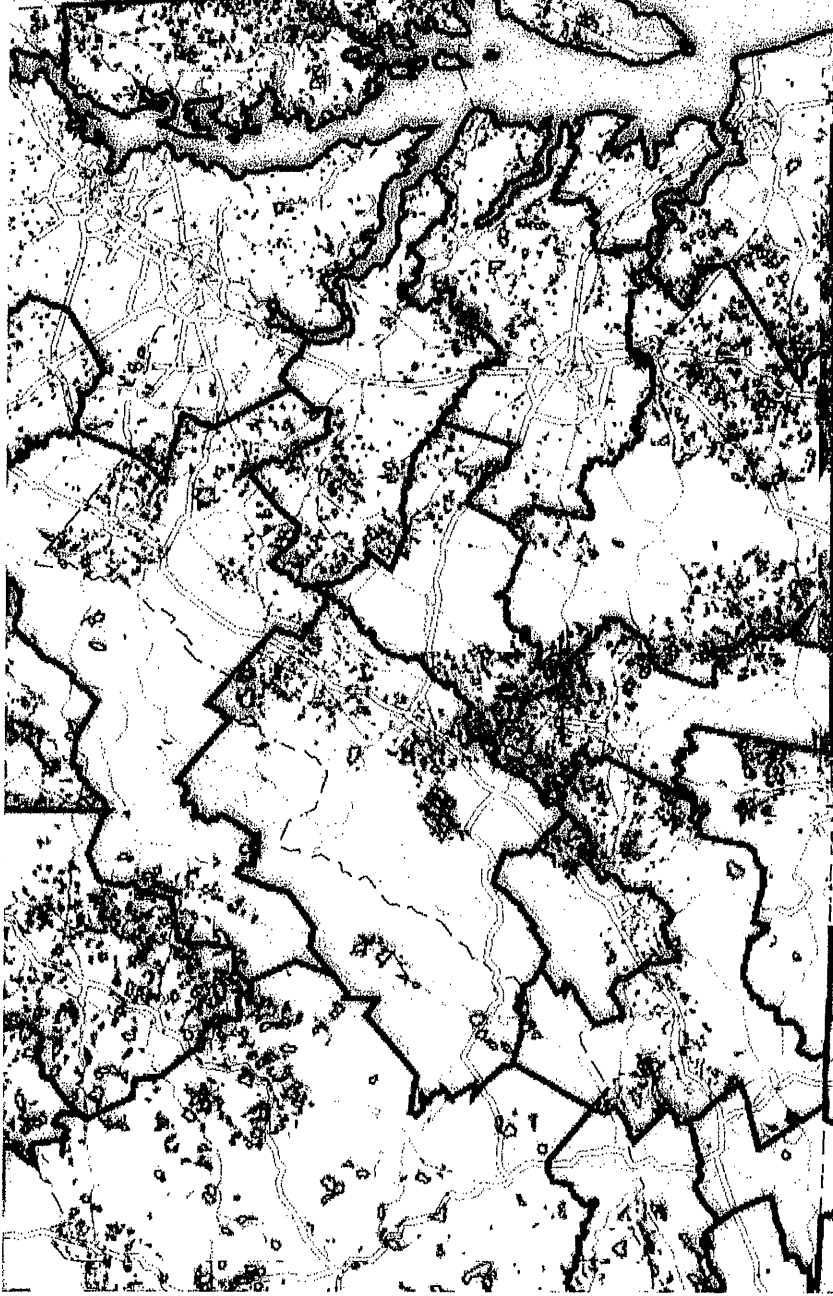
Respectfully submitted,

/s/ Stephen E. Coran

Stephen E. Coran

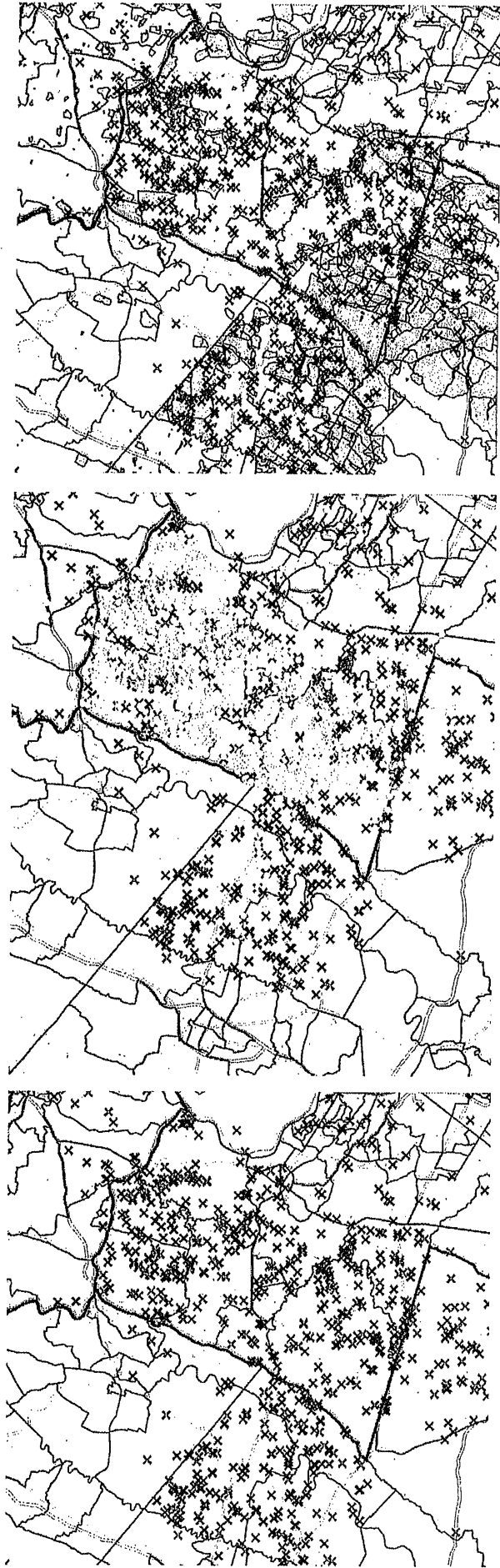
Enclosures

cc: Chairman Ajit Pai
Rachael Bender
Brian Hart



Unserved areas tend to straddle PEA boundaries

Dark blue lines:	PEA boundaries
Shading:	CAF-designated unserved area



Dark blue lines:	PEA boundaries
Light green lines:	Census tract boundaries
Yellow dot:	Installed customer / customer cluster
Red X:	Potential customer / customer cluster that requested service that cannot be connected due to lack of capacity or lack of NLOS coverage
Green shading:	CAF-designated unserved area