

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)

Promoting Investment in the 3550-3700 MHz Band)

GN Docket No. 17-258

COMMENTS OF CHARTER COMMUNICATIONS, INC.

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I. INTRODUCTION AND SUMMARY

Charter Communications, Inc. (“Charter”) files these comments in response to the Federal Communications Commission’s (“Commission”) Notice of Proposed Rulemaking seeking comment on several proposed changes to the rules regarding Priority Access Licenses (“PALs”) in the 3550-3700 MHz band (“3.5 GHz Band”).¹ The 3.5 GHz Band is an important component of Charter’s wireless strategy as the company is in the process of transitioning its wireless network from a nomadic WiFi network to one that supports full mobility by combining its existing WiFi assets with multiple 4G and 5G access technologies to deliver seamless connectivity for consumers. Charter views the 3.5 GHz Band as a critical element of this transition and is actively trialing both 3.5 GHz Band mobility and fixed use cases.

Charter supports the comments filed in this proceeding by NCTA–The Internet and Television Association (“NCTA”) that encourage the Commission to refine its rules in a manner that fosters innovative wireless approaches in the band and provides new wireless entrants like Charter with a viable path towards efficient use of the 3.5 GHz Band. Most significantly, Charter encourages the Commission to adopt (1) licensing areas no larger than counties and; (2) performance requirements if it extends PAL license terms and adopts a renewal expectancy. By taking such an approach, the Commission will promote the deployment of 5G across the country, increase wireless competition, spur investment, and promote the efficient use of the 3.5 GHz Band.

II. A GEOGRAPHIC LICENSING AREA NO LARGER THAN COUNTIES WILL PROMOTE WIRELESS COMPETITION AND MORE EXPANSIVE NETWORK DEPLOYMENT

Charter is in the process of transitioning its wireless network from a nomadic WiFi

¹ See *Promoting Investment in the 3550-3700 MHz Band*, GN Docket No. 17-258, Notice of Proposed Rulemaking and Order Terminating Petitions, 32 FCC Rcd 8071 (2017).

network to one that supports full mobility by combining its existing WiFi assets with multiple 4G and 5G access technologies. In navigating this technological transition, Charter is concentrating on an “Inside-Out” strategy, initially focusing on advanced wireless solutions inside the home and office, and eventually expanding outdoors.²

This transition is planned to happen in two phases. First, in 2018, Charter will begin offering a mobile wireless service to its customers as a WiFi-first MVNO, partnering with Verizon Wireless and using Charter’s own, extensive WiFi infrastructure to enhance customer connectivity and experience. In the second phase, Charter plans to use the 3.5 GHz Band in conjunction with its WiFi network to improve network performance and expand capacity to offer consumers a superior wireless service. Charter’s intended use of this band, however, requires rules facilitating new entrants’ access to this critical spectrum.

In order to promote wireless competition as well as faster and more expansive network deployment, Charter urges the Commission to expand the current PAL geographic licensing area by replacing census tracts³ with licensing areas no larger than counties. The Commission previously concluded that auctioning licenses by county is feasible,⁴ and that the adoption of geographic licensing areas larger than counties—such as Partial Economic Areas (“PEAs”)—is likely to create a barrier for new entrants to implement the innovative business models that the

² Charter currently is working with eight different vendors in Tampa and Charlotte for its 3.5 GHz Band mobility use cases, and is also testing a fixed wireless solution in the 3.5 GHz Band in six different markets. *See, e.g.*, CCO Fiberlink, File No. 1203-EX-ST-2017, Call Sign WL9XSI (authorization to conduct experimental testing in 3.5 GHz band in Centennial and Englewood, CO); CCO Fiberlink, File No. 1267-EX-ST-2017, Call Sign WL9XUH (authorization to conduct experimental testing in 3.5 GHz band in Bakersfield, CA, Coldwater, MI, and Charlotte, NC).

³ *See Amendment to the Commission’s Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, GN Docket No. 12-354, Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 3959, 3991-92 ¶¶ 96-97 (2015) (“3.5 GHz Report & Order”).

⁴ *See* 47 C.F.R. § 30.5(b) (“For the 27.5-28.35 GHz band, the service areas shall be counties.”).

Commission intended to foster with this band.⁵

Small cells are not well-suited for large geographic license areas because, as a matter of design and engineering, these cells provide less coverage than traditional macrocells.

Importantly, smaller license sizes will enable new entrants to more efficiently leverage their existing infrastructure in those counties that encompass their networks. Utilizing existing networks would enable new entrants such as Charter to rapidly deploy 3.5 GHz radios throughout these county-sized licensing areas for the provision of wireless broadband service. This results in more wireless service options with better throughput for more consumers in a shorter period of time.

Increasing the geographic licensing size of PALs to PEAs, as some commenters have proposed, would likely limit access to the 3.5 GHz Band to the country's largest incumbent wireless carriers. With larger license areas to cover, only those companies with national scale and an already significant wireless network presence throughout a PEA will be in a position to invest in expensive new licenses. Indeed, should such entities require the certainty of PEA-sized service areas, they remain fully able to aggregate license holdings through the process of a fair and competitive auction of county-sized licenses.

A Commission decision to adopt license areas larger than counties is therefore tantamount to picking in advance the winning bidders in a future PAL auction. Such an outcome would minimize auction proceeds, fail to serve the goals of competition and innovation, and effectively prioritize the needs and financial resources of the nation's largest carriers over new entrants and smaller providers. By opting instead to adopt license areas allowing new entrants a

⁵ See, e.g., *3.5 GHz Report & Order*, 30 FCC Rcd at 3963 ¶ 8 (“This Report and Order initiates a comprehensive regulatory scheme to promote development of innovative technologies and services in the 3.5 GHz Band.”).

viable point of entry via the 3.5 GHz Band, the Commission would enable new entrants and wireless providers of all sizes to compete directly for PALs.

III. PERFORMANCE REQUIREMENTS MUST ACCOMPANY ANY EXTENSION OF THE PAL LICENSE TERM AND ADOPTION OF A RENEWAL EXPECTANCY TO ENSURE THE 3.5 GHZ BAND SPECTRUM IS PUT TO ITS HIGHEST AND BEST USE

The Commission must subject PALs to performance requirements based both on population and geographic area if it extends the PAL license term and adopts a renewal expectancy for these licenses.

Charter appreciates that the current three-year license term for PALs is an inordinately short period of time to deploy a network of any scope and breadth, and that a longer license period with expectation of renewal will provide the necessary certainty to promote more investment in the 3.5 GHz Band. Although traditional performance requirements are ill-suited for the existing non-renewable three-year terms, such requirements are warranted if the Commission adopts longer license terms and expectations for renewability.

The Commission must balance its desire for broad investment in the band with the need to ensure efficient use of the spectrum. Not only is the adoption of performance requirements consistent with the Commission's traditional policy for longer license terms, this approach also guarantees that the 3.5 GHz Band spectrum will be put to its highest and best use. Moreover, even though the 3.5 GHz Band rules provide for the use of General Authorized Access ("GAA") spectrum where a PAL license is not in use,⁶ without performance requirements, a PAL licensee, who could at any moment activate a claim to its previously unused spectrum, poses a persistent threat to the business model of any network entity attempting to employ that spectrum as GAA.

⁶ 47 C.F.R. § 96.35(a); *see also 3.5 GHz Report & Order*, 30 FCC Red at 3983 ¶ 72.

Such a PAL licensee could retain a right to the spectrum in perpetuity, without any accompanying utilization of the spectrum for the benefit of the public, and at the expense of others able to do so.

This inefficiency would disturb the dynamic benefit of the 3.5 GHz Band by enabling speculators and larger carriers to engage in anticompetitive conduct by warehousing PAL licenses both to artificially increase their value and to prevent new entrants from gaining access to licensed 3.5 GHz Band spectrum—all of which increases the barriers to entry for innovative wireless service providers. By adopting performance requirements for the 3.5 GHz Band, the Commission will ensure the public interest is served by the promotion of spectrum availability, efficiency, and usability.

IV. CONCLUSION

For the foregoing reasons, the Commission should adopt a geographic licensing scheme no larger than counties and performance requirements for PALs to ensure the 3.5 GHz Band spectrum is put to its highest and best use. These appropriate rule changes will not only incentivize continued investment and future deployment in the band by new entrants, but also avoid upsetting the opportunities for innovation provided by the dynamic nature of the band's current framework. By adopting these rule modifications, the Commission will place Charter and other new entrants in a competitive position to quickly deploy and provide service in this band.

Respectfully submitted,

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