

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

In the Matter of)	
)	
Promoting Investment in the 3550-3650)	GN Docket No. 17-258
MHz Band)	
)	

To: The Commission

COMMENTS OF SOUTHERN LINC

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Southern Communications Services, Inc. d/b/a Southern Linc (“Southern Linc”) hereby submits its comments in response to the Commission’s Notice of Proposed Rulemaking in the above-captioned proceeding requesting comment on proposed changes to the rules governing the Citizens Broadband Radio Service (“CBRS”).¹

Southern Linc urges the Commission to maintain the regulatory framework for the CBRS band that it established in 2015. In particular, Southern Linc opposes any changes to the Commission’s current CBRS rules that would effectively restrict or foreclose the availability of or access to CBRS spectrum on a Priority Access License (“PAL”) basis and urges the Commission to maintain the current PAL license term and the use of census tracts as the appropriate geographic license area. As discussed herein, the regulatory flexibility and adaptability of the current CBRS licensing framework provides potential users of the band with the opportunity to develop, implement, and deploy innovative services and network

¹ / *Promoting Investment in the 3550-3650 MHz Band*, GN Docket No. 17-258, Notice of Proposed Rulemaking, 32 FCC Rcd 8071 (2017) (“*NPRM*”).

configurations supporting a wide variety of potential use cases – both commercial and private – all of which will ultimately benefit the public and achieve an appropriate balance of the statutory objectives established for the Commission by Section 309(j) of the Communications Act (the “Act”).

EXECUTIVE SUMMARY

The current regulatory framework for the CBRS band has encouraged, and will continue to encourage, substantial innovation and investment by a broad cross-section of users in a diverse array of technologies, services, and applications that serve important public interest needs through a variety of deployment models and use cases, including many that may not be adequately supported by the Commission’s conventional licensed or unlicensed rules. Moreover, the current CBRS licensing framework will, without any further change, fully accommodate and enable the deployment of new technologies and services that are still being developed – such as 5G and other next-generation technologies – alongside this variety of current and potential use cases. Accordingly, there is no need for the Commission to “pick winners and losers” by adopting new rules intended to promote a single technology and use case while effectively dissuading others.

In the *NPRM*, however, the Commission contemplates revisions to its Priority Access License (“PAL”) rules that would effectively put the opportunity to acquire a PAL out of reach to all but the largest commercial providers, thus effectively foreclosing the vast majority of potential users and use cases from accessing or utilizing the CBRS band on anything other than an unprotected, opportunistic basis. First, the Commission proposes extending the term of PALs from three years to ten years, which will make the prospect of obtaining PALs significantly more expensive and could drive the cost of PALs beyond what many of the potential users of the

CBRS band, such as smaller commercial entities and private network operators, could afford. This problem would be exacerbated by making these licenses renewable, which would effectively make the grant of a PAL permanent and foreclose access to PALs for new technologies and services and new market entrants.

As with the proposed extension of the PAL license term, assigning PALs based on larger geographic areas, such as Partial Economic Areas (“PEA”), would undercut the very purpose of the CBRS band. PEAs are much too large for the service needs of the vast majority of potential CBRS users; if PEAs were to be adopted, an entity seeking to operate in a limited geographic area, such as the area around an electric generation facility, would be compelled to submit the highest bid for the entire PEA, thus foreclosing the PAL as an economically viable option. Conversely, maintaining the current census tract license area for PALs would promote targeted, efficient use of the spectrum and encourage network investment and deployment by a wide variety of users, as well as encourage ongoing innovation and investment in new services, technologies, and use cases that meet important commercial and public interest needs.

Partitioning, disaggregation, and reliance on secondary market transactions are neither adequate nor appropriate as a substitute for smaller license areas. Such transactions are entirely voluntary and there is no requirement for any licensee to lease, partition, or disaggregate a license. The costs of secondary market transactions (to the extent they are even available) would also serve as an economic barrier to smaller entities and endanger the economic viability of smaller-scale, localized deployments. If the Commission were to rely on secondary market transactions, it would essentially be abdicating its statutory and public responsibilities under Section 309(j) of the Act by entrusting the achievement of the statute’s objectives to the sole discretion of private commercial interests.

Southern Linc agrees, however, that discrete revisions to certain other rules governing PALs would be warranted, such as eliminating the current rule that limits the number of PALs in a given license area and assigning a PAL even when there is only one qualified applicant in a given license area. However, Southern Linc contends that, if anything, the current spectrum aggregation limit for PALs should be lowered in order to maximize entry to and use of the band by multiple entities. The Commission should also reject proposals to allow PAL applicants to bid on specific channel assignments as unnecessary, impractical, and potentially anticompetitive.

I. INTRODUCTION

Southern Linc, a wholly owned subsidiary of Southern Company, operates a commercial digital 800 MHz ESMR system to provide interconnected voice, dispatch, push-to-talk, text and picture messaging, internet access, and data transmission services over the same handset.

Southern Linc provides these services over a 127,000 square mile service territory covering Georgia, Alabama, southeastern Mississippi, and the panhandle of Florida. Southern Linc offers comprehensive geographic coverage, serving the extensive rural territory within its footprint as well as major metropolitan areas and highway corridors. Because of its expansive and reliable coverage within the region, Southern Linc's service is widely used by local and statewide public safety agencies, school districts, rural local governments, public utilities, and other emergency responders. It is also utilized by other commercial entities in both urban and rural areas.

Southern Linc is in the process of transitioning its network from the iDEN air interface to an all-LTE platform.

As a subsidiary of Southern Company, Southern Linc also directly and indirectly supports the internal communications needs of its affiliated electric utility operating companies, which include not only mobile services but also fixed point-to-point and fixed point-to-multipoint wireless services for a variety of applications that support the safe, reliable, and

efficient delivery of essential electric utility services, such as monitoring, load management, protective relaying, and supervisory control and data acquisition (“SCADA”) systems.

As discussed below, the regulatory flexibility and adaptability adopted by the Commission for the CBRS band provides Southern Linc and other potential users of the band with the opportunity to develop, implement, and deploy innovative services and network configurations supporting a wide variety of potential use cases – both commercial and private – all of which will ultimately benefit the public. The Commission should therefore maintain the groundbreaking regulatory framework it adopted for the CBRS band in 2015 and affirm the current PAL spectrum assignment plan. The Commission should also act promptly on these issues in order to avoid or mitigate any further delay in the availability of the CBRS band.

II. THE CURRENT CBRS FRAMEWORK SUPPORTS A WIDE VARIETY OF TECHNOLOGIES, SERVICES, AND APPLICATIONS – INCLUDING “5G” – THAT SERVE A NUMBER OF IMPORTANT PUBLIC INTEREST NEEDS

The unique regulatory framework for the CBRS band that the Commission adopted in 2015 was expressly intended to accommodate “a wide variety of users, deployment models, and business cases, including some solutions to market needs not adequately served by [the FCC’s] conventional licensed or unlicensed rules.”² The Commission itself described a number of potential use cases for the CBRS band that would be enabled by this new approach to spectrum access and licensing:

Manufacturers, utilities, and other large industries can construct private wireless broadband networks to automate processes that require some measure of interference protection and yet are not appropriately outsourced to a commercial cellular network. Smart grid, rural broadband, small cell backhaul, and other point-to-multipoint networks can potentially access three times more bandwidth than was available under our previous 3650-3700 MHz band rules. All of these

² / *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 3959 at 3962 ¶ 6 (2015) (“2015 CBRS Order”).

applications could share common wireless technologies, providing economies of scale and facilitating intensive use of the spectrum.³

As the record in the proceeding that led up to this *NPRM* shows, the current regulatory framework has encouraged, and will continue to encourage, substantial innovation and investment by a broad cross-section of users in a diverse array of technologies, services, and applications that serve important public interest needs through a variety of deployment models and use cases for the CBRS band. Real-world examples of the significant investments and of the network and service deployments that have already taken place in the 3650-3700 MHz band – and which are expected to be extended into the 3550-3650 MHz band – include fixed wireless broadband networks that provide broadband access to rural and underserved areas;⁴ electric utility and other energy and critical infrastructure industry networks and applications that provide communications support for maintaining and improving the safety, reliability, and efficiency of the systems and infrastructure that deliver the nation’s essential energy services;⁵ and numerous specialized local deployments at businesses, campuses, and public venues around the country.

In addition to the examples discussed above, the current CBRS framework will facilitate investment and innovation in a number of other use cases, services, and deployments that may

³ / *Id.*

⁴ / *See, e.g.*, Comments of the Wireless Internet Service Providers Association (“WISPA”) in GN Docket 12-354 at 10-11 (filed July 24, 2017); Comments of Rise Broadband in GN Docket 12-354 (filed July 24, 2017); Reply Comments of NE Colorado Cellular, Inc. d/b/a Viaero Wireless (“Viaero Wireless”) in GN Docket 12-354 at 6-9 and note 26 (filed August 8, 2017).

⁵ / *See* Reply Comments of the Utilities Technology Council (“UTC”) in GN Docket 12-354 at 2-3 (filed August 8, 2017); Reply Comments of the General Electric Company in GN Docket 12-354 at 2 (filed August 8, 2017). Examples of utilities who have already deployed 3.65 GHz systems to support grid operations include American Electric Power Service Corp. (WQKM631) with 313 registered locations, Ameren Services Company (WQMQ667) with 29 registered locations, San Diego Gas & Electric (WQJD279) with 49 registered locations, Wisconsin Electric Power Company (WQNN671) with 46 registered locations, and Xcel Energy Services, Inc. (WQUI767) with 203 registered locations.

not be adequately supported by the Commission’s conventional licensed or unlicensed rules. For example, mobile carriers and operators of private mobile systems (such as public safety, government agencies, and public utilities) would be able to deploy small cells to meet temporary, localized needs for additional capacity, such as large events or during storm recovery or other emergency situations. The current CBRS framework also has the potential to support a number of non-commercial, higher-bandwidth deployments and applications that would meet important public interest needs, such as “smart city” applications like video cameras, pollution monitors, and gunshot sensors, as well as “next generation” electric grid applications such as video surveillance of substations and other critical assets and the deployment of phasor measurement units to achieve the next level of grid reliability and efficiency.⁶ Although the use of spectrum on a General Authorized Access (“GAA”) basis may be appropriate in some instances, many of these applications, services, and deployments will require the guarantees of access to spectrum and protection from interference that are provided by PALs.⁷

Moreover, the current CBRS licensing framework will, without any further change, fully accommodate and enable the deployment of new technologies and services that are still being developed – such as 5G and other next-generation technologies – alongside other use cases such as those described above. If anything, the current rules will in fact *enhance* “U.S. leadership in

⁶ / Phasor measurement units are used to measure electrical waves on a time-synchronized basis in units called “synchrophasors.” This allows for increased accuracy and speed in the collection and monitoring of grid operational data and is integral to the “next generation” electric grid. *See, e.g.,* https://www.smartgrid.gov/recovery_act/program_impacts/applications_synchrophasor_technology.html (last viewed Dec. 28, 2017).

⁷ / *See* Reply Comments of the General Electric Company in GN Docket 12-354 at 3 (filed August 8, 2017) (stating that “GE’s critical infrastructure deployments require the certainty that accompanies licensed spectrum”).

the global race for 5G”⁸ by opening the field to a far broader range of potential 5G innovators, developers, and users, thus further stimulating robust innovation and investment in 5G development and deployment in the U.S. In other words, the current CBRS licensing framework already provides “a new tool in the spectrum tool kit” that is not available anywhere else in the world for 5G or any other next-generation technologies.⁹ Accordingly, there is no need for the Commission to “pick winners and losers” by adopting artificial restrictions intended to promote a single technology and use case while effectively dissuading others.

Finally, any cost-benefit analysis of the licensing or use of the CBRS band must look beyond simple dollar amounts to the broader goals that the CBRS band is intended to achieve, including the objectives specified in Section 309(j) of the Act.¹⁰ The record shows a strong emphasis by certain parties on speculative projections of *potential* future 5G investments by mobile operators, as if this were the sole determining factor in evaluating whether spectrum is being put to its best use in the public interest.¹¹ However, from a public interest and public policy standpoint, potential future investment in a specific commercial use case and other “dollar-based” metrics are not necessarily indicative as to whether the nation’s spectrum

⁸ / *NPRM*, 32 FCC Rcd at 8072 ¶ 2.

⁹ / *Id.* at 8112 (Statement of Commissioner Brendan Carr).

¹⁰ / 47 U.S.C. § 309(j). These objectives include “the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas ...” (Section 309(j)(3)(A)); “promoting economic opportunity and competition and ensuring that new and innovative technologies are readily available to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants ...” (Section 309(j)(3)(B)); and “efficient and intensive use of the electromagnetic spectrum.” (Section 309(j)(3)(D)).

¹¹ / *See, e.g.*, CTIA Petition for Rulemaking, GN Docket No. 12-354 at 4-5 (filed June 16, 2017); T-Mobile Petition for Rulemaking, GN Docket No. 12-354 at 8-9 and 11 (filed June 19, 2017).

resources are in fact being put to their most valuable use. As the Congressional Research Service (“CRS”) observed in its June 29, 2009 report to Congress:

Auctioning spectrum licenses may direct assets to end-use customers instead of providing wireless services where the consumer may be the beneficiary but not the customer. The role of wireless communications to support a smart grid has been briefly noted in this report. Spectrum resources are also needed for railroad safety, for water conservation, for the safe maintenance of critical infrastructure industries, and for many applications that may not have an immediate commercial value but can provide long-lasting value to society as a whole.¹²

Thus, in order to ensure that the nation’s spectrum resources are being managed in a way that, as CRS put it, “provide[s] long-lasting value to society as a whole,” the Commission must ensure that any economic or other cost-benefit analysis it may undertake with respect to the CBRS band is consistent with the stated objectives of Section 309(j) and with full consideration of policy goals and market needs that may not be adequately served by the Commission’s conventional licensed or unlicensed rules for other spectrum bands.

Overall, the flexibility and “regulatory adaptability” provided by the current CBRS framework has already encouraged – and, if unchanged, will continue to encourage – innovation and investment in a diverse array of technologies, services, and applications that serve a number of important public interest needs. The Commission should therefore maintain this framework and take all steps necessary to expedite the full availability of the CBRS band to the widest possible variety of users, deployment models, business cases, and technologies.

III. THE COMMISSION SHOULD MAINTAIN THE CURRENT PRIORITY ACCESS LICENSING RULES

In the *NPRM*, the Commission requests comment on certain proposals that would, if adopted, fundamentally change the regulatory framework established by the Commission for the

¹² / Linda K. Moore, *Spectrum Policy in the Age of Broadband: Issues for Congress*, CRS Report for Congress at 13 (2009).

CBRS band in 2015. First, the Commission proposes to revise its rules to increase the PAL license term from three years to ten years and to eliminate the requirement that PALs automatically terminate at the end of the license term.¹³ In addition, the Commission requests comment on increasing the geographic area of PALs,¹⁴ and specifically requests comment on the request by CTIA and T-Mobile to expand the geographic size of PALs licenses from census tracts to much-larger Partial Economic Areas (“PEAs”).¹⁵

Both individually and collectively, the effect of these contemplated changes would be to put the opportunity to acquire a PAL out of reach to all but the largest commercial providers, thus effectively foreclosing the vast majority of potential users and use cases from accessing or utilizing the CBRS band on anything other than an unprotected, opportunistic basis. Southern Linc therefore urges the Commission to reject these proposals and to retain the current PAL licensing rules. Otherwise, the Commission would undercut the core principals underlying the entire regulatory framework established to encourage deployment, innovation, and investment in the CBRS band.

A. The Commission Should Retain the Existing Term for Priority Access Licenses

Southern Linc disagrees with the Commission’s proposal to extend the term of PALs from three years to ten years and urges the Commission to retain the existing term of three years with the option for one additional three-year term. Southern Linc understands that an extended license term may seem attractive to some potential bidders for PALs, since it would provide greater certainty of exclusivity and protection for the licensee’s system over a longer period of

¹³ / *NPRM*, 32 FCC Rcd at 8076-78 ¶¶ 13-19.

¹⁴ / *Id.* at 8080-81 ¶¶ 23-27.

¹⁵ / *Id.* at ¶ 24.

time. However, any extension of the license term for PALs will concurrently make the prospect of obtaining PALs that much more expensive and could drive the cost of PALs beyond what many of the potential users of the CBRS band, such as smaller commercial entities and private network operators, could afford. The significant increase in the cost of PALs resulting from an extended ten-year license term would be exacerbated by making these licenses renewable, which would effectively make the grant of a PAL permanent, thus driving the upfront acquisition cost of a PAL even higher and foreclosing access to PALs for new technologies and services and new market entrants.

The Commission observes that the adoption of ten-year, renewable license terms “is consistent with [the approach] adopted for other wireless services[.]”¹⁶ However, the entire *point* of the regulatory framework that the Commission adopted in 2015 for the CBRS band was to create a *new and different licensing model* than the ones in place for other bands in order to promote diverse and innovative uses of the spectrum.¹⁷ Changing the licensing framework of the CBRS band to conform with the existing traditional licensing models for other bands would defeat the entire purpose of making this band “hospitable to a wide variety of users, deployment models, and business cases, *including some solutions to market needs not adequately served by [the FCC’s] conventional licensed or unlicensed rules.*”¹⁸

The record underlying this *NPRM* demonstrates that actual, substantial investment has already been made in reliance on the current CBRS licensing rules, and that this investment

¹⁶ / *Id.* at 8076 ¶ 13.

¹⁷ / *See, e.g., 2015 CBRS Order*, 30 FCC Rcd at 3961 ¶ 1.

¹⁸ / *Id.* at 3962 ¶ 6 (emphasis added).

would be stranded if these rules were to now be changed as the Commission has proposed.¹⁹

The record further demonstrates that planned future investments have been pulled back – rather than incentivized – in response to the Commission’s willingness to even consider, let alone adopt, these proposed changes.²⁰

A longer license term with the possibility of renewal would also serve to stifle, rather than facilitate, the deployment of a wide array of technologies.²¹ By putting the cost or opportunity to acquire a PAL out of reach to all but the largest commercial service providers, the Commission’s proposal would mean that the use of PALs would be effectively limited to mobile 5G services deployed by only a small handful of operators to meet their own commercial interests. Likewise, the Commission’s proposal would serve to inhibit, rather than promote, the deployment of new technologies, products, and services in rural areas, including the deployment of broadband services that those in more metropolitan areas already enjoy.²² In short, the Commission’s proposed ten-year, renewable term for PALs fails to balance the mandate of Section 309(j) of the Act.²³

In connection with its proposal to adopt extended, renewable terms for PALs, the Commission asks whether opportunistic GAA use of the band “alleviate[s] concerns involving

¹⁹ / *NPRM*, 32 FCC Rcd at 8076 ¶ 14; *See, e.g.*, Reply Comments of Viaero Wireless in GN Docket 12-354 at 6-9 and note 26 (filed August 8, 2017); Reply Comments of UTC in GN Docket 12-354 at 3 (filed August 8, 2017) (“Utilities have made substantial investments in these systems and continue to expand existing systems in order to increase capacity and coverage to keep pace with increasing demands and to maintain operational reliability, safety and security.”).

²⁰ / *See, e.g.*, Reply Comments of WISPA in GN Docket 12-354 at 5 (filed August 8, 2017); Comments of Rise Broadband in GN Docket 12-354 at 2 (filed July 24, 2017); Comments of Indigo Wireless, Inc. in GN Docket 12-354 at 2 (filed July 24, 2017).

²¹ / *NPRM*, 32 FCC Rcd at 8076 ¶ 14.

²² / *Id.* at 8077 ¶ 15.

²³ / *Id.*; 47 U.S.C. § 309(j).

spectrum warehousing or otherwise satisf[ies] the Commission's statutory obligations.”²⁴

However, the availability of opportunistic use of the GAA band is irrelevant to the issue of spectrum warehousing. Spectrum warehousing is a concern because it forecloses the effective and efficient use of spectrum by others. In the CBRS band, PALs confer the benefits of access to a guaranteed amount of spectrum on a protected basis, which are not available to users of the band on an opportunistic GAA basis. The foreclosure is therefore not from the band itself, but from the ability or opportunity to obtain the benefits of the use of the band on a PAL basis. Indeed, if opportunistic GAA use were to be considered an adequate substitute for PAL access, there would be no need for PALs in the first place.

Finally, the Commission requests comment on alternative approaches to the length of the PAL license term.²⁵ To the extent the Commission determines that the PAL license term should be extended beyond the current three-year term, Southern Linc could support a modest extension of the PAL term to five years with one five-year renewal, as suggested by WISPA and Motorola Solutions, but only if the Commission maintains census tracts as the PAL geographic licensing area as discussed below.²⁶

B. The Commission Should Retain Census Tracts as the Geographic License Area for Priority Access Licenses

In the *NPRM*, the Commission requests comment on increasing the geographic area of PALs,²⁷ and specifically requests comment on the request by CTIA and T-Mobile to expand the

²⁴ / *NPRM*, 32 FCC Rcd at 8077-88 ¶ 17.

²⁵ / *Id.* at 8077 ¶ 16.

²⁶ / *See id.* and note 39.

²⁷ / *Id.* at 8080-81 ¶¶ 23-27.

geographic size of PALs licenses from census tracts to much-larger Partial Economic Areas (“PEAs”).²⁸

As with the proposed extension of the PAL license term, the request by CTIA and T-Mobile to assign PALs on a PEA basis rather than on a census tract basis would undercut the very purpose of the CBRS band by effectively making PALs unavailable to any user of the CBRS band seeking to serve a smaller geographic area.²⁹ Although PEAs may be smaller than the geographic areas that the Commission has typically auctioned in the past, they remain much too large for the service needs of the vast majority of potential users of the CBRS band, such as rural broadband service providers, private network operators, electric utilities and other operators of critical infrastructure, municipalities and state and local government agencies, commercial venues (such as stadiums, arenas, and shopping malls), educational institutions, and so forth.

If PEAs were to be adopted as the PAL license area, an entity seeking to operate in a limited geographic area, such as the area around an electric generation facility, would be compelled to submit the highest bid for the entire PEA, thus foreclosing the PAL as an economically viable option. The cost of acquiring a PAL for an entire PEA would put a PAL out of reach of all but the largest commercial providers and limit the use of PALs to wide-area mobile 5G services – which could hardly be considered a “diversity of PAL uses and users.”³⁰ Smaller entities and those seeking to deploy networks and services in rural areas or on a targeted, localized basis would be economically foreclosed from any opportunity to obtain the benefits of

²⁸ / *Id.* at ¶ 24.

²⁹ / *2015 CBRS Order*, 30 FCC Rcd at 3992-93 ¶ 100 (“The larger, traditional license areas favored by some commenters are inconsistent with our desire to promote innovative, low power uses in the band ... which align well with small, targeted geographic areas such as census tracts. Further, traditional licensing areas will not allow users of the band to acquire PALs only for those specific geographic areas they intend to serve.”).

³⁰ / *NPRM*, 32 FCC Rcd at 8080-81 ¶ 24.

a PAL and would be limited to using the spectrum on a GAA basis, which, as discussed above, is not an adequate substitute for PAL access. As a result, rural deployment would be significantly impaired and the substantial amount of existing investment that has already been made by service providers, private network operators, and equipment manufacturers in reliance on the current CBRS rules would be stranded.³¹ Altogether, the use of PEAs would manifestly fail to balance the objectives of Section 309(j) of the Act, including – as specifically noted in the *NPRM* – encouraging “efficient and intensive use” of the spectrum and promoting an “equitable distribution of licenses and services among geographic areas” and “economic opportunity for a wide variety of applicants.”³²

Conversely, maintaining the current census tract license area for PALs would promote targeted, efficient use of the spectrum and encourage network investment and deployment by a wide variety of users, as well as encourage ongoing innovation and investment in new services, technologies, and use cases that meet important commercial and public interest needs. In addition to enabling targeted, local, and rural deployments, licensing on a census tract basis would still allow those seeking to cover larger geographic areas to do so by combining multiple census tracts in a way that would still enable more efficient and tailored deployment than would be possible through the use of PEAs. Moreover, as the Commission noted in the *NPRM*, potential SAS administrators such as Google and Sony state that managing these licenses on a census tract basis would not involve any undue complexity or burden.³³ Accordingly,

³¹ / *Id.*

³² / *Id.* (quoting 47 U.S.C. § 309(j)(4)(C) and (D)).

³³ / *See id.* at 8079-80 ¶ 21 (citing Google Comments at 24; Sony Comments at 1-2; Vivint Wireless Reply Comments at 3; DSA Comments at 10).

maintaining census tracts as the geographic license area for PALs would most effectively balance all of the objectives of Section 309(j) of the Act.³⁴

The Commission also asks in the *NPRM* whether it should allow partitioning and disaggregation of PALs in secondary market transactions.³⁵ However, partitioning, disaggregation, and reliance on secondary market transactions are neither adequate nor appropriate as a substitute for smaller license areas. First and foremost, the Commission's proposed reliance on secondary market transactions ignores the fact that such transactions are entirely voluntary and that there is no requirement for any licensee to lease, partition, or disaggregate a license. In addition, if the Commission were to convert PAL license terms into ten-year, renewable terms, there would be even less of an incentive for a PAL holder to partition or disaggregate its spectrum given the lack of any reasonably definable or manageable build-out or coverage requirements.³⁶ Secondary market transactions (to the extent they are even available) would also impose significant transaction costs that would serve as an economic barrier to smaller entities and endanger the economic viability of smaller-scale, localized deployments.³⁷ Partitioning and disaggregation of PALs in the secondary market therefore cannot be relied upon as an option for those operating in smaller geographic areas to obtain the benefits and protections afforded by PALs.

Last but not least, if the Commission were to rely on partitioning, disaggregation, and secondary market transactions, it would essentially be abdicating its statutory and public

³⁴ / *Id.* at 8080-81 ¶ 24.

³⁵ / *Id.* at 8083 ¶¶ 31-32.

³⁶ / *Id.*

³⁷ / The Commission has previously recognized this problem, finding in the *2015 CBRS Order* that “[d]ivesting large, unwanted swaths through secondary markets transactions could impose significant transactions costs.” *2015 CBRS Order*, 30 FCC Rcd at 3993 ¶ 100.

responsibilities under Section 309(j) of the Act by entrusting the achievement of the statute's objectives to the sole discretion of private commercial interests.³⁸

IV. THE COMMISSION SHOULD ADOPT DISCRETE CHANGES TO ITS PRIORITY ACCESS LICENSE AUCTION RULES

As discussed above, the Commission should maintain the current PAL license terms and geographic license areas. Southern Linc agrees, however, that discrete revisions to certain other rules governing PALs would be warranted.

Southern Linc agrees with the Commission's proposal to eliminate the current rule that limits the number of PALs in a given license area to one fewer than the number of PALs applicants in that area.³⁹ As long as the maximum number of PALs that will be available in each area remains at seven, Southern Linc sees no need to artificially limit the number of PALs that can be assigned. Similarly, Southern Linc supports the Commission's proposal to assign a PAL even when there is only one qualified applicant in a given license area.⁴⁰ In cases where there is only a single applicant for a single 10 MHz PAL in an area, the Commission could simply assign the PAL rather than auction it; however, where there is only one applicant, but that applicant is seeking two or more PALs in an area, the applicant should still go through the auction process for those PALs.

The Commission also asks in the *NPRM* whether it should modify or remove the current 40 MHz spectrum aggregation limit for PALs.⁴¹ Maintaining a spectrum aggregation limit is essential to protecting against the consolidation of all PALs spectrum in a given area in the hands of a single licensee and ensuring ongoing opportunities for beneficial competition, and thus the

³⁸ / See *NPRM*, 32 FCC Rcd at 8083 ¶ 31.

³⁹ / *Id.* at 8086-87 ¶ 42.

⁴⁰ / *Id.*

⁴¹ / *Id.* at 8081 ¶ 27.

spectrum aggregation limit should not be removed. To the extent the Commission may consider modifying the current limit, Southern Linc contends that, if anything, the current limit should be lowered – perhaps down to 20 MHz – in order to maximize entry to and use of the band by multiple entities.

Finally, the Commission requests comment on T-Mobile’s proposal to allow PAL applicants to bid on specific channel assignments rather than on blocks of spectrum that would be dynamically assigned by the SAS.⁴² Southern Linc urges the Commission to reject this proposal as unnecessary, impractical, and potentially anticompetitive. The entire CBRS regulatory framework is based on and designed around dynamic access and frequency assignment. Allowing applicants to bid on and be assigned specific channels would significantly complicate the ability of an SAS to manage the spectrum for GAA use (thus significantly diminishing the usefulness of GAA), as well as for use by other PALs holders who may not have received a specific channel assignment. Southern Linc also agrees with Google that a PAL holder could use a specific channel assignment to position itself in the middle of the PAL spectrum and thus prevent other PAL holders – intentionally or otherwise – from aggregating contiguous blocks.⁴³

V. CONCLUSION

For the reasons set forth above, Southern Linc urges the Commission to maintain the groundbreaking regulatory framework it adopted for the CBRS band in 2015 and affirm the current PAL spectrum assignment plan. In particular, the Commission should maintain the current PAL license term and the use of census tracts as the appropriate geographic license area. As discussed above, the regulatory flexibility and adaptability of the current CBRS licensing

⁴² / *Id.* at 8089 ¶ 49.

⁴³ / *Id.* ¶ 48.

framework provides potential users of the band with the opportunity to develop, implement, and deploy innovative services and network configurations supporting a wide variety of potential use cases – both commercial and private – all of which will ultimately benefit the public and achieve an appropriate balance of the statutory objectives established for the Commission by Section 309(j) of the Communications Act.

WHEREFORE, THE PREMISES CONSIDERED, Southern Linc respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

SOUTHERN LINC

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