Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees	)	WT Docket No. 96-148
	)	
Implementation of Section 257 of the Communications Act - Elimination of Market Entry Barriers	)	GN Docket ~~No. 96-113~~

To: The Commission

COMMENTS OF CAROLINA INDEPENDENTS

The Carolina Independents, by their attorneys, submit the following comments in the above-captioned proceeding.1/ The Carolina Independents are thirty-one small, independent telephone companies in North and South Carolina who are limited partners of the partnership which holds the PCS license for MTA 06 Block B.2/ By the terms of their partnership and partitioning agreements, each of the Carolina Independents may exercise an option to receive a partitioned PCS license covering its area as set forth in the partitioning agreement.3/

1/ See Notice of Proposed Rulemaking, FCC 96-287, WT Docket No. 96-148, GN Docket No. 96-113, released July 15, 1996 ("NPRM").

2/ See Appendix A for a list of the Partners.

3/ In accordance with FCC rules, the partners took into account a variety of factors in developing the boundaries of the partitioned areas, including county lines, telephone

[Footnote continued]

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In these comments, the Carolina Independents address two issues raised by the Federal Communications Commission ("FCC"). First, the commenters strongly support the Commission's proposal to facilitate partitioning by offering a choice between two different build-out options. Second, the Carolina Independents respectfully urge the Commission to retain its existing rule, which allows for partitioning along geopolitical boundaries, rather than requiring partitioning along county lines.

I. THE COMMISSION SHOULD ADOPT ITS PROPOSED BUILD-OUT STANDARDS FOR PARTITIONED AREAS

By setting forth two alternative methods by which a partitionee may meet its buildout requirements,4/ the Commission provides an important measure of flexibility. The first option would provide the partitionee with the same buildout requirements within its partitioned area that the initial licensee must meet. Utilizing the second option, a partitionee could demonstrate that it is providing "substantial service" within its service area, so long as the original licensee met its five-year buildout requirements and certified that it will meet the 10-year coverage requirements for its entire license area. Satisfying either option would entitle the partitionee to receive a renewal expectancy at the end of the 10-year term of the initial license.

[Footnote continued]

service areas, geographic boundaries (such as a river), and economic communities of interest.

4/ See NPRM, ¶¶ 33-34.

The Commission's proposal properly balances the public need for ubiquitous wireless service with the practical realities of providing it. In the case of the Carolina Independents, for example, propagation characteristics and low population density make it infeasible to provide service in every case to one third of the population of some partitioned areas within five years and two thirds within ten years. The proposed rule will serve the public interest by promoting development of PCS services in low density areas at reasonable rates. The proposed options also will facilitate partitioning by rural telephone companies, which will serve the public interest by providing wireless services to customers who would not otherwise receive such service, or would not receive the benefits of such service until a much later date.

II. FLEXIBILITY IS REQUIRED IN SETTING PARTITIONED LICENSE BOUNDARIES

The Commission also proposes to require that any partitioning of broadband PCS licenses be established along county lines.5/ The existing rule requires partitioned boundaries to conform to "established geopolitical boundaries (such as county lines);" to include "the wireline service area of the rural telephone company applicant;" and to be "reasonably related to the rural telephone company's wireline service area." 47 C.F.R. § 24.714(d). The current rule refers to county lines only by way of example, indicating that other geopolitical boundaries could be employed where

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5/ Id., ¶¶ 18-19.

practical. This proposed change actually reduces flexibility inherent in the current rule when flexibility is critical to practical partitioning arrangements.

In the case of the Carolina Independents, the companies plan to partition PCS service areas along geopolitical boundaries, taking into consideration county lines, geographic boundaries, and the existing telephone service areas established by the Public Service Commissions of North and South Carolina. The Carolina Independents have entered into definitive agreements and other business arrangements in reliance on the flexibility inherent in the Commission's current rule. Partitioning along boundaries reasonably related to existing telephone service areas serves the public interest because the individual companies are highly attuned to the needs of the public in those areas and also can utilize the infrastructure in place to serve customers located there practicably and efficiently.

Mandating partitioning solely along county lines would be problematic for many partitionees. Within the 06 MTA, for example, there are many instances where between two and eight telephone companies serve a single county. In such cases, no single company could serve the county without forcing the other companies into noncompliance with the FCC rule requiring each partitioned area to "includ[e] the wireline service area of the rural telephone company applicant," 47 C.F.R. § 24.714(d)(2). These situations make application of the proposed rule impracticable for the Carolina Independents and other partitionees.

The Carolina Independents appreciate the Commission's need for definite and easily discernible boundaries with reliable population statistics and other data to permit enforcement of cross-ownership and other regulations. However, these needs can be served while still affording licensees flexibility in the formation of partitioned areas. Parties should be permitted to adopt boundaries that are not based solely on county lines if they agree to bear the administrative burden of making available, and certifying as accurate, detailed service area maps, information as to the population count for each partitioned area, and information showing how the population figures were calculated.6/

Therefore, the Commission should not adopt the proposed restriction of partitioning boundaries to county lines and should instead clarify that other geopolitical boundaries may be used, including, in the case of wireline telephone companies, telephone service areas, so long as accurate information concerning the demarcation of the boundaries and other relevant data is made available to the Commission.

6/ Text could be made available on the home page of a partitionee in the ASCII format required by the FCC for electronic submission of auction application exhibits. Maps could be made available with mapping software such as MapInfo, or translated into HTML, the hypertext markup language used for World Wide Web visual displays. Hotlinks to the FCC licensee list or some neutral site could be established to ensure that the public could find this information easily.

CONCLUSION

The Carolina Independents urge the Commission to adopt its proposal to facilitate partitioning by offering a choice between two different buildout options, but respectfully urge the Commission not to adopt the proposed restriction on partitioning to county lines.

Respectfully submitted,

CAROLINA INDEPENDENTS

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APPENDIX A

CAROLINA INDEPENDENTS

Atlantic Telephone Membership Corp.
Bluffton Telephone Company
Chesnee Telephone Company
Chester Telephone Company
Citizens Telephone Company
Concord Telephone Company
Farmers Telephone Cooperative, Inc.
Fort Mill Telephone Company
Hargray Telephone Company
Hart Telephone Company
Heath Springs Telephone Company
Home Telephone Company
Horry Telephone Company
Lancaster Telephone Company
Lexington Telephone Company
Lockhart Telephone Company
North State Telephone Company
Palmetto Rural Tel. Coop., Inc.
Piedmont Rural Tel. Coop., Inc.
Piedmont Telephone Membership Corp.
Pond Branch Telephone Company
Ridge Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Coop., Inc.
Star Telephone Membership Corp.
Skyline TMC
Surry Telephone Membership Corp.
Tri-Country Telephone Membership Corp.
West Carolina Rural Tel. Coop., Inc.
Yadkin Valley Telephone Membership Corp.

CERTIFICATE OF SERVICE

I, Lesha Cruey, a legal secretary with the law firm of Hogan & Hartson L.L.P., hereby certify that on this 15th day of August, 1996, a copy of the foregoing Comments of the Carolina Independents was hand delivered to the parties listed below.

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