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FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of)	
)	
Amendment of the Commission's Rules)	GEN Docket No. 90-314
to Establish New Personal Communications)	ET Docket No. 92-100
Services, Narrowband PCS)	
)	
Implementation of Section 309(j) of the)	PP Docket No. 93-253
Communications Act - Competitive Bidding,)	
Narrowband PCS)	

REPLY COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") is a national association representing approximately 500 small and rural independent local exchanges carriers ("LECs") providing telecommunications services to interexchange carriers and subscribers throughout rural America. NTCA members provide local exchange service to areas that are the most sparsely populated in the Nation. All of them meet the definition of a rural telephone company under the Commission's competitive bidding rules. The companies are also "small businesses" that must be considered in the analysis required under the Regulatory Flexibility Act ("RFA").¹

The Commission is proposing in its *Further Notice of Proposed Rulemaking* (FCC 97-140) to modify its spectrum allocation plan and change its competitive bidding rules and build out requirements in the narrowband personal communications service ("PCS"). The proposal calls for reallocation of all of the Basic Trading Area ("BTA") channel blocks and some

¹ 3 U.S.C. § 603.

of the Major Trading Area ("MTA") channel blocks to create larger service areas, limiting eligibility for bidding credits and installment payments to small businesses on a tiered basis and changing the construction requirement and minimum service requirements to a "substantial service" benchmark.

NTCA agrees with the comments of the Rural Telecommunications Group ("RTG") which points out that the Commission's proposal violates Section 309(j) of the Communications Act² because it has failed to consider rural telephone companies or to provide them specific opportunities to participate in the provision of narrowband PCS.³ The Commission should not, by neglecting to address the Act's mandate with respect to rural areas and rural telephone companies, ignore its responsibility to ensure that rural areas receive narrowband services promptly and that rural telephone companies have viable opportunities to provide these services. The failure to squarely address the needs of rural areas relegates policy making and fulfillment of the Congressional mandate to accident. Under the present proposal, it will be mere coincidence if the proposed rules yield the statutorily directed goals of Section 309(j). *i.e.*, the swift deployment of narrowband services to rural areas and the dissemination of licenses to a wide variety of applicants that include rural telephone companies. The Commission's small business proposals do not satisfy the requirements of Section 309(j). As long as the definition of a rural telephone company is not synonymous with the definition of small business, the Commission must explain how its rules accomplish the results 309(j) envisions with respect to rural areas and

² 47 U.S.C § 309(j).

³ *See*, Comments of the RTG at 3.

rural telephone companies. It has not done so in this NPRM. The failure to address the concerns and Congressional goals for rural telephone companies is also evident in the Initial Regulatory Flexibility Analysis (“IRFA”). The IRFA does not even mention the 1,347 (or fewer) small local exchange carriers that the Commission has accorded “small business” treatment in recent decisions.⁴

NTCA also agrees with the RTG’s comments on the proposal to abandon smaller licensing areas.⁵ The larger areas, combined with the “substantial service” build out requirement will make it almost certain that the inhabitants of rural areas will be the last to receive service, and in fact, portends that they may never receive service during the initial license term. This amounts to an abandonment of rural areas. The public interest in efficient use of the spectrum does not justify the Commission’s lackadaisical approach and neglect of the needs of rural areas. Section 309(j) requires the Commission to take a positive approach oriented at bringing service to rural areas as well as the more populous areas and at disseminating licenses among a wide variety of applicants that include rural telephone companies. Enlarging the size of the geographic area to be bid on, while at the same time failing to provide rural telephone companies with designated entity benefits, has the opposite effect. The proposal is likely to reduce, if not eliminate, the opportunity for small rural telephone companies to participate in the provision of narrowband PCS. The Commission can remedy its proposal by specifically providing, as RTG

⁴ See, Final Regulatory Flexibility Analysis, Appendix D, ¶¶ 892 and 896 to *Report and Order, In the Matter of Federal-State Joint Board in Universal Service*, CC Docket No. 96-45 (FCC 97-157) released May 8, 1997.

⁵ RTG Comments at 6.

suggests, that all rural telephone companies receive bidding credits and that the percent of the bidding credit shall be commensurate with the size of the license area⁶.

CONCLUSION

For the above stated reasons, NTCA urges the Commission to specifically provide that rural telephone companies are eligible for bidding credits and installment payments on spectrum acquired to provide narrowband PCS.

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⁶ *Id.* at 5.

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Reply Comments of the National Telephone Cooperative Association in CC Docket No. 90-314, ET Docket No. 92-100 and PP Docket No. 93-253 was served on this 17th day of July 1997, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:


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