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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Implementation of Section 309(j) of the Communications Act -- Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses	)	**MM Docket No. 97-234**
	)	**GC Docket No. 92-52**
Reexamination of the Policy Statement on Comparative Broadcast Hearings	)	
	)	
Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases	)	**GEN Docket No. 90-264**

JOINT COMMENTS

College of the Albemarle, Asheville-Buncombe Technical Community College, Belmont Abbey College, Blue Ridge Community College, Brunswick Community College, The Crary School, Currituck County Schools, Davidson County Community College, Durham Technical Community College, Fayetteville Technical Community College, Forsyth Technical Community College, Hoke County Board of Education, James Sprunt Community College, Johnston Community College, Lenoir Community College, Mitchell Community College, Moore County Schools, Nash Community College, Pamlico Community College, Pitt Community College, Queens College, Randolph Community College, Richmond Community College, Roanoke Rapids Graded School District, Sandhills Community College, Stanley Community College, Vance-Granville Community College, Wake Technical Community College, Wilson

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Technical Community College, and Wireless One of North Carolina, L.L.C. ("WONC"), ("Commenters"), by their attorneys and pursuant to Sections 1.415 and 1.419 of the Federal Communications Commission's ("Commission") Rules, hereby submit these Joint Comments regarding the use of auctions to resolve mutually exclusive applications to provide Instructional Television Fixed Service ("ITFS"). In its Notice of Proposed Rulemaking, ("NPRM"), the Commission requested comments regarding the application of competitive bidding to resolve mutually exclusive ITFS applications, including those ITFS applications currently pending at the Commission. Id. at ¶100.

Each Commenter (except WONC) filed an application to obtain an authorization to operate ITFS facilities in the State of North Carolina during the Commission's October, 1995 filing window for ITFS applications ("October Window"). The applications remain pending at the Commission. Each Commenter has entered an ITFS Royalty Agreement with WONC. WONC is an operator developing a statewide wireless cable network in North Carolina.

Commenters oppose auctioning the mutually exclusive ITFS applications currently pending at the Commission, particularly those applications filed during the October Window. Commenters believe that auctioning the pending mutually exclusive ITFS applications would be anathema to the public interest. It will further delay service to the educational institutions which applied for the channels and to their individual receive sites. It will negate the years of work which have gone into the implementation of a wide area ITFS system in North Carolina.

In preparation for the filing of their ITFS applications, Commenters expended significant time, effort and capital in developing engineering plans and devising a technical proposal that encompassed the entire state of North Carolina. This was done to ensure that the

benefits of ITFS would be available to the greatest number of North Carolina residents. Since the filing of those applications, Commenters have expended significant amounts of time, effort and capital to negotiate with mutually exclusive applicants throughout North Carolina and to reach settlements and other technical arrangements with the applicants. This process has consumed nearly two and one-half years and is now beginning to yield results. Successful efforts in a number of markets in North Carolina have allowed resolution of conflicting ITFS proposals so that the Commission can now proceed to process and grant numerous applications. Cooperative engineering solutions have been implemented to ensure service in adjacent markets where the close geographic proximity might otherwise preclude it.

Applying competitive bidding to pending mutually exclusive ITFS applications at this late date will completely abrogate the enormous effort which has already gone into implementing the development of ITFS facilities proposed in the pending applications. It will undoubtedly delay launch of new facilities as ITFS eligibles await the finalization of auction procedures and then are faced with the prospect of once again trying to negotiate resolution to the complex technical issues presented in the state of North Carolina. Such a result can not possibly serve the public interest. With this in mind, Commenters believe the Commission should process the pending mutually exclusive ITFS applications under the current rules.[1] Any other decision would be grossly unfair to pending ITFS applicants and the public interest they are committed to serve.

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[1]Unlike the comparative broadcast proceedings the Commission discusses in the NPRM., comparative ITFS proceedings do not involve criteria relating to integration or related qualification criteria. For example, comparative criteria for ITFS includes accreditation of the applicant and the number of hours of educational programming an applicant will be providing to its receive sites.

Commenters urge the Commission to process the ITFS applications pending at the Commission under the current Rules.

Respectfully submitted,

College of the Albemarle, Asheville-Buncombe Technical Community College, Belmont Abbey College, Blue Ridge Community College, Brunswick Community College, The Crary School, Currituck County Schools, Davidson County Community College, Durham Technical Community College, Fayetteville Technical Community College, Forsyth Technical Community College, Hoke County Board of Education, James Sprunt Community College, Johnston Community College, Lenoir Community College, Mitchell Community College, Moore County Schools, Nash Community College, Pamlico Community College, Pitt Community College, Queens College, Randolph Community College, Richmond Community College, Roanoke Rapids Graded School District, Sandhills Community College, Stanley Community College, Vance - Granville Community College, Wake Technical Community College, Wilson Technical Community College, and Wireless One of North Carolina, L.L.C.

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