

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

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JUN 16 1998

In the Matter of	)	
	)	
Biennial Regulatory Review – Amendment	)	
of Parts 0, 1, 12, 22, 24, 26, 27, 80,	)	WT Docket No. 98-20
87, 90, 95, 97, and 101 of the	)	
Commission’s Rules to Facilitate the	)	
Development and Use of the Universal	)	
Licensing System in the Wireless	)	
Telecommunications Services	)	

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**REPLY COMMENTS  
OF  
WINSTAR COMMUNICATIONS, INC.**

Pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission (“FCC” or “Commission”), 47 C.F.R. § 1.415, WinStar Communications, Inc. on behalf of itself and its several subsidiaries (collectively “WinStar”), hereby submits these brief Reply Comments in response to the Comments submitted on the Notice of Proposed Rulemaking released in the above-captioned rulemaking.<sup>1</sup> In the Notice, the FCC proposed rules and procedures to implement the Universal Licensing System (“ULS”) and to consolidate several service-specific rules into rule Part 1.

<sup>1</sup> Notice of Proposed Rulemaking, WT Docket No. 98-20, FCC 98-25 (rel. March 18, 1998) (“Notice”).

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As set forth below, WinStar only seeks to comment on four specific issues regarding the FCC's Notice:

1. WinStar strongly supports the several Commentors who urged the Commission to allow Internet access to the ULS.<sup>2</sup> WinStar participated in the LMDS auction and is the high bidder on 15 LMDS licenses. It thus has first hand knowledge of the FCC's point-to-point protocol ("PPP") connection, especially in a network environment. WinStar believes that Internet access would be superior to PPP access. If the FCC truly intends to promote the use of the ULS system, it must make the ULS as easy to use as possible. Such ease of use must include the ability to completely access and take full advantage of the ULS (including the filing of applications) from a network-based personal computer.
2. In its Comments, WNP Communications ("WNP") points out apparent discrepancies in the FCC's Part 101 rules which possibly could be construed to require FCC notification "in virtually all instances where an LMDS licensee adds, removes or relocates systems facilities."<sup>3</sup> In addition to its large number of licenses in the 38.6-40.0 GHz band, WinStar is the high bidder for 15 LMDS licenses. WinStar supports WNP's position that the FCC delete any rules that would require LMDS licensees to notify the FCC of the addition, removal, or relocation of facilities within their BTA boundaries. Keeping the requirement in place simply contravenes the goals of

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<sup>2</sup> See, e.g., Comments of FCBA at 11-13.

<sup>3</sup> Comments of WNP Communications at 2 (footnote omitted).

geographic licensing.

3. WinStar opposes PageNet's suggestion that "the Commission allow geographic licensees to operate in the area previously served by the co-channel incumbent if the geographic licensee, after reasonable investigation, determines that the co-channel incumbent is not in operation."<sup>4</sup> While WinStar recognizes PageNet's desire to put to use fallow spectrum and to provide coverage to unserved areas, this proceeding is not the appropriate forum to institute significant policy changes concerning license usage. Moreover, FCC rules already exist to ascertain whether geographic licensees have met their requirement to provide "substantial service" within their license area. Finally, as a matter of basic administrative procedure, parties must be allowed to fully comment on specific proposals before the Commission can implement what is in essence a private reclamation action.
  
4. WinStar seeks to supplement a position it took in its Comments urging the FCC to create an exception from the requirements of Sections 101.215 and 101.217 for the customer stations of geographic area licensees.<sup>5</sup> In association with that request, and for the same reasons set forth in its Comments, WinStar also asks that the FCC modify Section 101.149(b), 47 C.F.R. § 101.149(b), to eliminate the specific requirement that 39 GHz licenses post a service area authorization at each operating station. Such a requirement should be voluntary. It is unduly burdensome for

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<sup>4</sup> Comments of PageNet at 3.

<sup>5</sup> Comments of WinStar at 9.

geographic area licensees like WinStar who will ultimately maintain hundreds, if not thousands, of customer facilities in each metropolitan area in which it provides service.<sup>6</sup>

**WHEREFORE, THE PREMISES CONSIDERED,** WinStar Communications, Inc. requests that the Commission take action consistent with the proposals set forth herein.

Respectfully submitted,

**WINSTAR COMMUNICATIONS, INC.**



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<sup>6</sup> WinStar currently provides competitive local exchange services in 24 markets, and intends to be operating in 30 markets by the end of 1998.