

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

In the Matter of )  
 )  
Amendments to Parts 1, 2 and 101 ) WT Docket No. 99-327  
Of the Commission's Rules ) FCC 99-333  
To License Fixed Services )  
At 24 GHz )

REPLY COMMENTS  
OF THE  
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association (NTCA) respectfully submits these Reply Comments to the *Notice of Proposed Rulemaking* (NPRM) in the above captioned proceeding. NTCA is a national trade organization representing approximately 500 rural telephone companies. Most of NTCA's members hold wireless licenses, providing service in rural America.<sup>1</sup> Several small, rural telephone companies are interested in the 24 GHz spectrum band, but would not be able to afford to compete in an auction with large carriers wishing primarily to serve urban areas. For this reason, NTCA files these reply comments in support of the comments of the Office of Advocacy, U. S. Small Business Administration (SBA), the Personal Communications Industry Association (PCIA), and the Rural Telecommunications Group (RTG).

SBA, PCIA and RTG all argue for the Commission to auction 24 GHz licenses on the basis of small geographic areas. SBA and RTG recommend the use of Metropolitan Statistical

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<sup>1</sup>NTCA's members hold cellular, PCS, MMDS, paging, and LMDS licenses. There is also significant interest in the upcoming 29 Ghz auction. WT Docket No. 99-327  
February 7, 2000 FCC 99-333

Areas (MSAs) and Rural Service Areas (RSAs). PCIA requests that the Commission adopt Basic Trading Areas (BTAs) as the size of licensing areas. NTCA believes that the auctioning of the service by either MSAs and RSAs or BTAs is preferable than auctioning it according to the Commission's proposed Economic Area (EA) basis.

PCIA, RTG and SBA point out that the Commission's proposal to license the 24 GHz band based on EAs would limit the involvement of small business in the auction. EAs combine both rural and urban areas into one geographic service territory. This drives up the price for a carrier seeking to serve only a rural area. Rural areas, by their very nature, are less valuable than urban areas and cost less at auction. Rural areas have low population densities and difficult terrain. It costs more to build plant in rural areas and the returns are smaller. It costs less to bid on a license that covers only a rural area. If the Commission licenses the 24 GHz spectrum according to EAs, a rural telephone company seeking to provide a new wireless offering to its rural service territory must compete with a larger company seeking to serve an urban area. Small businesses, including small, rural telephone companies, lack the financial resources of larger companies and are often unable to compete for urban areas. Also larger service areas come with larger upfront payments, minimum bids, and down payments. Inclusion of urban areas with rural areas may raise the auction value of an EA such that small businesses, including rural telephone companies, may not be able to afford to make even a first bid on the EA.

The Commission suggests that its partitioning and disaggregation rules would provide the economic opportunity small businesses would lack in the EA auction. As the RTG points out, the Commission's reliance on partitioning and disaggregation "is misplaced and unsupported by

experince.”<sup>2</sup> Rural telephone companies have not been successful in obtaining partitioned service areas. Licensees believe that unpartitioned service areas are more valuable and since they are able to fulfill the Commission’s “build-out” requirements by serving the more profitable urban areas, they hold on to the entire license. Large license holders possess maximum bargaining power and are rarely interested in negotiating with small carriers. The efforts of rural telephone companies wishing to provide additional services in their service territory are thwarted and the rural consumer goes unserved. The Commission’s 24 GHz licensing rules would thus serve to widen the gap between the technology haves and have nots. The Commission’s proposal to auction the 24 GHz spectrum according to EAs favors well-financed, large entities. Small companies, including rural telephone companies who want to provide service only to rural areas must either bid the extra money necessary to obtain the adjacent urban areas and hope to partition them off, or hope to obtain a partial license through partitioning or disaggregation. Carriers wishing to serve rural areas are not optimistic about being successful in such scenarios.

Section 309(j) of the Communications Act of 1934 and Section 706 of the Telecommunications Act of 1996 mandate that the Commission adopt rules and policies that promote the development and rapid deployment of new technologies to rural areas. The Commission is also directed to ensure that small businesses, including rural telephone companies are given the opportunity to participate in the provision of spectrum based services. The Commission will best fulfil its Congressional directives by auctioning the 24 Ghz spectrum in smaller than EA service territories. The use of EA service areas represents a complete

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<sup>2</sup>RTG Comments, p. 10.

abandonment of the goals of 309(j), *i.e.*, the promotion of small business participation in the ownership of the spectrum.

Respectfully submitted,

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February 7, 2000

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Reply Comments of the National Telephone Cooperative Association in WT Docket No. 99-327, FCC 99-333 was served on this 7<sup>th</sup> day of February 2000, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:

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