

**Before the  
Federal Communications Commission  
Washington, DC 20054**

In the Matter of	)	
	)	
Reexamination of the Comparative	)	
Standards for Noncommercial	)	MM Docket No. 95-31
Educational Applicants	)	
	)	
Association of America's Public	)	
Television Stations' Motion for Stay	)	
of Low Power Television Auction	)	
(No. 81)	)	
	)	

**REPLY COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS**

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June 17, 2002

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## Executive Summary

The National Association of Broadcasters (“NAB”) submits these reply comments in the FCC’s proceeding seeking comment on new procedures to license nonreserved (*i.e.*, commercial) spectrum in which applicants for both commercial and noncommercial educational (“NCE”) broadcast stations have an interest. In light of the recent court decision prohibiting the use of auctions to award licenses even for nonreserved spectrum where applicants include both commercial and NCE entities, which has substantially constrained the FCC’s range of options, the Commission should adopt its proposal to hold NCE entities ineligible for licenses for nonreserved channels.

In these reply comments, NAB refutes arguments that the Commission lacks authority under the Communications Act of 1934 (the “Act”) to adopt its first proposed option to hold NCE entities ineligible for licenses for commercial channels. Indeed, Congress since 1934 has left to the FCC’s discretion questions pertaining to the reservation of spectrum for noncommercial use and to the eligibility standards for broadcast station licensees. The courts, including the Supreme Court, have in several cases explicitly confirmed the breadth of the Commission’s authority under the Act to establish threshold eligibility standards for broadcast station applicants. Moreover, contrary to the assertions of several commenters in this proceeding, the Balanced Budget Act of 1997, which significantly expanded the FCC’s authority to resolve competing applications by auction, did not alter the Commission’s long-standing authority to decide whether (and how much) spectrum to reserve for noncommercial use and to determine the threshold eligibility requirements for applicants for both commercial and noncommercial broadcast licenses.

Given the FCC's clear authority to adopt its first proposed option in this proceeding, NAB urges the Commission to do so. This option represents the only realistic alternative if the Commission wishes to license any new broadcast service on commercial channels without potentially years of further delay. Given the public interest in avoiding additional delays in the licensing of new service, the need to avoid conflict with the congressional directive to use auctions to award licenses to commercial applicants, and the legal and practical constraints on the FCC's range of options, the Commission should adopt its proposal to hold NCE entities ineligible for licenses for commercial channels.

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
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Reexamination of the Comparative Standards for ) MM Docket No. 95-31  
Noncommercial Educational Applicants )  
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Association of America’s Public Television )  
Stations’ Motion for Stay of Low Power )  
Television Auction (No. 81) )  
 )  
To: The Commission

**REPLY COMMENTS OF THE  
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (“NAB”)<sup>1</sup> submits this reply to certain comments on the Commission’s *Second Further Notice of Proposed Rulemaking* in this proceeding.<sup>2</sup> In light of the decision in *National Public Radio, Inc. v. FCC*, 254 F.3d 226 (D.C. Cir. 2001) (“*NPR*”), prohibiting auctions when there are noncommercial applicants, the *Notice* sought comment on new procedures to license nonreserved spectrum in which applicants for both commercial and noncommercial educational (“NCE”) broadcast stations have an interest. Comments were submitted in response to this *Notice* by various broadcasters (including public, educational and religious broadcasters) and trade associations, and they expressed a wide range of opinions on the Commission’s proposals.

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<sup>1</sup> NAB is a nonprofit incorporated association of radio and television stations and broadcast networks. NAB serves and represents the American broadcasting industry.

<sup>2</sup> *Second Further Notice of Proposed Rule Making* in MM Docket No. 95-31, FCC 02-44 (rel. Feb. 25, 2002) (“*Notice*”)

In this reply, NAB refutes arguments that the Commission lacks authority under the Communications Act of 1934 (the “Act”) to adopt its proposal to hold NCE entities ineligible for licenses for nonreserved (*i.e.*, commercial) channels. Indeed, Congress since 1934 has left to the Commission’s discretion questions pertaining to the reservation of spectrum for noncommercial use and to the eligibility standards for broadcast station licensees. The Balanced Budget Act of 1997, which significantly expanded the FCC’s authority to resolve competing applications by auction, did not alter the Commission’s long-standing authority to decide whether (and how much) spectrum to reserve for noncommercial use and to determine the threshold eligibility requirements for applicants for both commercial and noncommercial broadcast licenses. In light of the FCC’s clear authority to hold NCE entities ineligible for licenses for nonreserved channels, its obligation to use auctions to award licenses to commercial applicants, and the public interest in avoiding further delays in the licensing of new service, NAB continues to support the Commission’s first proposed option in this proceeding.

**I. The Commission Possesses Clear Statutory Authority To Hold NCE Entities Ineligible For Licenses For Commercial Channels.**

Since passage of the Communications Act in 1934, Congress has consistently left questions pertaining to the reservation of spectrum for noncommercial use, and to the eligibility standards for broadcast station licensees, to the discretion of the Commission. Indeed, Congress in 1934 specifically considered and then rejected allocating by statute a fixed percentage of radio station licenses “to those engaged in broadcasting on a nonprofit basis.” 77 Cong. Rec. S8824, 8846 (May 15, 1934). The Act ultimately directed the Commission to study, and to report to Congress, on “the proposal that Congress by statute allocate fixed percentages of radio broadcasting facilities to particular types or kinds of non-profit radio programs or to persons identified with particular types or kinds of non-profit activities.” Communications Act of 1934,

Section 307(c). The Commission’s 1935 report opposed this proposal,<sup>3</sup> and, thus, the authority to determine whether (and how much) radio spectrum to reserve exclusively for noncommercial use has remained with the Commission.<sup>4</sup> The Commission has also exercised its authority to establish requirements for eligibility to be licensed as a noncommercial educational broadcaster, and to set the application filing and processing requirements any NCE broadcaster must meet. *See* 47 C.F.R. §§ 73.503, 73.513, 73.621.<sup>5</sup>

The courts have, moreover, upheld the Commission’s “broad authority” under the Act “to allocate broadcast licenses.” *FCC v. NCCB*, 436 U.S. 775, 795 (1978). It is “well established” that the “general rule-making authority” set forth in Sections 154(i) and 303(r) of the Act “supplies a statutory basis for the Commission to issue regulations codifying its view of the public-interest licensing standard.” *Id.* at 793. Indeed, the Supreme Court has specifically held that the Commission has the authority to promulgate rules establishing threshold eligibility standards for broadcast station applicants, even though those rules “contain limitations against licensing not specifically authorized by statute.” *U.S. v. Storer Broadcasting Co.*, 351 U.S. 192, 202-203 (1956) (concluding that its “general rulemaking power” allowed the FCC to issue rules

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<sup>3</sup> *See Fifth Report and Memorandum Opinion and Order*, 2 FCC 2d 527, 541 (1966) (referring to 1935 report).

<sup>4</sup> The Commission has exercised this authority to, *inter alia*, reserve certain television and FM channels exclusively for NCE use. *See, e.g., Sixth Report and Order*, 41 FCC 148 (1952) (adopting table of television channel assignments, reserving certain assignments for exclusive use of noncommercial stations, and discussing who may be licensed to operate NCE stations); *Fifth Report and Memorandum Opinion and Order*, 2 FCC 2d 527, 540-43 (1966) (rejecting request that a greater number of UHF television channels be reserved for educational use).

<sup>5</sup> As recognized in the *Notice* (at ¶ 11), the Commission has allowed NCE entities to apply for licenses for nonreserved FM and television channels, but has traditionally required those NCE applicants to comply with the same filing and processing procedures as commercial applicants, and to compete on a comparative basis with commercial applicants for nonreserved channels. *See, e.g., Central Michigan University*, 7 FCC Rcd 7636 (1992); *Memorandum Opinion and Order* in Docket No. 20418, 90 FCC 2d 160, 179-80 (1982); *Josephine Broadcasting Limited Partnership*, 5 FCC Rcd 3162 (Audio Serv. Div. 1990).

determining that a broadcast license will not be granted if an applicant has an interest in other stations beyond a limited number). Thus, the Commission possesses the authority under Sections 154(i) and 303(r) to promulgate a rule establishing that NCE applicants will be ineligible for broadcast licenses for commercial channels, even though this “limitation[] against licensing” is “not specifically authorized by statute.” *Storer*, 351 U.S. at 202-203. As the Court of Appeals for the D.C. Circuit has emphasized, the Act “does not preclude the FCC from establishing threshold standards to identify qualified applicants and excluding those applicants who plainly fail to meet the standards.” *Hispanic Information and Telecommunications Network, Inc. v. FCC*, 865 F.2d 1289, 1294 (D.C. Cir. 1989) (upholding FCC decision to dismiss pending applicant for an Instructional Television Fixed Service license where FCC issued new rules under which the pending applicant was rejected).

The Balanced Budget Act of 1997 (“Budget Act”) did not alter the Commission’s long-standing authority to decide whether (and how much) spectrum to reserve for NCE use and to determine the threshold eligibility requirements for broadcast license applicants. The Budget Act significantly extended and expanded the Commission’s auction authority, but did not affect – or even address – the Commission’s authority to designate reserved spectrum or to set requirements for those applying for licenses on reserved or nonreserved channels.

Prior to the Budget Act, the Commission had the authority, but was *not* required, to use competitive bidding to resolve mutually exclusive applications for initial licenses or permits *if* the principal use of the spectrum was for *subscription-based* services *and* competitive bidding would promote certain specified statutory objectives.<sup>6</sup> As amended by Section 3002 of the Budget Act, Section 309(j)(1) & (2) of the Act now *requires* the Commission to use competitive

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<sup>6</sup> *Report and Order and Further Notice of Proposed Rulemaking* in WT Docket No. 99-87, 15 FCC Rcd 22709, 22715 (2000); 47 U.S.C. § 309(j)(1) and (2) (1996).

bidding to resolve competing applications for all types of services, unless one of three narrow exemptions provided in the statute applies. 47 U.S.C. § 309(j)(1) & (2) (FCC “shall” grant licenses “through a system of competitive bidding” whenever “mutually exclusive applications are accepted,” except, *inter alia*, for licenses issued for public and NCE broadcast stations). Thus, Congress’ obvious purpose in the Budget Act was to expand and extend the Commission’s discretionary and limited auction authority into a mandatory and broad authority encompassing most uses of the spectrum, including broadcast uses. *See* Section 3002(a) of the Budget Act, Pub. L. No. 105-33, 111 Stat. 258 (1997) (entitled “Extension and Expansion of Auction Authority”).

In its significant expansion of the FCC’s auction authority, Congress did not alter the FCC’s authority with regard to reserved and nonreserved spectrum and the eligibility requirements for applying for commercial and noncommercial broadcast licenses. The plain language of Section 309(j)(1) & (2) does not address these issues, and the conference report to the Budget Act similarly makes no reference to these broader spectrum and eligibility questions. *See* H.R. Conf. Rep. No. 217, 105<sup>th</sup> Cong., 1<sup>st</sup> Sess. 572-74 (1997). Given Congress’ silence in the Budget Act as to the FCC’s authority to designate reserved spectrum and establish eligibility criteria for broadcast licenses, the breadth of Commission authority in these areas – which was confirmed in such cases as *Storer* – remains unchanged.<sup>7</sup> Moreover, members of the panel of the D.C. Circuit Court of Appeals hearing the *NPR* case evidently agreed that the Commission, even

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<sup>7</sup> Because Congress did “not directly address[] the[se] precise question[s]” in the Budget Act, the FCC’s construction of the Budget Act in this proceeding will also be entitled to judicial deference. *Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837, 843-44 (1984) (if a “statute is silent or ambiguous,” then a reviewing court is to defer to the agency’s interpretation of that statute).

after passage of the Budget Act, possesses the authority to hold NCE entities ineligible for licenses on commercial channels.<sup>8</sup>

In light of the above analysis, assertions by some commenters that holding NCE entities ineligible for licenses for commercial channels would be contrary to the Act are clearly unsupportable. *See, e.g.*, Comments of National Public Radio, Inc. at 5; Association of Public Television Stations (“APTS”) at 7. Despite claims that adoption of the FCC’s first option in this proceeding would be contrary to some “congressional mandate[.]” (comments of APTS at 8), commenters can point to no language in the Communications Act that requires the Commission to reserve any spectrum for NCE use or to allow NCE entities to apply for commercial channels. APTS, for example, cites the general “Declaration of Policy” contained in the statutory provisions creating the Corporation for Public Broadcasting (“CPB”) as somehow demonstrating congressional intent with regard to NCE use of nonreserved spectrum.<sup>9</sup> But a general congressional declaration that it is in the public interest for citizens to have access to public telecommunications services has absolutely nothing to do with the issues at hand. A general desire to promote public telecommunications services through the establishment of a separate entity (the CPB) is wholly unrelated to the question of the FCC’s authority under the

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<sup>8</sup> For example, Judge Tatel suggested that it would be “totally legal” for the Commission to exclude NCE broadcasters from nonreserved spectrum, and that he could not “imagine” how excluding NCE entities from nonreserved channels would conflict with the plain language of the auction statute. He also inquired as to why it wouldn’t be “perfectly rational” for the Commission to adopt this course of action. Judge Ginsburg also questioned whether any legal barriers would prevent the FCC from requiring NCE entities to operate solely in the reserved band, and dismissed a suggestion from petitioners’ counsel that doing so would violate the First Amendment.

<sup>9</sup> *See* 47 U.S.C. § 396(a)(7) & (9) (stating it is in the “public interest” for the government to insure that all citizens “have access to public telecommunications services” and that the government should support policies that will make such services available). National Public Radio (*see* comments at 7-8) similarly refers to Congress’ appropriation of funds to the CPB.

Communications Act to designate reserved spectrum and determine broadcast licensee eligibility, and has no effect on the Commission’s broad discretion to license both commercial and noncommercial broadcasters.<sup>10</sup>

Despite National Public Radio’s assertions to the contrary (*see* comments at 8), the 1997 Budget Act did not limit the FCC’s discretion over broadcast spectrum and licensing policy so as to prevent the Commission from holding NCE entities ineligible for licenses for nonreserved channels. As discussed in detail above, the Budget Act amended Section 309(j) to expand and extend the FCC’s auction authority, and did not derogate from (or even address) the Commission’s broad discretion over spectrum allocation and broadcast licensing policy. If Congress had intended to alter the Commission’s long-standing authority over these matters, surely Congress would have said so plainly and clearly in the statute.<sup>11</sup> But here Congress did not say so in either the statute or even in the conference report.<sup>12</sup> Indeed, Congress left unchanged in 1997 language contained in Section 309(j)(3) that confirms the Commission’s authority to “specify[] eligibility and other characteristics” of “licenses and permits to be issued

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<sup>10</sup> *Cf. Accuracy in Media, Inc. v. FCC*, 521 F.2d 288, 297 (D.C. Cir. 1975) (finding that the “interpretation” of the “hortatory” language in Section 396(g)(1) directing the CPB to facilitate programs “with strict adherence to objectivity and balance” should be left to the Directors of CPB and to Congress, and that the FCC had “no function” in enforcing such language and no jurisdiction over the CPB). Similarly “hortatory” language declaring that the government should generally promote access to public telecommunications services cannot derogate from the FCC’s long-standing authority over broadcast spectrum and licensing questions.

<sup>11</sup> *See Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457, 468 (2001) (“Congress . . . does not alter the fundamental details of a regulatory scheme in vague or ancillary provisions – it does not, one might say, hide elephants in mouseholes”).

<sup>12</sup> As previously described, the only reference in Section 309(j) to public and NCE stations was to exempt licenses for such stations from competitive bidding. The statute is silent on the FCC’s policies pertaining to the designation of reserved spectrum for NCE use and to the establishment of threshold eligibility criteria for licensees on commercial and noncommercial channels.

by competitive bidding.” 47 U.S.C. § 309(j)(3). Thus, the Commission clearly possesses the authority to specify threshold “eligibility” requirements for commercial broadcast licenses, which are “to be issued by competitive bidding.” *Id.* The Commission’s broad authority over “eligibility” must encompass the authority to adopt its first proposed option to hold NCE entities ineligible for such licenses. *See also NCCB*, 436 U.S. at 793-95; *Storer*, 351 U.S. at 202-203; *Hispanic*, 865 F.2d at 1294.<sup>13</sup>

Finally, NAB notes that the requirements of Section 307(b) of the Act have no impact on the Commission’s decisions with regard to the designation of reserved spectrum or the eligibility requirements for commercial and noncommercial broadcast licensees. *See* Comments of Moody Bible Institute of Chicago, *et al.* at 10-13 (arguing the Section 307(b) justifies the commenters’ proposals for determining whether a new station should be commercial or noncommercial, depending on the relative need for each type of service). Section 307(b) requires the Commission to provide a “fair, efficient, and equitable distribution of radio service” to each of the “several States and communities.” 47 U.S.C. § 307(b). By its clear terms, Section 307(b) concerns only the fair and equitable *geographic* distribution of radio service, and does not address the distribution of facilities as between stations offering commercial and noncommercial programming services. *See FCC v. Allentown Broadcasting Corp.*, 349 U.S. 358, 362 (1955) (Section 307(b) “empowers the Commission to allow licenses so as to provide a fair distribution

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<sup>13</sup> The fact that this first option would constitute a change in Commission policy does not undermine the authority of the Commission to adopt this option, as APTS and National Public Radio erroneously implied in their comments. *See, e.g., Rainbow Broadcasting Co. v. FCC*, 949 F.2d 405 (D.C. Cir. 1991) (FCC acted within its authority in changing its broadcast licensing policy so that commercial and noncommercial television licensees could exchange their channels without exposing themselves to competing applications, as agencies enjoy wide latitude when using rule makings to change their own policies and the manner by which their policies are implemented).

among *communities*”) (emphasis added). Indeed, the Commission has previously specifically considered and rejected the claim that Section 307(b) “pertain[s] to the distribution of facilities as between stations rendering different types of program service.”<sup>14</sup> In sum, commenters in this proceeding opposing the FCC’s first proposed option have been unable to cite any statutory provision that casts doubt on the Commission’s authority to adopt its proposal.

## **II. Only The Commission’s First Proposed Option Will Enable The Licensing Of Commercial Spectrum Without Further Significant Delays And Other Intractable Problems.**

Given the years of delay that pending applicants have already endured due to a lack of a method for resolving the competing applications of commercial and NCE entities, and the significant delay in conducting the previously announced auction of over 350 vacant FM allotments, several commenters agreed that the need to avoid further substantial delays in the licensing of new service on commercial channels has become imperative.<sup>15</sup> In light of the constraints the *NPR* case imposes on the FCC’s range of options, the only realistic alternative if the Commission wishes to license any new broadcast service on commercial channels without potentially years of further delay is to hold NCE entities ineligible for licenses on commercial channels so that all competing applicants for those channels can proceed expeditiously to auction. When granting the FCC auction authority and again when expanding that authority, Congress stressed the importance of avoiding delay in the licensing of new service to the public.<sup>16</sup> The Commission has also generally recognized that “expedited service to the public is

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<sup>14</sup> *Fifth Report and Memorandum Opinion and Order*, 2 FCC 2d 527, 540 (1966) (rejecting claim that FCC’s failure to reserve more UHF channels for noncommercial use violated Section 307(b)).

<sup>15</sup> See, e.g., Comments of NAB at 4; Thomas M. Eells at 3-4; Amador S. Bustos at 3-4.

<sup>16</sup> See 47 U.S.C. § 309(j)(3)(A) (FCC shall promote the “rapid deployment” of new services “without administrative or judicial delays”). In the 1997 Budget Act, Congress expressly

an important public interest consideration.”<sup>17</sup> In light of Congress’ clear intent that the Commission expedite service to the public, the Commission should reject proposals for resolving the competing interests of commercial and NCE applicants that would result in significant further delay in the licensing of new service on nonreserved channels.<sup>18</sup>

Proposals supported by National Public Radio (*see* comments at 11-12) to reopen “closed” allocation rulemaking proceedings (including those involving channels already scheduled for the long-delayed FM auction) to allow NCE entities a further opportunity to remove a channel from the reach of any commercial applicant would also lead to significant additional delays. Reopening allocation rulemaking proceedings would also raise serious questions of fairness. These allocation rulemakings were open proceedings in which any NCE entity that wished could have participated. NAB believes that NCE entities that failed to participate in these allocation proceedings should not now be given another opportunity to remove potentially hundreds of channels from the reach of any and all commercial applicants,

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provided that the Commission may grant applications for licenses filed by auction winners as quickly as seven days following public notice of the acceptance of the application for filing. Congress also provided that the FCC may allow as few as five days for the filing of petitions to deny the applications filed by auction winners. *See* Budget Act, Section 3008. Congress authorized the FCC to adopt these shortened time periods despite the 30-day periods specified in Section 309(b) and (d)(1) of the Act.

<sup>17</sup> *First Report and Order* in MM Docket No. 97-234, 13 FCC Rcd 15920 at ¶ 38 (1998).

<sup>18</sup> For example, the State of Oregon (*see* comments at 20-21) proposed a multi-step procedure involving a point system to compare the NCE applicants, an auction to resolve the competing commercial applicants, and then a third step involving engineering solutions, negotiations and other undefined factors to decide between the “winning” NCE applicant and the “winning” commercial applicant. This proposed process would obviously entail considerable delays and complexities in selecting the comparative factors, and would also likely spawn lengthy legal challenges and court appeals by entities who believe themselves disadvantaged by the criteria chosen by the FCC. Indeed, the State of Oregon *itself* has challenged in court the FCC’s point system adopted in 2000 for deciding among competing NCE applicants for reserved channels. And as discussed in NAB’s initial comments (at 2-4), the Commission has in the past experienced significant difficulties in formulating judicially sustainable comparative criteria.

including those entities that undertook the often lengthy and expensive procedure of allocating each channel in the first place. And while the reserved FM band is admittedly crowded, this does not mean that hundreds of closed proceedings allocating new commercial channels should be reopened, or that the FCC's criteria for reserving channels for exclusive NCE use should be further significantly relaxed. After all, the commercial FM spectrum is also extremely congested, and there are no channels available for new commercial FM stations in most urban areas.<sup>19</sup>

Moreover, despite the congestion in both the commercial and reserved FM spectrum bands, NAB opposes the proposal by National Public Radio that the Commission should reallocate TV Channel 6 to radio. *See* Comments of National Public Radio at 16-18. As NAB explained in comments in another proceeding,<sup>20</sup> TV Channel 6 is included in the digital television ("DTV") core spectrum (Channels 2-51), and many existing analog television broadcasters operating on Channel 6 are expecting to switch their DTV operations to Channel 6 when analog service is terminated. It is extremely doubtful that DTV service could be squeezed into a smaller core spectrum area, given that 108 MHz of television spectrum, representing more than 25% of the VHF/UHF television band, will already be relinquished at the conclusion of the DTV transition. The Commission certainly cannot at this time assume that reallocation of TV Channel 6 to the radio service is feasible.

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<sup>19</sup> The public notice identifying the vacant FM allotments previously scheduled to be auctioned demonstrates the congested nature of the commercial FM band. The vacant allotments to be auctioned are predominantly located in the more sparsely populated western and mid-western states and are in small communities, rather than large cities or urban areas. *See* Attachment A to *Public Notice*, DA 01-448 (Feb. 21, 2001).

<sup>20</sup> *See* Comments of NAB in MM Docket No. 99-325 at 5 (filed Jan. 24, 2000); Reply Comments of NAB in MM Docket No. 99-325 at 6 (filed March 21, 2002).

### **III. Conclusion.**

For all the reasons set forth above, contentions that the Commission lacks the authority to hold NCE entities ineligible for licenses for commercial channels are not supportable. Congress since 1934 has left to the Commission's discretion questions pertaining to the reservation of spectrum for noncommercial use and to the eligibility standards for broadcast station licensees. In particular, the 1997 Budget Act, which significantly expanded the FCC's competitive bidding authority, did not alter the Commission's long-standing authority to decide whether (and how much) spectrum to reserve for noncommercial use and to determine the threshold eligibility requirements for applicants for both commercial and noncommercial broadcast licenses. In light of the legal and practical constraints on the Commission's range of options, the need to avoid conflict with the statutory directive to use auctions to award licenses to commercial applicants, and the public interest in avoiding further delays in the licensing of new service, the Commission should adopt its first proposed option in this proceeding.

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June 17, 2002

## CERTIFICATE OF SERVICE

I, Angela L. Barber, Legal Secretary for the National Association of Broadcasters, hereby certify that a true and correct copy of the foregoing Reply Comments of the National Association of Broadcasters was sent this 17<sup>th</sup> day of June, 2002, by first class mail, postage prepaid to the following:

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