

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )  
 )  
Implementation of Section 6002(b) of the Omnibus ) WT Docket No. 02-379  
Budget Reconciliation Act of 1993 )  
 )  
Annual Report and Analysis of Competitive Market )  
Conditions With Respect to Commercial Mobile )  
Services )  
 )  
 )  
 )

To: The Commission

**COMMENTS**

Dobson Communications Corporation (“Dobson”) hereby submits comments in response to the Commission’s December 13, 2002 Notice of Inquiry regarding the state of competition in the Commercial Mobile Radio Services (“CMRS”) industry.<sup>1</sup> Dobson has offered wireless telephone services since 1990, and has expanded its operations primarily through an acquisition strategy targeting underdeveloped rural and suburban areas.<sup>2</sup> Because Dobson is most familiar with those non-urban areas, these comments address the issues raised in the *NOI* that relate to competition in rural areas.

It is troubling that the Commission appears to continue to believe that the number of facilities-based carriers operating in a market is the primary determinant of the level of competition in that market. Dobson’s experience in rural markets shows that, with the maturing of CMRS industry over the past few years, competition has developed sufficiently in these areas to force rural carriers – even though there may be fewer of them in any particular market – to offer their customers services and rate plans

---

<sup>1</sup> *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, WT Docket No. 02-379, *Notice of Inquiry*, FCC 02-327 (rel. Dec. 13, 2002) (“*NOI*”).

<sup>2</sup> Dobson currently owns or manages wireless networks in seventeen states, from Alaska to New York. Dobson operates in fifty-two RSAs and thirteen MSAs, with over 1.4 million customers in a managed population base in excess of 10 million.

essentially indistinguishable from those offered in urban markets. Rural CMRS carriers face significant competitive pressures. Dobson competes with nationwide carriers in every rural region in which it provides service, and Dobson customers enjoy most of the same pricing and service options that are available to urban market subscribers. If the Commission persists in drawing an artificial distinction between urban and rural markets based on a competitive analysis that focuses primarily on the number of facilities-based service providers in a market, it will ignore the true measure of competition in any market – the pressure felt by service providers in each market to respond to pricing and service changes made by their competitors.

Dobson urges the Commission to recognize that the number of facilities-based carriers in a market is a function primarily of the economic realities of serving that market. Higher marginal costs incurred in serving a rural market may cause fewer facilities-based carriers to enter, but that fact does not necessarily lead to the conclusion that that market is less competitive. Basing competition policies on such a simplistic analysis is dangerous.

The Commission could promote additional competition in rural areas by relaxing the application of unfunded mandates (such as local number portability) to rural carriers, thereby enabling them to apply limited capital budgets to improving the quality of the services they provide to customers.

**I. As the CMRS Marketplace Has Matured, Competition in Rural Areas Has Developed Sufficiently To Make Meaningless Any Competitive Distinction Between Urban and Rural Areas.**

The *NOI* asks whether a meaningful distinction exists between the level of competition in rural and urban areas and whether competition has successfully developed in rural areas. As a leading provider of CMRS services in rural areas, Dobson has lived through the developing competition in these markets as the wireless industry has matured, and our first hand experience shows that competition for CMRS carriers in rural markets has dramatically increased. Chief among the reasons for this change are the efforts of the major wireless carriers in recent years to enlarge their footprints to achieve near-national reach, both through expansion of their own networks and through affiliation and roaming arrangements with smaller carriers. As a consequence, nationwide calling plans, offered by the major carriers to

customers across the country and priced to allow nearly unlimited domestic calling, became the standard, and national advertising for wireless services became commonplace. Rural residents became better informed about the choices available elsewhere, and began to demand the same choices in rural markets. And rural carriers have responded.

To illustrate this phenomenon, consider the evolution of Dobson's service plan offerings in its rural Oklahoma markets over the past few years. In 1998, like its competitors at the time, Dobson offered only a limited number of calling plans, none of which offered free long distance or nationwide roaming. By 2002, however, Dobson customers in these markets were offered an array of different calling plans, including local, regional and nationwide plans and more minutes for less money. Dobson doubts that its experience is unusual.

The pricing study cited by the Commission in its *Seventh CMRS Competition Report* provides additional evidence of the substantial development of competition in rural areas. The Commission highlighted an analysis performed by Econ One which compared mobile telephony pricing in rural and urban markets. The Econ One analysis concluded "that there was virtually no difference in the average monthly charge for wireless service" between rural and urban areas.<sup>3</sup> In fact, the study found that the average price charged for wireless services in rural markets was slightly less than the price charged in urban markets, \$36.34 versus \$37.39.<sup>4</sup> Clearly, if price is an indicator of the level of competition, the price reductions spawned by wireless competition in urban markets have come to rural areas.

Properly viewed, the level of competition in a market should be measured from a consumer perspective – *i.e.*, does the consumer have the ability to change service providers if his/her current provider does not offer desired services? Clearly, Dobson has responded to the competitive challenge, even in its rural markets.

---

<sup>3</sup> *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Seventh Report*, 17 FCC Rcd 12985, 13023 (2002) ("*Seventh CMRS Competition Report*").

<sup>4</sup> *Id.*

Rural carriers like Dobson generally face competition both from the major nationwide carriers and from smaller local carriers, and they respond just like any urban carrier would. Therefore, no meaningful competitive distinction can be drawn between urban and rural markets. As the Commission has wisely determined to do with respect to most spectrum mergers and acquisitions,<sup>5</sup> the status of competition should be assessed market-by-market, and not according to an arbitrary definition of “rural” and an artificial distinction between rural and urban markets.

In February 2002, Dobson’s Interim Chief Operating Officer Doug Stephens participated in a Commission Public Forum that was convened to explore ways for the Commission to better gather and analyze data for its annual CMRS Competition Reports to Congress. Mr. Stephens stressed that the competitive landscape that existed in rural markets in the mid-1990s bears no resemblance to the competition that exists in rural markets today. He argued that “it is no longer useful for the Commission to apply an urban/rural distinction, applying different rules according to some artificial division between the two. There are only ‘markets’ – some are large and some are small.”<sup>6</sup> Mr. Stephens also noted that national advertising and the availability of information over the Internet have eliminated any distinction between the levels of competition in rural and urban areas. Armed with additional knowledge, rural customers demand that their service providers offer similar services. In order to remain competitive, especially in markets with a limited customer base, rural carriers have no choice but to offer services and rate plans that are indistinguishable from those offered in urban areas.

---

<sup>5</sup> See *2000 Biennial Regulatory Review – Spectrum Aggregation Limits for Commercial Mobile Radio Services*, WT Docket No. 01-14, *Report and Order*, 16 FCC Rcd. 22668 (2001). On February 13, 2002, Dobson, along with two other non-urban carriers, sought reconsideration of the Commission’s decision to continue to apply the cellular cross-interest rule, 47 C.F.R. § 22.942, in Rural Service Areas (“RSAs”). Dobson Communications Corporation, Western Wireless Corporation, and Rural Cellular Corporation, *Petition for Reconsideration*, WT Docket No. 01-14, filed February 13, 2002. Dobson respectfully requests that the Commission act on that pending petition as soon as possible.

<sup>6</sup> Remarks, Doug Stephens, Interim Chief Operating Officer and Vice President – Central Region, Dobson Communications Corporation, before the Federal Communications Commission Public Forum on Commercial Mobile Radio Service Competition, February 28, 2002, at 3.

In 1999, then-Commissioner Michael K. Powell, referring to the wireless industry, remarked:

“I cannot imagine any other industry segment that can better laud their state of economic competition as ‘meaningful.’ Prices are down and falling. Innovation, churn and penetration are up and still climbing. And . . . the newer PCS licensees are adding more new customers than the incumbent cellular carriers. All of this seems pretty ‘meaningful’ to me.”<sup>7</sup>

Although “meaningful” competition may have taken a little longer to reach rural markets, it has now reached them. Customers in rural areas demand no less a level of service than urban customers. Rural carriers realize that to effectively compete they must offer products and services that are competitive with the offerings of the largest carriers in the largest markets. In order to retain current customers and attract new customers, Dobson offers its rural customers essentially the same national rate plan options as nationwide carriers offer in urban markets, with the same ability to travel nationwide without incurring roaming and long distance charges.

Furthermore, rural carriers like Dobson are not lagging behind in providing digital networks and additional services to their customers. In fact, because it is committed to deploying high quality digital networks, Dobson was one of the first carriers to install digital technology in 100 percent of its markets. Dobson also continues to introduce a variety of innovative products and services into virtually all of its markets, including wireless Internet, two-way SMS text messaging, and voice-activated dialing. Dobson has invested capital in these innovations because it is subject to the same competitive pressures that urban carriers face, and Dobson considers it necessary to its long-term success that its customers in rural Kentucky are offered a comparable level of services as are available in New York City. Investment decisions are driven in part by competitive forces. Dobson believes that if it does not offer advanced services in its rural markets it would risk losing both existing and potential customers to providers that do.

Carriers measure competition according to the products, services and prices they must offer to attract and retain customers. By this measure, no meaningful competitive distinction exists between rural

---

<sup>7</sup> 1998 Biennial Regulatory Review – Spectrum Aggregation Limits for Wireless Telecommunications Carriers, WT Docket No. 98-205, Report and Order, 15 FCC Rcd 9219, 9296 (1999) (Separate Statement of Commissioner Michael K. Powell).

and urban markets. The Commission should understand that rural markets can be as competitive as urban markets and should refocus its competition policies on an analysis of the differences between competitive and non-competitive markets, not between urban and rural markets.

## **II. The Existence of Fewer Facilities-Based Providers in Rural Areas Does Not Suggest Less Meaningful Competition in Rural Areas.**

The *NOI* specifically solicits comment on whether the existence of fewer facilities-based providers in rural areas necessarily indicates the existence of less meaningful competition in these areas.<sup>8</sup> Again, Dobson urges the Commission not to measure competition strictly in terms of the number of carriers that provide service in a market. As explained in Section I above, competition can be more accurately measured by the pressure carriers feel to offer services and products at competitive prices to existing and potential customers.

As noted above, despite the fact that somewhat fewer carriers offer service in the average rural market, competition is flourishing in these areas.<sup>9</sup> Well-educated, cost-conscious rural consumers are demanding rates and services comparable to those offered in urban areas; in order to capture these customers, rural service providers must remain competitive. Prices for CMRS services in rural areas have plummeted because of this robust competition,<sup>10</sup> and the higher marginal costs of providing services in rural markets make it difficult for these markets to support as many carriers as urban markets can. The number of carriers that can successfully provide CMRS service in a market suggests far more about the underlying economics of providing service in that market than about the level of competition existing in the market. Dobson submits that rural markets that have fewer facilities-based carriers are not less

---

<sup>8</sup> *NOI* at ¶ 44.

<sup>9</sup> It is reasonable to expect more competition to develop in rural areas as PCS carriers continue to build out their networks.

<sup>10</sup> In the *Seventh CMRS Competition Report*, the Commission cited a pricing study performed by First Cellular, a rural wireless service provider, which claimed that “the average price per minute of First Cellular has declined from \$0.79 in 1995 to \$0.10 in 2001, dropping 70 percent from 1999 to 2001 alone.” See *Seventh CMRS Competition Report* at 13024.

competitive; the structure of these markets simply reflects the economic realities of providing service there.

**III. The Commission Should Help To Promote Competition in Rural Areas By Relaxing The Application of Mandates That Would Force Rural Carriers To Divert Capital From Pro-Competitive Activities.**

Although competition is flourishing in rural markets, the Commission can help rural carriers bring additional competition to these markets by granting them relief from unfunded mandates that divert capital from pro-competitive activities. The economics of providing service in rural areas require rural carriers to carefully control their expenditures of capital. Because of the slump in equity values across the wireless sector and the limited availability of capital (especially acute recently), rural carriers are struggling to improve their networks and remain competitive. Unfunded regulatory mandates imposed by the Commission make this task even more difficult.<sup>11</sup> Many of the Commission's regulatory requirements force carriers to divert funding from pro-competitive activities, such as network improvements and offering additional products and services. For example, significant capital expenditures are required to implement wireless local number portability ("LNP"). If the Commission were to relieve rural carriers of this additional regulatory requirement, capital would be freed up and rural carriers would use that capital to improve service, thereby making them more effective competitors in the marketplace.

The Commission's LNP requirements will impose capital expenditures on the smaller carriers that are disproportionate to those to be incurred by larger, national carriers, placing carriers like Dobson at a competitive disadvantage. The capital expenditure required to implement LNP would represent a substantial proportion of Dobson's capital improvements budget. As a result, Dobson will be forced to divert resources from other priorities with greater benefit to Dobson's customers, such as expanding coverage in unserved areas, extending digital coverage, and providing more competitive rate plans. The

---

<sup>11</sup> See *Seventh CMRS Competition Report* at n.243 (According to Terry Addington, President of RCA, "Mandates are very, very difficult for a small carrier to manage because we're resource challenged.").

Commission would advance its pro-competitive goals by allowing smaller carriers like Dobson to use its financial and human resources to improve service to its customers and compete better with the national carriers.

Upon adoption of the Commission's recent Notice of Inquiry directly addressing rural wireless service issues, Chairman Powell said:

"Rural America has greatly benefited from the competition brought about by spectrum-based services. . . . It is my hope and expectation that through a more tailored spectrum policy process we can deliver even greater benefits to rural consumers."<sup>12</sup>

Granting rural carriers relief from unfunded mandates will go a long way to meeting this goal. According to the Cellular Telecommunications and Internet Association, wireless companies invest forty cents of every revenue dollar back into their networks.<sup>13</sup> Easing mandates that force wireless carriers to utilize limited funds to satisfy regulatory requirements will promote further competition in rural areas because it will allow carriers to invest in their networks and offer additional services to their customers. Dobson therefore urges the Commission to grant rural carriers relief from unfunded mandates.

#### **IV. Conclusion**

To better understand competition in rural markets, the Commission must gain a broader perspective on the issue. The true measure of competition in any market is whether service providers feel compelled to respond to pricing and service changes made by their competitors. By this standard, rural markets can be every bit as competitive as urban markets, irrespective of the number of carriers providing service. The Commission should recognize this simple fact and incorporate it into its formulation of competition policies.

---

<sup>12</sup> See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, WT Docket No. 02-381, *Notice of Inquiry*, FCC 02-325 (rel. Dec. 20, 2002) (*Statement of Chairman Michael K. Powell*).

<sup>13</sup> See [http://www.wow-com.com/industry/policy/cong\\_affairs/articles.cfm?ID=366](http://www.wow-com.com/industry/policy/cong_affairs/articles.cfm?ID=366) ("Wireless: Massive Growth In An Incredibly Short Period Of Time" at 7).

The economics of serving rural markets determine the number of carriers that can successfully compete, and the Commission can help promote competition in rural markets by granting rural carriers relief from unfunded regulatory mandates. Freeing up much needed capital will allow carriers like Dobson to better employ their limited capital to provide more and better services to their customers.

Respectfully submitted,

**DOBSON COMMUNICATIONS CORPORATION**

By: /s/ Ronald L. Ripley  
Ronald L. Ripley, Esq.  
Vice President & Sr. Corporate Counsel  
Dobson Communications Corporation  
14201 Wireless Way  
Oklahoma City, OK 73134  
(405) 529-8500

January 27, 2003