

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

In the Matter of)	
)	
Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands)	WT Docket No. 04-356
)	
Service Rules for Advanced Wireless Services In the 1.7 GHz and 2.1 GHz Bands)	WT Docket No. 02-353
)	

**COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)¹ submits these comments in response to the Commission’s Notice of Proposed Rule Making (NPRM) in the above-referenced docket.

In its NPRM, the FCC proposes service rules for advanced wireless services in the allocated bands and proposes to license the bands using a geographic licensing scheme. NTCA agrees with the Commission that a regulatory scheme that permits flexible use of the bands is the appropriate licensing approach, and believes that geographic area licensing that employs small license territory will result in the most efficient and entrepreneurial use of the spectrum.

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

In its NPRM, the Commission proposes to permit flexible use of the spectrum bands. NTCA agrees that flexible use of the spectrum is best and will provide each licensee with the opportunity to examine how the spectrum will suit its particular needs. However, the Commission also proposes to permit only mobile transmissions in certain bands.² NTCA argues that restricting use of any spectrum band for mobile services devalues the spectrum and hinders its use in rural areas. Much of the NPRM focuses on mobile services and how the spectrum bands at issue may be used similarly. In fact, there is also the potential to use the spectrum for fixed services, such as wireless local loop. Wireless local loop is being used in rural areas for a variety of reasons, including reaching those customers for whom stringing wire is prohibitively expensive. Rather than impose restrictions on how any individual spectrum band is to be used, the Commission should remain consistent with its stated principle of providing flexibility and let market forces and individual licensees determine how the spectrum is to be used.

The Commission also proposes to license the spectrum bands according to geographic areas and seeks comment on the appropriate size of the geographic area. NTCA agrees that geographic area licensing will maximize flexibility and permit new and innovate technologies to develop in the bands.³ The Commission states that in an ideal world, the size of the initial license areas would match the business plans of the initial licensees.⁴ Given that rural wireline and wireless carriers are interested in this spectrum for a variety of fixed and mobile uses, NTCA proposes that small license territories will suit the needs of the greatest number of potential licensees.

² NPRM, ¶ 87.

³ NPRM ¶ 19.

⁴ NPRM ¶ 21.

As the Commission is well aware, small carriers with localized business plans cannot compete with large carriers at auction. A large carrier is typically interested in serving the city and the rural carrier interested in serving the rural population. A large license territory forces the two carriers to bid against each other, even though they may not actually be interested in serving the same territory. A bidding credit for the small carrier, while useful, does not make up for the disparity in resources. The rural carrier stands little chance of obtaining a large geographic area spectrum license.

The Commission asks commenters to take into consideration secondary market mechanisms such as partitioning and disaggregation when proposing license territories.⁵ While secondary markets may turn into a useful tool for rural carriers interested in serving a portion of a larger carrier's service territory, to date the opportunity has been available for only a handful of carriers. If the opportunity does materialize for the spectrum at issue, it will likely materialize years after the spectrum is initially licensed. Before it will consider negotiating with a rural carrier, a large carrier must first determine how it will use the spectrum, what spectrum it is willing to part with and for what price. The desired outcome, if it occurs at all, is likely to take years to achieve. There is an immediate need for this spectrum in rural areas.

Further, the Commission must take into consideration Section 309(j) when it determines spectrum policies. Section 309(j) directs the Commission to consider policies that provides spectrum opportunities for small businesses, including rural telephone companies. It has long been NTCA's position that only primary spectrum opportunities satisfy 309(j). Secondary opportunities are created not by the Commission, but rather by other licensees who determine that it is in their best interests

⁵ NPRM, ¶ 21.

to negotiate with smaller carriers. Small license territories are appropriate for this spectrum and the only way for the Commission to satisfy its obligations under 309(j).

CONCLUSION

The spectrum at issue in this proceeding has the potential to serve a need in rural markets. The only way to meet the rural need is for the Commission to adopt rules that suit the business plans of small and rural carriers. For the above mentioned reasons, the Commission should license the spectrum blocks in a manner that provides carriers full flexibility of use and according to small enough license territories that permit small businesses, including rural telephone companies, meaningful opportunity to obtain the spectrum.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WT Docket No. 04-356, WT 02-353 DA 04-218 was served on this 23rd day of November 2004 by first-class, U.S. Mail, postage prepaid, to the following persons.

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