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

In the Matter of	)	
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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
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Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands	)	WT Docket No. 02-353
	)	

COMMENTS OF MCI, INC.

MCI, Inc. ("MCI") hereby submits its comments in response to the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NPRM") which proposes service rules for Advanced Wireless Services ("AWS") in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands.[1] As described below, the Commission should ensure that AWS services: 1) are made available to new market entrants that do not currently offer first-mile broadband services; and 2) are implemented as a geographic area licensing scheme with nationwide assignments.

[1] *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, Notice of Proposed Rulemaking (rel. Sept. 24, 2004).

MCI applauds the Commission's allocation of new AWS spectrum. This allocation will serve the public interest by creating a new broadband "pipe" to consumers. The AWS allocation will thus help realize the goal of intermodal broadband competition. This, of course, is a worthwhile objective; as the Chairman recently noted, "government policy should encourage intermodal and intramodal facilities-based competition. Bringing some of your own infrastructure to the table allows a competitor to offer a differentiated service to consumers. It allows a competitor to control more of its costs, and thus offer consumers potentially lower prices."[2] However, the Commission should earmark this allocation for new market entrants and ensure that it does not become a conduit controlled by existing broadband service providers.

Unfortunately, in the wake of recent FCC decisions, wireline *intramodal* broadband competition has been severely hindered – in large part because of the promise of intermodal competition. Therefore, it is critically important that the Commission follows through and implements rules and policies that actually promote intermodal competition. To that end, the Commission should ensure that AWS services are not controlled by entities that exercise chokeholds over other broadband facilities (e.g., DSL and cable modem service providers).

As Chairman Powell observed at the Wireless Broadband Forum, "[t]he great regulatory difficulty over the past one hundred years is because we have always had just one wire to the home. And because of that one wire you had enormous difficulties of monopoly control, bottleneck facilities, and how to get that one wire to every home in the

[2] *In the Matter of Unbundled Access to Network Elements*, WC Docket No. 04-313; *Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Order and Notice of Proposed Rulemaking, Statement of Chairman Michael K. Powell at 40 (rel. Aug. 20, 2004).

United States."[3] This proceeding affords the Commission the "historic opportunity … not to repeat that world."[4] The Chairman also noted that:

> We have the opportunity for not one, we're clearly going to have two [broadband conduits]: DSL, and cable modem are well on their way…. But the Holy Grail is when you get three. Magical things happen in competitive markets when there are three. Magical things happen when there is real choice and pressures for innovation…. And we all know that wireless rests somewhere in that solution to create that competitive world and to take pressure off the regulatory environment for creating the market benefits that that dynamic can produce.[5]

The time has arrived where the Commission can facilitate the magical third conduit. Allowing existing broadband service providers into the AWS service, however, will only extend their stranglehold on competition and result in increased prices for end-users. By limiting AWS service to new entrants, market power will be distributed as widely as possible and not left in the hands of a few. With this approach, the Commission would foster long-term competition, resulting in less expensive and more diverse service offerings to the general public.

Additionally, in the NPRM, the Commission sought comment on whether geographic area licensing should be employed in assigning AWS licenses. MCI believes it should be, and more specifically that nationwide licensing would best serve the public interest. Nationwide licensing would maximize a service provider's efficiency while facilitating mobility and seamless coverage for end-users. With a nationwide business plan, licensees can avail themselves of the economies of scale associated with large-scale deployments and processes. And the general public would reap benefits through

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[3] Remarks of Michael K. Powell, Chairman, Federal Communications Commission, at the FCC Wireless Broadband Forum, May 19, 2004, Washington, D.C., at 2.
[4] *Id.*
[5] *Id*. at 2-3.

innovative new services and lower fees. A homogenous nationwide service offering will also promote widespread adoption by the public. Moreover, as noted in the NPRM, a nationwide scheme would reduce the burdens of coordination with co-channel service providers.

Implementing regional or smaller area licenses, by contrast, could result in a patchwork of disparate, incompatible service offerings – all likely with higher subscription fees.

Conclusion

For the foregoing reasons, and in keeping with the Commission's policy objectives of fostering intermodal competition in broadband services, assignment of this spectrum should be limited to entities that do not currently offer first-mile broadband services. Additionally, as discussed above, this spectrum should be assigned in nationwide allocations.

Respectfully submitted,
MCI, Inc.

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