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

In the Matter of	)	
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
2000 Biennial Regulatory Review Spectrum Aggregation Limits For Commercial Mobile Radio Services	)	WT Docket No. 01-14
Increasing Flexibility To Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and To Facilitate Capital Formation	)	WT Docket No. 03-202

REPLY COMMENTS OF T-MOBILE USA, INC.

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SUMMARY

T-Mobile and the majority of commenters in this proceeding have shown that the Commission's current market-based licensing rules, not the proposals of the Further Notice, best serve rural consumers. Further regulatory intervention is not needed to enable wireless carriers to find solutions for serving rural America. As the record indicates, the Commission's partitioning, disaggregation, and leasing rules have had a direct and positive impact on wireless deployment in rural areas. The Commission should stay the course and allow time for its secondary markets policies to yield even greater benefits for rural consumers. The claims of a few rural trade groups do not and cannot provide adequate support for the Commission to abandon its nascent successful policies.

The record in this proceeding demonstrates that the Commission's reliance on market forces has allowed carriers to serve rural America in a competitive and efficient manner. T-Mobile and other wireless carriers have engaged in a variety of market-based transactions that benefit both service providers and consumers in the affected areas. As a result, smaller carriers have obtained spectrum, which in turn provides rural consumers with better coverage, access to state-of-the-art technology, and lower rates.

Contrary to claims of some rural carriers, the proposals of the Further Notice, if adopted, would hinder the development of wireless service in rural areas, an effect that is precisely the opposite of the Commission's goal in this proceeding. In particular, "keep-what-you-use" could actually reduce competition in many rural markets, harming rural consumers. At the same time, it would be unfair and disruptive for the Commission to significantly alter the build-out obligations for existing licensees.

The flawed "keep-what-you-use" proposals of the rural trade groups would jeopardize these positive developments in the wireless sector. The Commission's experience with "keep-

what-you-use" in the cellular context further illustrates its weakness. A "keep-what-you-use" re-licensing scheme would inevitably force uneconomic construction, devalue licenses, and make it very difficult for licensees to attract investment for build-out in rural areas.

Contrary to the claims of some commenters, a substantial service requirement upon renewal would disrupt investment incentives and could stall the further development of rural wireless service. Adopting such a requirement would sacrifice the stability and regulatory certainty that exists under the current scheme.

Rather than adopt the proposals of the Further Notice, the record indicates that the Commission should take actions that will facilitate service to high-cost, lightly-populated areas. The Commission should replace the current universal service fund with a mechanism that would better promote economic efficiency and competition in rural areas. It should also support modifications to the RUS loan program to help make financing more readily available to rural entities. The Commission should refrain from adopting proposals that would permit spectrum easements or overlays. Finally, the Commission should address intrusive and anti-competitive state and local zoning regulations that often hinder, or even prevent, wireless carriers from improving their coverage area and service.

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REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. ("T-Mobile")[1] replies to comments filed in the Commission's Further Notice of Proposed Rulemaking ("Further Notice") seeking comment on ways to increase the deployment of wireless services to rural America.[2] The record in this proceeding

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[1] T-Mobile is one of the major national wireless providers in the United States with licenses covering 253 million people in 46 of the top 50 U.S. markets and currently serving 17.3 million customers. Via its HotSpot service, T-Mobile also provides Wi-Fi (802.11b) wireless broadband Internet access in more than 5,000 convenient public locations such as Starbucks coffeehouses, airports, and airline clubs, making it the largest carrier-owned Wi-Fi network in the world.

[2] *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 19078 (2004) ("Further Notice"). All comments filed in response to the Further Notice on or before January 14, 2005, are referenced herein as "Comments." Other comments in this proceeding are identified by the date filed.

demonstrates that the Commission's current pro-competitive framework for wireless is the best approach to serve rural consumers. Like the majority of commenters in this proceeding, T-Mobile urges the Commission to stay the course with its current market-based approach, which has resulted in unprecedented levels of wireless competition and deployment in all areas, including rural areas. T-Mobile strongly disagrees with those commenters that urge the Commission to adopt intrusive, uneconomic policies such as "keep-what-you-use" re-licensing or an additional "substantial service" requirement upon renewal. Given the record in this proceeding and the robust state of wireless competition throughout the United States, the proposals of the Further Notice are unnecessary.

I. THE RECORD SHOWS THAT THE COMMISSION'S CURRENT PRO-MARKET APPROACH BEST SERVES RURAL CONSUMERS.

A. Wireless Carriers That Acquire Licenses Under The Present Rules Have A Strong Record Of Serving Rural Areas.

As the record demonstrates, deployment of wireless services in rural areas is increasing and competition is robust in virtually all parts of the United States, including rural areas.[3] Under the Commission's present framework, it is in the interest of licensed carriers to deploy service in rural areas as quickly as possible to meet the demands of consumers. Overall, the current market-based policies are in the public interest, furthering the Commission's objectives under the Communications Act.[4] Under its current policies, the Commission has successfully facilitated the dissemination of licenses among a wide variety of applicants, including small businesses and rural companies. As the Commission recently reported, 97 percent of the U.S. population lives in a county with three or more wireless service providers and even greater gains were made in

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[3] *See, e.g.,* CTIA Comments at 5; Sprint Comments at 3-4.

[4] *See, e.g.,* 47 U.S.C. §§ 309(j), 332(a).

counties in which residents have access to more than four different service providers.[5]

The unsubstantiated complaints of a few rural trade groups do not demonstrate that the Commission's secondary markets policies are failing. The record compiled in this proceeding demonstrates that the Commission's partitioning, disaggregation, and leasing rules have had a direct, immediate, and positive impact on the deployment of wireless services to rural areas. Under the Commission's partitioning and disaggregation rules, numerous carriers have been able to enter and compete successfully in the rural wireless marketplace.[6] The Commission itself has acknowledged that partitioning and disaggregation are among the existing measures that "already are working to promote wireless service in rural areas."[7] Nextel Partners stated that without the partitioning and disaggregation rules, it could not have completed its extensive build-out in lightly-populated rural areas in such a timely fashion.[8] As CTIA notes, the available data indicates that spectrum leasing has facilitated broader entry into the wireless market.[9] The Commission recently concluded that leasing is beginning to prosper in the secondary market and that "secondary market arrangements should be afforded an opportunity to develop before concluding that these policies are insufficient."[10]

Secondary markets transactions have increased service to rural areas. For example, Dobson Communications Corporation ("Dobson") states that it owns or manages networks in

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[5] *See Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, Ninth Report, 19 FCC Rcd 20597, 20600 (2004) (*"Ninth Competition Report"*).

[6] *See* CTIA Comments at 9.

[7] Further Notice, ¶ 6.

[8] Nextel Partners Comments at 6.

[9] CTIA Comments at 9-10.

[10] Further Notice, ¶ 37 n.109.

sixteen states, and 85 percent of its coverage falls in areas the Commission considers "rural."[11] This evidence undermines the Rural Telecommunications Group's ("RTG's") claims regarding a lack of deployment in rural areas.[12] The Commission's secondary markets policies have allowed Dobson to establish its commendable record of service to rural areas.[13] Dobson attributes its success and that of other wireless carriers to the incentives that market forces provide, not the dictates of regulation.[14]

T-Mobile's experience with secondary markets transactions is similar to that of Dobson. The attached declaration of T-Mobile's Senior Manager of Corporate Development explains that as a matter of policy, T-Mobile willingly enters into discussions with carriers that have a real interest in negotiating agreements permitted under the Commission's secondary markets rules as well as those that permit roaming.[15] During the past year, T-Mobile has engaged in multiple secondary markets transactions with rural carriers.

Since the Commission's current rules enabling spectrum leasing went into effect on January 24, 2004, T-Mobile has been very active in negotiating and completing secondary market transactions. For example, T-Mobile is currently leasing spectrum to two rural carriers,[16] one in Colorado and another in Idaho, and both of these leases improve GSM coverage in the

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[11] Dobson Comments at 2-3.

[12] RTG Comments at 4.

[13] Dobson Comments at 9 (stating that the Commission's partitioning and disaggregation policies have allowed Dobson to concentrate on smaller geographic areas and that the Commission's new spectrum leasing policies have provided Dobson with access to underutilized spectrum in rural areas).

[14] *Id.* at 13.

[15] *See generally* Declaration of Heather Pelham, Attachment A ("Pelham Declaration").

[16] Due to provisions in nondisclosure agreements with these carriers, the Pelham Declaration refrains from mentioning carriers' names and markets.

affected markets.[17] In addition, T-Mobile is currently negotiating five other leases with rural carriers in Arizona, Oklahoma, Oregon, Pennsylvania, and Texas.[18] T-Mobile has partitioned and disaggregated spectrum in over 90 BTAs, covering more than 500 counties, with six different rural carriers and is currently negotiating several other partitioning/disaggregation agreements.[19] T-Mobile has entered into over twenty-five roaming agreements with rural carriers and is negotiating several others.[20] T-Mobile has entered into a spectrum swap with two other rural carriers that will allow those carriers to bolster their coverage in six BTAs.[21] T-Mobile has sold partitioned and disaggregated spectrum to a rural carrier in Alabama that will allow that carrier to build a complementary GSM network adjacent to the coverage that T-Mobile provides in an area that currently lacks GSM coverage.[22]

As a result of these activities, rural carriers have obtained spectrum in lightly populated areas originally licensed to T-Mobile. Such transactions can expedite the deployment of wireless services in rural areas, if rural carriers actually provide service in those areas. These secondary markets transactions provide smaller carriers with the flexibility to obtain spectrum based on their specific needs at any given time.[23] This in turn provides rural consumers with better

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[17] *See* Pelham Declaration, ¶ 5.

[18] *See id.*

[19] *See id.*, ¶ 6.

[20] *See id.*, ¶ 7.

[21] *See id.*, ¶ 8.

[22] *See id.*

[23] Moreover, the fact that T-Mobile has been a lessee of rural carriers in some non-rural markets demonstrates that leasing provides economic benefits to rural carriers acting as lessors as well, which can help boost rural carriers' revenues. T-Mobile's experience as a lessee demonstrates that the Commission's recently adopted secondary markets rules allow smaller carriers to maximize their market opportunities.

coverage, access to state-of-the-art technology, and lower rates. In fact, the Commission recently reported that the average price of wireless service in rural areas is comparable to the average price in non-rural areas.[24]

In contrast to the ample and specific evidence in the record that partitioning, disaggregation, and spectrum leasing transactions are ongoing and successful, rural trade groups have offered only anecdotal complaints from their members.[25] These claims cannot and do not support a change in policy.[26]

Although some commenters complain of limited access to spectrum, NTCA's 2004 survey, like the 2003 survey before it, continues to show that for the rural carriers surveyed, access to spectrum is neither their first nor second biggest concern.[27] The 2004 survey results, which were released publicly after initial comments in this proceeding were due, give further support to the Commission's conclusion that "access to spectrum does not appear to be a substantial barrier to entry in RSAs."[28] The number one concern of NTCA members in the 2004

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[24] *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, Eighth Report, 18 FCC Rcd 14783, ¶ 118 (2003).

[25] *See* National Telecommunications Cooperative Association ("NTCA") Comments at 3; Rural Telecommunications Group, Inc. ("RTG") Comments; OPASTCO and Rural Telecommunications Group, Inc. Joint Comments (Dec. 29, 2003).

[26] As Nextel Partners points out, one cause of the alleged shortage of secondary markets opportunities could well be the failure of rural carriers to negotiate. *See* Nextel Partners Comments at 16.

[27] *See* National Telecommunications Cooperative Association, *NTCA 2004 Wireless Survey Report*, at 10 (rel. Feb. 2005), *available at* http://www.ntca.org/content_documents/2004WirelessSurveyReport.pdf ("*NTCA 2004 Wireless Survey Report*"); see also National Telecommunications Cooperative Association, *NTCA 2003 Wireless Survey Report*, at 10 (Dec. 2003), *available at* http://www.ntca.org/content_documents/2003WirelessSurveyReport.pdf.

[28] *2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services,* Report and Order, 16 FCC Rcd 22668, ¶ 43 (2001) ("*Spectrum Aggregation R&O*").

survey was competition from national carriers.[29] If anything, this demonstrates that the Commission is achieving its goal of increasing competition in rural areas. The number two concern of the NTCA respondents was the process of obtaining funding, which was rated between "somewhat difficult" and "very difficult."[30]

B. The Record Shows That The Proposals Of The Further Notice Could Have Anti-Competitive Effects By Decreasing The Number of Carriers Serving Rural Markets.

Some rural interests argue that existing license areas held by current licensees should be broken up, allegedly so that smaller carriers could provide service in the otherwise unserved portions of these areas.[31] These arguments are misguided. Earlier in this proceeding, T-Mobile explained the benefits of the current licensing framework, including the need for relatively large license areas, in providing all consumers, and especially rural consumers, with the types of services that they demand.[32] The Commission's framework has been a success in creating a competitive wireless marketplace, even in the most rural license areas.

Contrary to the opponents of the Commission's existing framework, the proposals of the Further Notice would harm rural wireless service. Those proposals, with their regulatory incentives for uneconomic build-out, would disrupt the competitive marketplace that is successfully bringing service to rural areas.[33] They would limit market participation by the small carriers that the rules purportedly are meant to benefit. In particular, the "keep-what-you-use" scheme of the Further Notice would force existing licensees to build out their license areas more

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[29] *See NTCA 2004 Wireless Survey Report* at 10.

[30] *See id.* at 9.

[31] *See* RCA Comments at 3; RTG Comments at 1, 6-7.

[32] T-Mobile Reply Comments at 5-6 (Jan. 26, 2004).

[33] *See* CTIA Comments at 3; Cingular Comments at 3; Sprint Comments at 3.

broadly than customer demand would otherwise justify. Licensees would do so to preserve their access to the larger license areas that permit them to provide the regional and nationwide service packages that their customers demand. Build-out thus could take place in areas that otherwise would support very limited wireless competition from rural carriers. The result could be that smaller carriers would no longer be able to compete in such areas, which as an economic matter may only support two or three competitors. Imposing build-out requirements during renewal terms could have similar negative effects.

These negative effects contrast with the far more efficient and equitable effects of the current framework, which, as the record shows, contains the strongest incentives for licensees to meet customer demand and to dispose of spectrum that is not economically justifiable to retain.[34] Of course, a carrier that holds spectrum in an area because that spectrum is part of legitimate future business plans is not "warehousing" spectrum. Rather, as the Commission has acknowledged, "[I]t may be a prudent business decision under some circumstances for firms to hold spectrum in anticipation of future needs."[35]

The Commission has further recognized that:

> [I]f there were more than an efficient number of providers in a market, absent other support such as subsidies, in the long run some of these providers would go out of business, causing a loss of service and other inconvenience to consumers.[36]

NTCA claims that "keep-what-you-use" will result in more rural consumers receiving service,[37]

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[34] *See* CTIA Comments at 8-10; Cingular Comments at 7, 9.

[35] *Spectrum Aggregation R&O*, ¶ 44 n.148.

[36] *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services,* Notice of Proposed Rulemaking, 18 FCC Rcd 20802, ¶ 6 (2003).

[37] *See* NTCA Comments at 5.

yet it has also acknowledged that "competition for competition's sake may prove disastrous for a rural community."[38] Indeed, NTCA expounded on its concerns:

> Pushing competition into an area that cannot support multiple providers causes all providers and their subscribers to suffer. If policies are designed to introduce four or five providers of a competing service into an area that can support no more than one or two, there is the substantial risk that all will fail. As the companies struggle for survival, the customer loses as none of the companies can afford to upgrade service or equipment.[39]

As a general matter, it would be fundamentally unfair for the Commission to apply the proposals in the Further Notice to current licensees because they have made massive investments to comply with the Commission's build-out rules in effect at the time.[40]

II. THE INITIAL COMMENTS SHOW THAT "KEEP-WHAT-YOU-USE" IS AN INEFFICIENT AND TIME CONSUMING METHOD OF MANAGING SPECTRUM.

A. The Record In This Proceeding Contains Only Speculation That "Keep-What-You-Use" Would Hasten Build-Out In Rural Areas.

The record demonstrates the weaknesses of the "keep-what-you-use" proposal.[41] A "keep-what-you-use" scheme would devalue licenses and make it harder for licensees to attract capital for build-out in rural areas.[42] With the robust state of competition that exists in the wireless sector, it would be unwise for the Commission to impose requirements that could yield those negative results. Given the positive developments that have occurred for rural wireless service under the Commission's current policies, "keep-what-you-use" would represent a severe setback for the industry and all consumers.

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[38] NTCA Comments at 4 (Dec. 29, 2003).

[39] *Id.*

[40] *See* CTIA Comments at 15-16; Cingular Comments at 6; Sprint Comments at 14-15.

[41] *See, e.g.,* CTIA Comments at 13-16; Cingular Comments at 4-8; Sprint Comments at 9-11.

[42] *Cf.* Cingular Comments at 6.

Despite the claims of rural trade groups that large carriers do not understand the rural marketplace, and therefore base their decisions on merely economic factors,[43] T-Mobile submits that all service providers, whether "rural" or not, consider economic factors, such as customer demand and costs, when determining how best to serve customers and use spectrum. Some rural carriers also claim that they are better situated to serve rural areas,[44] but these claims are speculative at best. There is nothing in the record indicating that a "keep-what-you-use" scheme will guarantee the presence of additional competitors or improved service in rural areas. In contrast, there is solid record evidence, from rural carriers and national carriers alike, regarding the benefits of the current framework, which is based on economic realities, not regulatory fiat.[45]

As the record shows, under a "keep-what-you-use" scheme, spectrum could remain fallow for extended periods, in part by encouraging spectrum "speculators."[46] Finally, uneconomic build-out in response to a "keep-what-you-use" regime would penalize consumers in the form of higher rates.[47]

B. The Proposals In The Record For Implementing "Keep-What-You-Use" Are Fundamentally Flawed.

Two rural trade groups have presented proposals for implementing "keep-what-you-use" that illustrate the shortcomings of that proposal. RTG, for example, calls for the Commission to rewrite the conditions for renewing current PCS licenses so that a "keep-what-you-use" deadline

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[43] *See* RTG Comments at 6 (unnumbered page); *see also* NTCA Comments at 4-5; RCA Comments at 4-5.

[44] *See, e.g.*, RTG Comments at 6-7 (unnumbered pages).

[45] *See, e.g.,* Airwave Wireless and GW Wireless Petition for Reconsideration and/or Clarification at 2 (explaining that the Commission should provide rural carriers with the flexibility to base build-out decisions on economic factors).

[46] *See* Dobson Comments at 16.

[47] *See* Sprint Comments at 7.

would apply five years after the conclusion of the initial license term.[48] This attempt to change the rules for existing licensees is both unfair to the reliance interests of existing licensees and a recipe for uneconomic build-out. Although RTG claims that its scheme will "stimulate" transactions in the secondary markets,[49] it would do so, if at all, only on uneconomic terms that will not efficiently match wireless service with consumers' demand. "Keep-what-you-use" would, at best, force leasing at "fire sale" rates and have a negative impact on secondary market transactions as well as the capital markets.[50] The numerous agreements between carriers pursuant to the partitioning and disaggregation rules may never have materialized if all wireless carriers were subject to a "keep-what-you-use" re-licensing scheme.[51]

RCA argues for a similarly flawed but more elaborate structure, including a two-year build-out notice period for existing licensees, a five-year build-out term for new licenses, and incorporation of a 90-day licensee forfeiture provision similar to that of 47 C.F.R. § 22.317.[52] The proposed two-year notice requirement is even more unreasonable to current licensees than RTG's proposal. Such a requirement would completely alter existing licensees' business plans and the economic assumptions they made based on the existing rules. Current licensees determined their auction prices of spectrum by considering, among other things, the license rules allowing them to deploy spectrum according to customer demand, not the dictates of future regulation. For new licensees, "keep-what-you-use" is uneconomic and anti-competitive,

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[48] RTG Comments at 4 (unnumbered page) (Current PCS licensees applying for renewal in 2005 would have to return unused spectrum in 2010.).

[49] *Id.* at 5 (unnumbered page).

[50] *See* Dobson Comments at 11.

[51] Cingular Comments at 7.

[52] *See* RCA Comments at 6.

regardless of the length of the build-out term. Accordingly, the Commission need not even consider a license forfeiture provision similar to that of Section 22.317. Instead, the Commission should keep the existing pro-competitive framework in place.

C. As The Record Shows, The Cellular Experience With "Keep-What-You-Use" Demonstrates The Flaws Of This Licensing Scheme.

The comments on the Further Notice show that the overarching difference between the spectrum markets of the past and the present is the development of strong wireless competition throughout the United States.[53] Market forces, not regulation, efficiently and fairly provide the primary impetus for carriers to expand coverage and introduce state-of-the-art service to rural areas. As the *Ninth Competition Report* demonstrates, this reliance on market forces has been a resounding success.

As commenters point out, the Commission's experience with the cellular service in the 1980s shows that "keep-what-you-use" re-licensing does not necessarily spawn new competitors in rural areas. Indeed, even after lengthy cellular re-licensing proceedings, portions of very rural areas remain unserved or served by only one cellular carrier.[54] When the Commission adopted "keep-what-you-use" for Cellular Geographic Service Areas ("CGSAs"), there were two cellular carriers, no partitioning/disaggregation rules, and no leasing. The Commission awarded one license to an incumbent local exchange carrier without a hearing, and awarded the other license after a hearing, lottery, or settlement among competitors. The original cellular licensing regime assumed different propagation characteristics than today's technology, used different licensing areas, and was based on different expectations regarding licensees' plans to serve their service

[53] *See* CTIA Comments at 12-13.

[54] *See* Cingular Comments at 5.

areas.[55] The "keep-what-you-use" rules that applied to CGSAs produced splintered and "unserved" areas and service delays in rural areas.[56]

The regulatory concerns associated with the establishment of "keep-what-you-use," would hardly be "minimal," as one commenter wrongly suggests.[57] Aside from its fundamental policy flaws, "keep-what-you-use" would impose significant regulatory burdens. It could take years for the Commission to adopt a specific standard for what constitutes "served" in the rural wireless context. Further complicating matters is the fact that there are now several PCS technologies, each with different propagation characteristics, that could necessitate different definitions of "served."[58] With the rapid pace of development in the wireless sector, it is very likely that by the time the Commission established its definition of "served" for current technologies, new technologies will have emerged.[59]

III. THE RECORD DOES NOT SUPPORT THE IMPOSITION OF FURTHER OBLIGATIONS FOR RENEWAL TERMS.

There is no support in this round of comments for the Further Notice's proposal to impose a substantial service requirement upon license renewal.[60] T-Mobile and others have noted that such a requirement would be against the public interest. The proposed change to the current renewal expectancy would disrupt licensees' expectations and business plans. Under the

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[55] *See* Dobson Comments at 12.

[56] *See* CTIA Comments at 12-13; Cingular Wireless LLC Comments, WT Docket No. 01-108, at 24 (July 2, 2001) (describing the "unserved" areas that remained in most markets as "small, irregularly sized, and minimally valuable").

[57] *See* RCA Comments at 4.

[58] *See* Dobson Comments at 15.

[59] *Id.*

[60] As discussed above, T-Mobile opposes RTG's proposal of a form of "keep-what-you-use" for the first renewal term of existing licensees.

Commission's current policies, wireless carriers have spent billions of dollars to roll out state-of-the-art features, expand coverage areas and improve service. In a short time, wireless carriers have progressed from analog to digital to 3G, with fourth generation service on the way.[61]

IV. RATHER THAN ADOPT THE MISGUIDED PROPOSALS OF THE FURTHER NOTICE, THE RECORD SHOWS THAT THE COMMISSION SHOULD TAKE ACTIONS THAT WILL FACILITATE SERVICE TO HIGH-COST, LIGHTLY POPULATED AREAS.

Commenters highlight a number of ways in which the Commission could actually move to improve service in rural areas. As T-Mobile and others have noted, a properly structured universal service fund ("USF") would be far more effective than the proposals of the Further Notice in facilitating service to areas that would otherwise be uneconomical to serve.[62] The Commission should replace the current USF with a mechanism that includes more equitable contribution requirements and that would better promote economic efficiency and competition among all providers, including wireless providers, in rural areas.

T-Mobile also agrees with Nextel Partners that the Commission could reduce the cost of obtaining financing for wireless services if it permitted carriers to grant conditional security interests in spectrum usage rights to any lender, not only the Rural Utilities Service ("RUS").[63] If the Commission permitted licensees to grant conditional security interests to other lenders, it would secure an additional valuable source of funding for build-out in high-cost rural areas.

Moreover, the record is clear that the Commission should not adopt spectrum easements

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[61] *See* CTIA Comments at 16.

[62] *See* T-Mobile Comments at 11; *see also* CTIA Comments at 6; Western Wireless Reply Comments at 2-3 (Feb. 19, 2003).

[63] *See* Nextel Partners Comments at 8.

or overlays.[64] Easements and overlays would detract from efforts to expand deployment of wireless services in rural areas and would be a disincentive for current licensees to create more spectrally efficient technology. The Commission's market-based policies are preferable to such burdensome regulations.

Finally, as T-Mobile and others have noted, the Commission should address burdensome state and local regulations that often hinder or prevent wireless carriers from improving their coverage area and service.[65]

V. CONCLUSION

The comments on the Further Notice demonstrate that the Commission should not derail the success of its current market-based framework, which is the best means to facilitate wireless service to lightly populated areas. T-Mobile urges the Commission not to adopt the proposals of the Further Notice.

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[64] *See, e.g.,* Cingular Comments at 9-15; T-Mobile Comments at 10; Western Wireless Comments at 12 (Jan. 26, 2004).

[65] *See* T-Mobile Comments at 12; AWS Reply Comments at 10-11 (Jan. 26, 2004); CTIA Comments at 16 (Dec. 29, 2003); Dobson Comments at 13 (Dec. 29, 2003); Nextel Partners Comments at 16-17 (Dec. 29, 2003).

Respectfully submitted,

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