

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Facilitating the Provision of Spectrum-Based) WT Docket No. 02-381
Services to Rural Areas and Promoting)
Opportunities for Rural Telephone Companies)
To Provide Spectrum-Based Services)
)
2000 Biennial Regulatory Review Spectrum) WT Docket No. 01-14
Aggregation Limits For Commercial Mobile)
Radio Services)
)
Increasing Flexibility to Promote Access to) WT Docket No. 03-202
and the Efficient and Intensive Use of)
Spectrum and the Widespread Deployment of)
Wireless Services, and To Facilitate Capital)
Formation)

To: The Commission

OPPOSITION TO PETITION FOR RECONSIDERATION

CTIA – The Wireless Association™ (“CTIA”)¹ submits this opposition to the petition for reconsideration filed by Powerwave Technologies, Inc. (“Powerwave”) in the above-captioned proceeding.² CTIA does not believe it is appropriate to hold in abeyance the Commission’s decision to increase the power limits for broadband PCS and Advanced Wireless Service

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² Powerwave Petition for Reconsideration, WT Docket Nos. 02-381, 01-14, 03-202 (filed Jan. 14, 2005)(“Powerwave Petition for Reconsideration”); *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) (“*Rural Wireless Report and Order*”).

(“AWS”) base stations in rural areas pending resolution of the base station power limit proposals submitted in the *2002 Biennial Review* and *AWS Service Rules* proceedings. Instead, CTIA urges the Commission to promptly adopt CTIA’s proposal submitted in the *2002 Biennial Review* proceeding, described below. On reconsideration here, the Commission should ensure that the rural power limits are modified to account for any action the Commission takes with respect to the underlying base station power limits.

As part of the *Rural Wireless Report and Order*, the Commission doubled the cellular, broadband PCS and AWS power limits for base stations located in rural areas – for PCS and AWS, increasing the Effective Isotropic Radiated Power (“EIRP”) levels from 1640 to 3280 watts and peak output power levels from 100 to 200 watts.³ The Commission concluded that the higher power limits would enable wireless carriers to more efficiently expand coverage and improve service quality in rural areas. Powerwave does not object to the adoption of higher power limits for rural systems but points out that the underlying power limits for PCS and AWS base stations are “quite likely to be changed” in the pending *2002 Biennial Review* and *AWS Service Rules* proceedings.⁴ Powerwave thus requests, “in the interests of harmonization,” that any base station power limit modifications adopted in this docket be held in abeyance pending the Commission action in those other proceedings.⁵

As part of the *2002 Biennial Review* proceeding, CTIA has requested that the Commission supplement the current EIRP limits in Parts 24 and 27 to facilitate deployment of

³ *Rural Wireless Report and Order*, 19 FCC Rcd 19078, 19127-32.

⁴ See Powerwave Petition for Reconsideration at 2.

⁵ *Id.*

wideband technologies.⁶ CTIA's proposal does not permit an increase in the total EIRP that a base station can transmit – rather it removes limits on some technologies. CTIA recommends that EIRP for PCS and AWS base stations be limited to the larger of either (1) the current rules; or (2) a power spectral density rule. Specifically, CTIA recommends that base stations be limited to the greater of 1640 watts average EIRP per carrier or 3280 watts/MHz average EIRP for antenna heights of up to 300 meters HAAT. Notably, consistent with the Commission's action in the *Rural Wireless Report and Order*, CTIA has recommended that these limits be doubled for base stations in rural areas.⁷ CTIA also requests that the Commission eliminate base station transmitter output power limits – the power limit modification that Powerwave seeks.⁸ Powerwave recently filed in support of the CTIA proposal.⁹ CTIA's proposal is supported by carriers and manufacturers across technology platforms. In the seven months since CTIA filed its proposal, no party has filed in opposition to CTIA's proposal.

CTIA urges the Commission to act promptly and adopt the CTIA proposal in the *2002 Biennial Review* proceeding, as well Powerwave's. In its *2002 Biennial Review NPRM*, the Commission noted that the historical rules limiting the transmitted power in the PCS service did not match current technologies and proposed modifying those rules to better accommodate

⁶ See Letter to Marlene H. Dortch, Secretary, FCC, from Paul Garnett, Director, Regulatory Policy, CTIA, WT Docket No. 03-264 (filed Oct. 20, 2004); Letter to Marlene H. Dortch, Secretary, FCC, from Paul Garnett, Director, Regulatory Policy, CTIA, WT Docket No. 03-264 (filed Feb. 7, 2005) (“*CTIA Feb. 7 Letter*”).

⁷ See *CTIA Feb. 7 Letter* at 2.

⁸ See Powerwave Petition for Reconsideration at 3-4.

⁹ See Letter to Marlene H. Dortch, Secretary, FCC, from Terry G Mahn and Robert J. Ungar, Counsel for Powerwave, at 1, WT Docket No. 03-264 (filed Dec. 29, 2004).

current technologies.¹⁰ The Commission directly proposed to restate PCS base station EIRP limits based on power spectral density and sought comment on harmonizing the PCS and AWS rules, among others, to ensure that Commission policies are consistent where possible.¹¹ As a result, the Commission has provided more than sufficient notice to adopt CTIA's proposal.

In sum, CTIA urges the Commission to promptly adopt its proposal to modify base station power limits in the pending *2002 Biennial Review* proceeding and, on reconsideration here, ensure that the rural base station power limits are modified to account for such changes. Such action would obviate any need to hold the rural base station power limit modification in abeyance.

Respectfully submitted,

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¹⁰ See *Biennial Regulatory Review - Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services*, Notice of Proposed Rulemaking, 19 FCC Rcd 708, 715-716 (2004) (“*2002 Biennial Review NPRM*”).

¹¹ *Id.* (asking parties to consider “alternatives, including whether or not a power spectral density limit (*i.e.*, power per unit bandwidth) would be more equitable and thus preferable than a per-carrier wording.”); *id.* at 710 (seeking comment on whether provisions in Parts 1, 22, 24, 27, and 90 of the Commission’s rules should be harmonized).

CERTIFICATE OF SERVICE

I, Donna M. Crichlow, hereby certify that a copy of the foregoing “Opposition to Petition for Reconsideration” was served via U.S. Mail, postage-prepaid, this 21st day of April, 2005, on the party listed below.

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