

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Service Rules for the 689-746, 747-762	)	WT Docket No. 06-150
And 777-792 MHz Bands	)	
	)	
Revision of the Commission's Rules to Ensure	)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency	)	
Calling Systems.	)	
	)	
Section 68.4(a) of the Commission's Rules	)	WT Docket No. 01-309
Governing Hearing Aid-Compatible	)	
Telephones	)	
	)	

**OPPOSITION TO REQUESTS FOR EXTENSION OF COMMENT DEADLINES**

Verizon Wireless hereby opposes CTIA's Request for Extension of Comment Deadline<sup>1</sup> and Access Spectrum/Pegasus Communications' Motion for Extension of Time<sup>2</sup> in the above-captioned proceeding. Public safety needs and an approaching auction deadline necessitate adhering to the existing comment schedule and finalizing the 700 MHz band plan and service rules as expeditiously as possible. Neither requester has demonstrated sufficient cause to delay those important public interest objectives. CTIA is incorrect that the anti-

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<sup>1</sup> Request for Extension of Comment Deadline of CTIA – the Wireless Association® (filed Sept. 8, 2006) (“CTIA Request”).

<sup>2</sup> Motion for Extension of Time of Access Spectrum, L.L.C. and Pegasus Communications Corporation (filed Sept. 8, 2006) (“Access Spectrum/Pegasus Request”); Supplemental Motion for Extension of Time of Access Spectrum, L.L.C. and Pegasus Communications Corporation (filed Sept. 11, 2006) (“Access Spectrum/Pegasus Supplemental Request”).

collusion rules prohibit participation in this proceeding, the basis for its extension request. Contrary to Access Spectrum/Pegasus's request, there is no need for the FCC to harmonize comment deadlines in order to consider related issues across proceedings that it has already determined to consider separately. An extension such as Access Spectrum/Pegasus's request, which would postpone comments in the instant docket for many weeks, is particularly unwarranted. Accordingly, the requests to extend the comment deadlines should be denied.

**I. PUBLIC SAFETY NEEDS WEIGH IN FAVOR OF EXPEDITING, RATHER THAN DELAYING, THE 700 MHZ SERVICE RULES PROCEEDING**

Because the timeframe for completion of the 700 MHz service rules proceeding relates directly to the speed at which interoperable, broadband public safety networks can be funded and deployed, the comment deadline in this proceeding should not be delayed. Pursuant to the FCC's rules, extensions of time are not routinely granted.<sup>3</sup> In this case, the bar is heightened further still by the important public safety interests at stake. In adopting the Deficit Reduction Act of 2005 ("DRA"), Congress required the FCC to commence an auction of the 700 MHz commercial spectrum no later than January 28, 2008,<sup>4</sup> and Chairman Martin has announced his intent to move quickly to implement Congress's directive.<sup>5</sup> The same legislation directed that \$1 billion of the proceeds of the 700 MHz auction be dedicated to

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<sup>3</sup> 47 C.F.R. § 1.46(a).

<sup>4</sup> Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4, § 3003.

<sup>5</sup> "I am pleased we are seizing this opportunity . . . [to ensure] that public safety users have adequate spectrum . . . we must not overlook . . . our statutory mandate to soon commence an auction of the 700 MHz spectrum." *Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010*, Notice of Proposed Rulemaking, FCC 06-133, WT Docket Nos. 06-169, 96-86 (rel. Sept. 8, 2006) ("700 MHz Guard Band NPRM").

public safety agencies for the deployment of interoperable communications systems.<sup>6</sup>

Completing this docket is a key step toward conducting the auction and realizing the proceeds to fund DRA interoperability grants.

Neither CTIA nor Access Spectrum/Pegasus has demonstrated a compelling need for a delay in the comment deadline that justifies extraordinary Commission action and outweighs the benefits to public safety of moving quickly in this docket to enable a prompt auction. CTIA and Access Spectrum/Pegasus wrongly assume that any change in the comment schedule that does not jeopardize the January 28<sup>th</sup> deadline should be acceptable. CTIA even leaves open-ended its preferred, revised timing for filing comments, pegging the new filing date to the down payment deadline following the close of Auction No. 66 at some unknown, future date.<sup>7</sup> But this approach turns Congress's priorities – as manifested in the language of the DRA – on their head. The DRA requires initiation of a 700 MHz auction “no later than” January 28, 2008,<sup>8</sup> strongly suggesting that action before the deadline is desirable. Moreover, the sooner the FCC completes the 700 MHz service rules proceeding and holds an auction, the sooner public safety can receive and use the \$1 billion of interoperability funding. Accordingly, the Commission should require submission of comments as scheduled.

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<sup>6</sup> Deficit Reduction Act at § 3006(a)(1).

<sup>7</sup> CTIA Request at 1.

<sup>8</sup> Deficit Reduction Act at § 3003.

## **II. THE ANTI-COLLUSION RULES DO NOT PRECLUDE THE FILING OF COMMENTS PURSUANT TO THE COMMISSION'S ESTABLISHED DEADLINE**

Nothing in the Commission's anti-collusion rules prohibits filing public comments, as scheduled, in the 700 MHz service rules proceeding. CTIA suggests that, in filing public comments, parties may run afoul of the requirement that auction applicants "must affirmatively avoid all communications with or disclosures to each other that affect or have the potential to affect bids or bidding strategy, which may include communications regarding the post-auction market structure."<sup>9</sup> But nothing in comments parties may proffer regarding service areas, the size of spectrum blocks, and other service-related requirements pertaining to the 700 MHz spectrum provides any indication about post Auction No. 66 market structure, much less anything that would be competitively useful to the remaining bidders in the AWS auction. Moreover, all comments will be available to the public, further inhibiting any possibility of collusion. Indeed, the Commission would not have requested comments during the auction "quiet period" if it were concerned that such scheduling would give rise to violations of its anti-collusion rules.<sup>10</sup>

Contrary to the assertions of CTIA and MetroPCS, the final days of bidding in the AWS auction also will not provide critical information that will affect positions of

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<sup>9</sup> CTIA Request at 3 (emphasis removed) (citing 47 C.F.R. § 1.2105(a)(2)(viii)).

<sup>10</sup> Even assuming CTIA is correct that the "anti-collusion rule impacts CTIA in particular because CTIA relies on input from multiple entities prior to advocating a position for the wireless industry," *id.* at 4, there is no prohibition on CTIA consulting with multiple entities individually, rather than as a group. Indeed, CTIA often formulates industry position in this manner even where the anti-collusion rules do not apply.

commenters in the 700 MHz service rules proceeding.<sup>11</sup> At this time, the AWS auction has advanced to a stage where commenters can reasonably anticipate the likely outcomes and factor these into long term spectrum planning. Auction activity has now ceased on 98% of the licenses.<sup>12</sup> As of the end of bidding on September 12, 2006, bidding continued on only 28 of 1122 available licenses (44 markets received no bids at all).<sup>13</sup> This plainly provides a clear enough picture of general outcomes for entities to be able to comment meaningfully on the NPRM.

### **III. THE COMMISSION SHOULD NOT ESTABLISH SYMMETRICAL COMMENT DEADLINES FOR DISTINCT RULEMAKING PROCEEDINGS**

Access Spectrum/Pegasus's request to harmonize comment deadlines for proceedings considering related but distinct issues does not meet the Commission's standard for grant of an extension of time. They ask the Commission to coordinate the comment deadlines for two proceedings – including one recently released by the Commission that has not yet been published in the Federal Register<sup>14</sup> – with the objective of simultaneous consideration. Access Spectrum/Pegasus's request to extend the time for a routine procedural action does not meet the high standard for an extension of time grant.<sup>15</sup> Further, it is not necessary to achieve the filers' stated objective – simultaneous processing of related issues across dockets.

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<sup>11</sup> CTIA Request at 2; MetroPCS Comments in Support of CTIA – The Wireless Association Request for Extension of Comments and Reply Comment Deadlines (filed Sept. 12, 2006) at 3.

<sup>12</sup> Auction No. 66, Round 121 Results (Sept. 12, 2006), <http://www.wireless.fcc.gov/auctions/>.

<sup>13</sup> *Id.*

<sup>14</sup> Access Spectrum/Pegasus Supplemental Request at 1-2.

<sup>15</sup> 47 C.F.R. § 1.46(a).

The Commission regularly considers issues spanning multiple dockets without such symmetry.<sup>16</sup>

Moreover, in this case the Commission specifically *excluded* from the scope of the instant 700 MHz service rules proceeding the guard band issues raised by Access Spectrum.<sup>17</sup> Clearly, then, the Commission was aware of the guard band issues and elected to handle them *separately* from the 700 MHz service rules proceeding. On September 8, 2006, the Commission released a Notice of Proposed Rulemaking in which it seeks comment on, among other things, Access Spectrum's proposed changes to the Guard Band rules.<sup>18</sup> Again, the Commission did not in this more recent NPRM indicate that it would defer consideration of the 700 MHz service rules until it received comments on the guard band issues. To the contrary, the Commission indicated that it will not look favorably on any changes to the Guard Band rules that will impede its ability to promptly auction the 700 MHz licenses, as directed by Congress.

Access Spectrum/Pegasus has provided no compelling reason for revisiting the Commission's decision to keep the Guard Band issues separate from this proceeding, and no evidence to suggest that related issues in the two proceedings cannot be addressed in a coordinated and timely manner. The issues on which the FCC seeks comment in the 700 MHz service rules proceeding pertain to the 30 MHz of commercial spectrum to be auctioned, not to the guard bands, and there is no reason why the Commission cannot receive

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<sup>16</sup> See, e.g., the AWS proceeding, which spanned WT Dockets 04-356 and 02-353 (AWS service rules); ET Docket 00-258 (microwave relocation), and WT Docket 03-66 (BRS/EBS service rules), all with independent comment deadlines.

<sup>17</sup> *Service Rules for the 698-746, 747-762 and 777-792 MHz bands*, FCC 06-114, ¶ 1, n.6 (rel. Aug. 10, 2006).

<sup>18</sup> *700 MHz Guard Band NPRM*.

input on those service rules ahead of when it receives input on the different guard band issues. Moreover, an extension of the established comment deadline in the instant proceeding is inconsistent with the Commission's stated objective in both proceedings to move promptly to auctioning the 700 MHz spectrum, in furtherance of Congress's mandate. Access Spectrum/Pegasus's request, therefore, should be rejected.

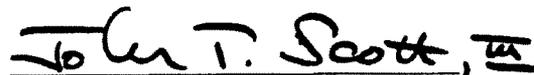
### CONCLUSION

For the foregoing reasons, Verizon Wireless respectfully requests that CTIA's Request for Extension of Comment Deadline and Access Spectrum/Pegasus Communications' Motion for Extension of Time be denied, and that the Commission proceed expeditiously with finalizing the 700 MHz band plan and service rules.

Respectfully submitted,

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