

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

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In the Matter of)	
)	
Service Rules for the 698-745, 747-762, and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems)	CC Docket No. 94-102
)	
Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones)	WT Docket No. 01-309
_____)	

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. ("T-Mobile")¹ replies to comments filed in the Commission's *Notice* issued in the above-captioned proceedings.² T-Mobile commends the Commission for seeking new strategies to encourage the rapid deployment of advanced technologies and services in the 700 MHz band in all areas, including rural markets. The record in this proceeding demonstrates

¹ T-Mobile is one of the major national wireless carriers in the United States with licenses covering 46 of the top 50 U.S. markets and serving over 24 million customers, and a network reaching over 275 million people (including roaming and other agreements). Via its HotSpot service, T-Mobile also provides Wi-Fi (802.11b) wireless broadband Internet access in approximately 8,000 convenient public locations such as Starbucks coffeehouses, airports, and airline clubs, making it the largest carrier-owned Wi-Fi network in the world.

² *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones*, FCC 06-114, Notice of Proposed Rule Making, Fourth Further Notice of Proposed Rule Making, and Second Further Notice of Proposed Rule Making, WT Docket No. 06-150, CC Docket No. 94-102, WT Docket No. 01-309 (rel. Aug. 10, 2006) ("*Notice*"). All comments filed in response to this *Notice* on or before September 29, 2006 are referenced herein as "Comments."

that all telecommunications customers in this country stand to benefit from the upcoming 700 MHz auction.

INTRODUCTION

Like the majority of the commenters in this proceeding, T-Mobile urges the Commission to structure the auction so as to provide reasonable opportunities for entities of all sizes to bid for and win the spectrum they need. Disaggregating one of the larger spectrum blocks and utilizing smaller geographic areas for some blocks would accomplish this objective by providing bidders a range of license options. In addition, as the Commission determined in the Advanced Wireless Services (“AWS”) context, the public interest would be served by applying longstanding E911 and Hearing Aid Compatibility (“HAC”) rules to providers operating in the 700 MHz band. T-Mobile also strongly opposes the adoption of uneconomic, disruptive policies such as the “keep-what-you-use” re-licensing rule and spectrum set-asides. Based on the record in this proceeding and the robust state of wireless competition throughout the United States, such measures are both unnecessary and contrary to the Commission’s successful market-oriented approach to spectrum policy.

I. THE 700 MHZ BAND PLAN SHOULD INCLUDE LICENSES WITH SMALLER GEOGRAPHIC AREAS AND SPECTRUM BLOCKS

In the *Notice*, the Commission sought comment on whether it should auction additional spectrum in the 700 MHz band in geographic service areas other than Economic Area Groupings (“EAGs”), such as Economic Areas (“EAs”) or Cellular Market Areas (“CMAs”).³ T-Mobile joins the Rural Cellular Association (“RCA”) and others in urging the Commission to “revisit the 700 MHz band plans with an eye towards designating smaller service areas for geographic

³ *Notice* ¶ 27.

licensing.’⁴ As the Rural Telecommunication Group (“RTG”) explains, “small and rural companies cannot successfully compete for licenses auctioned on the basis of huge geographic areas such as the six EAGs or the twelve Regional Economic Area Groupings (‘REAGs’).”⁵ Smaller geographic licenses are more likely to fall within the price range and business plans of auction participants with more limited resources.

At the same time, any viable band plan must accommodate the interests of larger carriers. Even for a national carrier, spectrum needs often vary by locality or region.⁶ Licenses covering a range of geographies allow larger bidders like T-Mobile to respond to spectrum needs to support current or planned operations in local and regional markets, which are defined by existing spectrum holdings as well as their own particular demographic and economic features. Offering both large and small license areas at auction would help promote diversity and competition in the marketplace by ensuring that businesses of all sizes have the opportunity to acquire the spectrum they need through the auction process.

Likewise, as it did in the AWS context, the Commission should divide the 700 MHz spectrum into smaller “building blocks” to promote robust and efficient use of the band and vigorous competition by enabling smaller carriers to bid according to their local spectrum needs.⁷ In particular, T-Mobile agrees with those commenters who propose splitting the current 20 MHz

⁴ Comments of RCA at 2.

⁵ Comments of RTG at 3.

⁶ In the recent AWS auction, T-Mobile purchased 120 licenses, 93 of which were CMAs. See Licenses by Bidder Closing Chart, *FCC Advanced Wireless Services Auction No. 66 **FINAL***, at 33-36 (Sept. 18, 2006), available at <http://wireless.fcc.gov/auctions/66/charts/66cls2.pdf>. T-Mobile also purchased 17 licenses representing Basic Economic Areas (“BEAs”). *Id.*

⁷ See *Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, Order on Reconsideration, 20 FCC Rcd 14058 (2005) (“*AWS Order*”).

D Block in the Upper 700 MHz band into two 10 MHz blocks, resulting in a C, D, and E Block with each comprising 10 MHz.⁸ As RTG notes, breaking up the current D Block “will not prevent large carriers from aggregating spectrum if they value it the most highly, but it will increase opportunities for additional entrants and will therefore increase competition both for the spectrum and the services that will be provided over the spectrum.”⁹

The revisions to the 700 MHz band as outlined above are consistent with the band plan proposed by T-Mobile and RTG and later adopted by the Commission in the AWS auction, where licenses also were based on REAGs, EAs and CMAs.¹⁰ The Commission’s reasoning in adopting the compromise band plan in the AWS auction is equally applicable here, because carriers are likely to use 700 MHz spectrum for similar service offerings. As the Commission recognized there, national and rural carriers alike could access additional spectrum in appropriately sized blocks to augment their existing voice and data services, and deploy innovative product offerings based on their business plans. At the same time, bidders seeking larger blocks of spectrum, either spectrally or geographically, have access to larger licenses and may easily aggregate two or more licenses in the course of the 700 MHz auction or in the secondary market.

⁸ See, e.g., Comments of RTG at 7; Comments of Blooston Rural Carriers at 4; Comments of USCC at 2.

⁹ Comments of RTG at 7-8.

¹⁰ See T-Mobile Petition for Reconsideration, *Allocations and Services Rules for the Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, WT Docket No. 02-353 (Mar. 8, 2004).

II. THE COMMISSION SHOULD REJECT DISRUPTIVE AND UNECONOMIC POLICIES

T-Mobile urges the Commission not to reinstitute the misguided policy of setting aside spectrum for designated entities or other categories of bidders. Set-asides interfere with the efficient working of the marketplace by preventing licenses from getting into the hands of the entities that value them the highest. Set-asides are also unnecessary. As the Commission explained in rejecting set-asides in its *AWS Order*, the “objectives of ensuring both efficient use of spectrum and diversity of licensees can best be achieved by adopting a variety of license areas and spectrum block sizes, and ensuring the ability of licensees to partition and disaggregate their licenses and fully participate in the secondary spectrum markets.”¹¹ Revising the 700 MHz band plan as set forth above, and providing bidding credits for small businesses, will enable designated entities and rural carriers to bid for and acquire appropriately sized and priced spectrum blocks to fit their business plans.

Nor should the Commission implement a “keep-what-you-use” mechanism for spectrum reallocation. Based on T-Mobile’s experience, a variety of arrangements between larger carriers and regional companies with an existing local presence have been very effective at expanding service into rural areas.¹² For example, T-Mobile has partnered with several rural GSM carriers by providing them access to its spectrum (through sale, lease or other arrangements). The smaller carriers, in turn, build out these localized and rural markets, offering service to their own customers and allowing T-Mobile’s subscribers to access the networks under roaming

¹¹ *AWS Order* at 14073.

¹² See Comments of T-Mobile USA, Inc., *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, at 7 (Jan. 14, 2005).

arrangements.¹³ With the intense competition in the wireless sector, larger carriers must embrace such cooperative arrangements to maintain, let alone increase, their customer base. Imposing bright-line buildout requirements that threaten license loss would be unnecessary and counterproductive given the economic realities of the highly competitive wireless sector.

Even where carriers are unable to make good use of all spectrum under their current licenses, carriers will seek out secondary markets arrangements to lease, partition or disaggregate spectrum to another provider better able to serve those areas. A “keep-what-you-use” rule, if implemented for the 700 MHz band, would deprive carriers of the business opportunities created through secondary markets transactions. “Keep-what-you-use” also may cause carriers to waste valuable resources and capital to engage in uneconomic buildout. Retaining the Commission’s current market-based approach to spectrum assignment (including liberal leasing rules), together with additional Universal Service Fund support for wireless carriers and assistance with tower siting, would be a much more effective and less intrusive means to encourage rural deployment.

Finally, T-Mobile urges the Commission to adopt service rules that are consistent with those already in place for AWS licensees. In this regard, T-Mobile agrees with the majority of commenters that, to the extent appropriate, entities providing services on the 700 MHz spectrum should be subject to longstanding E911 and HAC requirements. Not only would the public interest be served by extending these requirements to 700 MHz band licensees, the regulatory certainty created through the application of uniform rules to all similarly-situated providers would benefit the licensees themselves.

¹³ The Commission has a strong interest in encouraging and expanding roaming relationships. *See 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).

CONCLUSION

The record in this proceeding demonstrates that entities of all sizes and consumers alike stand to benefit from the upcoming 700 MHz auction. T-Mobile urges the Commission to adopt a band plan that promotes auction participation by carriers at all levels and enhances competition, and to refrain from imposing intrusive and unnecessary requirements.

Respectfully submitted,

Doane F. Kiechel
MORRISON & FOERSTER LLP
2000 Pennsylvania Ave., NW
Washington, D.C. 20006-1888
(202) 887-1500

Attorneys for T-Mobile USA, Inc.

/s/ Thomas J. Sugrue
Thomas J. Sugrue
Kathleen O'Brien Ham
Sara F. Leibman
Patrick T. Welsh
T-MOBILE USA, INC.
401 Ninth Street, N.W.
Suite 550
Washington, D.C. 20004
(202) 654-5900

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