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## **BY ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, D.C. 20554

**Re: 2002 Biennial Review Proceeding, WT Docket No. 03-264,  
and Application File No. 0002271317**

Dear Ms. Dortch:

Crown Castle International (“CCI”), a commenter in the Commission’s Biennial Review proceeding, WT Docket No. 03-264, and the corporate parent of OP LLC (“OP”), which has requested a waiver of Section 27.50(f)(1) of the Commission’s rules, takes this opportunity to respond to the Motion of Aloha Partners (“Aloha”), filed pursuant to Section 1.41 of the Commission’s rules, and Aloha’s underlying November 2, 2006 *ex parte* notice in the Commission’s Biennial Review Proceeding. 1/ In its filing, Aloha requests that the Commission not grant the relief from Section 27.50(f)(1) requested by CCI and OP until the Commission is able to grant similar relief pertaining to spectrum bands licensed to the wireless industry at large, including the 700 MHz band. 2/

CCI has expressed its general support for the Commission’s proposal to modify its power limit rules to allow certain spectrum licensees to satisfy an alternate Power Spectral Density (“PSD”) limit. With respect to operations in the 1670-1675 MHz band, CCI has submitted extensive analysis (in both a waiver proceeding, Application File No. 0002271317, and a notice and comment rulemaking proceeding, WT Docket No. 03-264) demonstrating that its proposed alternate PSD thresholds of 4 kw/MHz in non-rural areas and 8 kw/MHz in rural areas will not cause harmful interference to co-channel or adjacent channel spectrum users. In addition, those spectrum users whose operations might be affected by CCI’s proposal have long ago examined the proposal and concluded that it would not cause harmful interference to their operations provided that certain conditions, with which CCI agrees, are imposed. The conclusions of such spectrum users have been submitted into the record in the Biennial Review proceeding 3/ and no commenter in that proceeding has indicated that it disagrees with those conclusions. By contrast, Aloha, while expressing general support for the

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1/ See Letter from Thomas Gutierrez, Counsel to Aloha Partners, to Marlene Dortch (Nov. 2, 2006).

2/ See *id.*

3/ See Reply Comments of Crown Castle International in WT Docket No. 03-264 (Jan. 17, 2006) (attached Joint Spectrum Center Report, dated December 2005).

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PSD concept, 4/ has submitted neither a proposed alternate PSD limit for application in the 700 MHz band nor an interference or compatibility analysis demonstrating that its proposed alternate PSD limit would not cause harmful interference to co-channel or adjacent channel users.

Another distinction between CCI and Aloha is that because CCI holds a nation-wide geographic area license for the 1670-1675 MHz band, CCI's PSD proposal does not require that the Commission address how CCI's PSD operations might affect the operations of *commercial*, adjacent geographic area licensees that are authorized to operate on the same frequencies as CCI but choose not to operate pursuant to an alternate PSD limit. As suggested above, CCI has already worked with the co-channel users of the 1670-1675 MHz band to develop coordination zones to ensure that CCI's PSD operations will not cause harmful interference.

Because the record regarding the potential impact of CCI's proposal for PSD limits in the 1670-1675 MHz band is complete, and the 1670-1675 MHz band presents interference and compatibility issues that are far less complex than those presented by the PSD proposals for other bands, it is certainly appropriate for the Commission to address CCI's proposal for the 1670-1675 MHz band at this time. On the other hand, it would be inappropriate and unjust for the Commission to refrain from acting on CCI's PSD proposal for the 1670-1675 MHz band merely because the record relating to other spectrum bands has not been sufficiently developed to warrant Commission action regarding those bands at this time.

I request that this letter be submitted into the record of the FCC's Biennial Review proceeding, WT Docket No. 03-264, and the pending waiver application proceeding, Application File No. 0002271317.

Sincerely,



Ari Q. Fitzgerald  
Counsel to Crown Castle International Corp.

cc: Thomas Gutierrez, Esq.  
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4/ See *Ex Parte* of Aloha Partners in WT Docket No. 03-264 (July 18, 2006).