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March 9, 2007

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, DC 20554

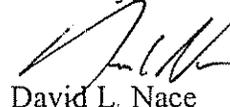
**Re: Notice of Oral *Ex Parte* Communication:
WT Docket No. 06-150 – Service Rules for the 698-746, 747-762 and 777-792
MHz Bands; and
Docket No. 05-265 - Reexamination of Roaming Obligations of CMRS
Providers**

Dear Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. Section 1.1206, we hereby provide you with notice of oral *ex parte* presentations in connection with the above-captioned proceedings. The presentations occurred on March 8, 2007 in a meeting with Wireless Telecommunications Bureau Chief Fred Campbell, and the following staff of the same Bureau: James Schlicting; Blaise Scinto; Cathy Massey; and Nese Guendelsberger.

I attended the meeting on behalf of Rural Cellular Association ("RCA") and discussed positions presented in RCA's comments in each docket, as summarized and expanded upon in the attached material.

Sincerely,



David L. Nace

cc: Fred Campbell; James Schlicting; Blaise Scinto; Cathy Massey; Nese Guendelsberger;
and Best Copy and Printing, Inc. (all by email)

**Rural Cellular Association
Ex Parte Presentation
March 8, 2007**

**Service Rules for the Lower and Upper 700 MHz
Bands -Docket 06-150**

**Reexamination of Roaming Obligations of CMRS
Providers – Docket No. 05-265**

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About RCA

- RCA is the largest association of rural wireless carriers, representing about 95 carriers with licenses covering about 50% of U.S. land area, almost none of which includes metro areas
- RCA filed comments in both the 700 MHz and automatic roaming rulemakings

Smaller Service Areas are Needed to Promote Service to Rural Markets

- RCA members need 700 MHz spectrum to deliver wireless broadband services to rural America
- The Commission's current licensing plan with large regional service areas makes it very unlikely that any RCA member would succeed in securing a 700 MHz license at the auction

- RCA supports the Balanced Consensus Plan that would provide for a variety of service area sizes
- Of the various band plan possibilities the most important change in RCA's view would be a change of Block B (704-710 MHz and 734-740 MHz) in the Lower 700 MHz Band so that licenses would be granted to serve the nation's 734 Cellular Market Areas ("CMAs")

Package (Combinatorial) Bidding

- Section 1.2103(b) of the rules allows the Commission to use combinatorial bidding in any auction
- Under this auction design, bidders could submit all or nothing bids on combinations of licenses, in addition to bids on individual licenses
- To be declared the high bid, the Commission may require that a combinatorial bid must exceed the sum of the individual bids by a specified amount
- The Commission may also allow bidders to submit contingent bids on individual and/or combinations of licenses

Package Bidding is Untested in any Auction with a Large Number of Licenses and Poses Risks to the FCC in Complying with a Congressional Mandate

- Package bidding has been used only once by the FCC, in Auction #51 where only six Regional Area licenses were offered for Narrowband PCS and one bidder won five of the six available licenses
- Use of Package Bidding in the 700 MHz license auction would potentially affect thousands of licenses that could be offered
- Without more experience with the software involved in managing an auction with package bidding, the Commission should not risk a colossal failure of the 700 MHz auction
- Any software or design failures would jeopardize the Commission's ability to comply with the Congressional mandate to deposit auction proceeds in the Digital Television Transition and Public Safety Fund by June 30, 2008
- RCA opposes Package Bidding - Every license should be won with the highest bid for that license

Blind Bidding

- Blind Bidding during the auction also concerns RCA because small carriers are capital constrained and they can better target their bids among various license choices if there is full disclosure of who is bidding on each license, and how much
- Small carriers depend upon roaming arrangements and need to consider during the auction if they have technical compatibility and prospects for roaming agreements after the auction with bidders in nearby markets

Strict Performance Requirements will Discourage Spectrum Warehousing and Promote the Offering of Broadband Service in Rural Areas More Quickly

- RCA asks the FCC to adopt performance requirements based upon the geographic area served by licensees
- Interim construction requirements should apply during the initial license term for all 700 MHz licenses to be auctioned

A Series of Construction Showings Should be Required During the Initial License Term

- In particular, RCA suggests that all 700 MHz Band licenses to be acquired at auction be subject to the following requirements during the initial ten-year (or longer) license term:
 - (1) By the three-year anniversary of license grant, the licensee must cover at least 25% of the license area;
 - (2) By the five-year anniversary of license grant, the licensee must cover at least 50% of the license area;
 - (3) By the eight-year anniversary of license grant, the licensee must cover at least 75% of the license area; and
 - (4) At the end of the ten-year license term, the licensee must submit a map and supporting data to the Commission depicting the areas where reliable service is provided. All unserved area rights would be forfeited by the licensee and the Commission would auction licenses for the unserved areas.

- As to the first three benchmarks, if construction occurs but is less than sufficient to meet the interim coverage requirement, the licensee could retain a portion of its license area and surrender its rights to a portion of the market as needed in order to meet the applicable benchmark
- The surrendered area, preferably according to entire counties, would become available for re-licensing to others who have a business plan to serve the area. In this way rural unserved areas need not remain unserved

Summary on 700 MHz

- This is a one-time opportunity for the FCC to adopt rules that best assure that wireless services of the most advanced nature reach rural and metropolitan areas alike
- Both license service areas and performance requirements need to be changed to achieve that goal
- And the auction process should not allow for Package Bidding or Blind Bidding

Any Deregulation of Wireless Broadband Service Should Not Jeopardize Consumer Access to Information Services

- RCA members, which are much smaller in size than the national and large regional wireless carriers, have encountered difficulties in negotiating automatic data roaming agreements with the larger wireless carriers
- This is especially the case with regard to EVDO where large carriers have flatly refused to enter into automatic roaming agreements with RCA members

Consumers Will Benefit if Carriers Must Negotiate in Good Faith for Roaming Agreements

- Consumer Access to Information Services can be maintained and improved by requiring carriers with compatible networks to negotiate automatic roaming agreements
- Good faith bargaining standards could mirror those set forth in the *Satellite Home Viewer Improvement Act of 1999*
- In the event of perceived violations of the negotiation standard, CMRS providers would be subject to the Commission's common carrier complaint processes