

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

In the Matter of	)	
	)	
Service Rules for the 698-746, 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
	)	
Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services	)	WT Docket No. 03-264
	)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules	)	WT Docket No. 06-169
	)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band	)	PS Docket No. 06-229
	)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010	)	WT Docket No. 96-86

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**REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY, INC.**

Puerto Rico Telephone Company, Inc. (“PRT”) hereby submits its reply comments in response to the Commission’s *Further Notice of Proposed Rulemaking* regarding service rules

for wireless licenses in the 698-806 MHz Band (herein, the “700 MHz Band”).<sup>1</sup> As multiple commenters demonstrate,<sup>2</sup> the Ad Hoc Public Interest Spectrum Coalition’s (“AHPISC”) proposal to exclude incumbent local exchange carriers, incumbent cable operators, and large wireless carriers from eligibility for licenses in the 700 MHz band is anti-competitive and unjustified.<sup>3</sup> Accordingly, the Commission should reject it.

AHPISC’s proposal would suppress competition and is counter-productive. The Commission has repeatedly found that open auctions are the most reliable mechanism for ensuring that spectrum is put to its highest and best use.<sup>4</sup> As SpectrumCo correctly noted, this proposal “prejudges the spectrum’s purpose and best use, and would reduce the number of bidders participating in the 700 MHz auction, thereby making the auction less competitive.”<sup>5</sup> As a result, prohibiting certain participants would reduce auction proceeds and, in turn, decrease funding available for other programs to be supported by the 700 MHz auction proceeds.<sup>6</sup> Thus, attempting to encourage competition in the broadband market by limiting incumbent players’

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<sup>1</sup> *Service Rules for the 698-746, 747-762, and 777-792 MHz Bands*, Report and Order and Further Notice of Proposed Rulemaking, FCC 07-72 (Apr. 27, 2007) (“*Further Notice*”).

<sup>2</sup> *See, e.g.*, Blooston Rural Carriers Comments at 5-7; SpectrumCo Comments at 30-33; AT&T Comments at 20-34; MetroPCS Comments at 38-45; Verizon Wireless Comments at 31-35; Qualcomm Comments at 9-11; CTIA Comments at 10-17.

<sup>3</sup> *See Ex Parte Comments of the Ad Hoc Public Interest Spectrum Coalition*, PS Docket No. 06-229 and WT Docket Nos. 06-150, 05-211, 96-86, at 9, 18-19 (filed Apr. 3, 2007) (“*AHPISC Ex Parte*”); *Further Notice*, ¶ 221.

<sup>4</sup> *See, e.g., Public Notice, DA 00-49; Auction of C and F Block Broadband PCS Licenses; NextWave Personal Commc’ns, Inc. and NextWave Power Partners Inc., Order on Reconsideration*, 15 FCC Rcd 17,500, ¶ 27 (2000) (“Section 309(j) embodies a presumption that licenses should be allocated as a result of an auction to those who place the highest value on the use of the spectrum. Such entities are presumed to be those best able to put the licenses to their most efficient use.”). *See also* Verizon Wireless Comments at 31-32.

<sup>5</sup> SpectrumCo Comments at 30-31.

<sup>6</sup> Verizon Wireless Comments at 32.

ability to participate in the auction would have the opposite result and significantly harm the public interest.

Historically, the Commission has found that “eligibility restrictions on licenses may be imposed only when open eligibility would pose a significant likelihood of substantial harm to competition in specific markets and when an eligibility restriction would be effective in eliminating that harm.”<sup>7</sup> In its proposal, AHPISC alleges that banning certain auction participants is necessary to ensure consumers have access to a “new broadband provider” and prevent incumbent wireless and wireline providers from warehousing spectrum.<sup>8</sup> AHPISC, however, has failed to provide evidence demonstrating that these restrictions are necessary to create a “new broadband provider” or that incumbent wireless and wireline providers intend to warehouse additional spectrum.

As confirmed by the recent AWS-1 auction, the Commission’s current open auction policy has proven extremely effective in ensuring a wide range of licensees. Indeed, new entrants, incumbents, and small and minority owned businesses were all able to obtain AWS licenses in Auction 66.<sup>9</sup> In addition, the Commission repeatedly has shown that the broadband market is already competitive today and becoming more so.<sup>10</sup> Contrary to AHPISC’s contentions, wireless is already providing consumers with access to a third broadband pipe.<sup>11</sup> As

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<sup>7</sup> *Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz, and 2175-2180 MHz Bands*, Notice of Proposed Rulemaking, 19 FCC Rcd 19,263, ¶ 69 (2004).

<sup>8</sup> *AHPISC Ex Parte* at 17-18.

<sup>9</sup> *See, e.g.*, Qualcomm Comments at 10 (noting that the AWS-1 licenses were won by a mix of new entrants, incumbents, and designated entities).

<sup>10</sup> *See, e.g.*, High-Speed Services for Internet Access: Status as of June 30, 2006, Industry Analysis and Technology Division, Wireline Competition Bureau, at 2-3 (Jan. 2007) (“WCB High Speed Services Report”). *See also* Verizon Wireless Comments at 33.

<sup>11</sup> CTIA Comments at 12-15.

CTIA explained, “[t]oday’s wireless providers – some affiliated with wireline broadband providers, others not – are investing billions of dollars to deploy next generation broadband wireless networks” over their spectrum.<sup>12</sup> As a result, almost 60 percent of all new high speed access lines from December 2005 through June 2006 were wireless broadband lines.<sup>13</sup> Thus, “incumbent carriers have strong incentives to aggressively deploy services.”<sup>14</sup> Given incumbents’ demonstrated commitment to deploying advanced services and the lack of any evidence of spectrum warehousing or an inability by new entrants to obtain spectrum, any prohibition on incumbent eligibility would inhibit, rather than further, wireless broadband deployment and thus consumers’ access to a third broadband pipe.

For these reasons, the Commission should reject AHPISC’s proposal to prohibit incumbent local exchange carriers, incumbent cable operators, and large wireless carriers from bidding on licenses in the 700 MHz band.

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<sup>12</sup> CTIA Comments at ii.

<sup>13</sup> *See id.* (citing WCB High Speed Services Report).

<sup>14</sup> AT&T Comments at 30.

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