

**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

**To: The Commission**

**REPLY COMMENTS  
OF THE RURAL TELECOMMUNICATIONS GROUP, INC.**

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## SUMMARY

The Rural Telecommunications Group, Inc. (“RTG”) urges the Federal Communications Commission (“FCC” or “Commission”) to adopt rules that support rural broadband growth. Specifically, RTG supports the Commission’s proposal to license the Lower 700 MHz B Block on the basis of Cellular Market Areas (“CMAs”). After reviewing the comments filed in this proceeding, RTG notes that the Commission has full support for its tentative conclusion to allocate the B Block on a CMA basis in the Lower Band. RTG also supports adoption of Proposal #2 for licensing the Upper 700 MHz Commercial Services Band and that proposal’s licensing of the C block on the basis of CMAs. The comments overwhelmingly support Proposal # 2 in the Upper Band utilizing CMAs for the C Block. RTG supports the adoption of interim performance benchmarks for newly auctioned 700 MHz licenses. The majority of the commenters acknowledge that it is necessary to impose some form of build out requirement on licensees. Like the majority of the commenters, RTG opposes the imposition of any type of eligibility restrictions on incumbent local exchange carriers, incumbent cable operators or large wireless carriers. Finally, RTG opposes application of blind bidding or combinatorial bidding procedures to the 700 MHz auction. The record in this proceeding shows that most commenters are opposed to both blind bidding and combinatorial bidding in the 700 MHz auction.

Broadband services are rural America’s life link to the future, and 700 MHz spectrum will deliver the promise of rural broadband services far more quickly than any other available spectrum. Accordingly, RTG requests that the FCC to craft its 700 MHz auction rules so that small, rural carriers can meaningfully participate in the auction and rural broadband services are available in rural America.

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OF THE RURAL TELECOMMUNICATIONS GROUP, INC.**

The Rural Telecommunications Group, Inc. (“RTG”),<sup>1</sup> by its attorneys, hereby

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<sup>1</sup> RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural

submits its reply comments in response to the Further Notice of Proposed Rulemaking (“FNPRM”) in the above-captioned proceedings.<sup>2</sup>

On May 24, 2007, RTG filed a motion for extension of time to allow it and other commenting parties until June 7, 2007 to submit reply comments. On May 25, 2007, the Federal Communications Commission (“FCC” or “Commission”) granted, in part, RTG’s motion extending the time to file reply comments until June 4, 2007.<sup>3</sup> RTG gratefully acknowledges and thanks the Commission for extending the time frame to submit reply comments in this voluminous proceeding.

As stated in RTG’s previously filed comments, RTG’s members are keenly interested

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telecommunications companies through advocacy and education in a manner that best represents the interests of its membership. RTG’s members have joined together to speed delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG’s members are small, rural businesses serving or seeking to serve secondary, tertiary and rural markets. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies.

<sup>2</sup> *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; Biennial Regulatory Review- Amendment of Parts 1, 22, 24, 27 and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services; Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010*, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 06-150, CC Docket No. 94-102, WT Docket No. 01-309, WT Docket No. 03-264, WT Docket No. 06-169, PS Docket No. 06-229, and WT Docket No. 96-86, rel. April 27, 2007 (“Order” and “FNPRM”).

<sup>3</sup> *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; Biennial Regulatory Review- Amendment of Parts 1, 22, 24, 27 and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services; Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules; Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010*, WT Docket No. 06-150, CC Docket No. 94-102, WT Docket No. 01-309, WT Docket No. 03-264, WT Docket No. 06-169, PS Docket No. 06-229, and WT Docket No. 96-86, Order, DA 07-2226 (May 25, 2007) (“Extension Order”). RTG notes for the record that over 112 substantive comments were filed in this proceeding in excess of 1850 pages indicating the keen industry interest in this proceeding and the importance of the industry and this Commission getting an accurate and inclusive record on which to base the Commission’s future order.

in acquiring 700 MHz spectrum<sup>4</sup> to enable them to bring advanced broadband services to their rural customers. The unique characteristics of 700 MHz spectrum make it particularly desirable for such purposes. The 700 MHz spectrum represents a unique and perhaps final opportunity for rural carriers to acquire high quality broadband spectrum capable of efficient use in rural settings. Accordingly, it is critical to RTG members and the rural population that they serve for rural carriers to be given a realistic opportunity to acquire such spectrum. This proceeding and the rules the FCC develops for the auctioning of 700 MHz spectrum will have a dramatic and longstanding effect on the rural telecommunications landscape.<sup>5</sup> This Commission must get these rules crafted correctly so that rural broadband services are available in rural America. A misstep now will severely retard rural broadband growth and forever limit the opportunities that rural wireless broadband services could bring to rural Americans in the form of better education, job training and business opportunities. Broadband services are rural America's life link to the future, and 700 MHz spectrum will deliver the promise of rural broadband services far more quickly than any other available spectrum. Accordingly, RTG implores this Commission to adopt rules that support rural broadband growth rather than hinder it.

After reviewing the comments filed in this proceeding, RTG notes that the Commission has full support for its tentative conclusion to allocate the B Block on a CMA basis in the Lower Band. In the Upper Band, there is much support for Proposal # 2 in the Upper Band utilizing CMAs for the C Block. With respect to geographic

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<sup>4</sup> As used herein, the 700 MHz band refers to spectrum in the 698-806 MHz band, which encompasses broadcast television channels 52-59 ("Lower 700 MHz band") and 60-69 ("Upper 700 MHz band").

<sup>5</sup> As the Rural Cellular Association ("RCA") notes, "The stakes at hand are no less than the social and economic welfare of rural America for decades to come." RCA Comments at p. iv.

performance requirements, the record is split, but the majority of the parties acknowledge that it is necessary to impose some form of build out requirement on licensees. The majority of the commenters are opposed to any form of restriction on eligibility for the 700 MHz auction. With respect to blind bidding, the majority of commenters are opposed to limited disclosure and do not feel that blind bidding will maximize auction revenue as dictated by Congress. Most commenters are opposed to combinatorial or packaged bidding unless it is used on a limited basis for certain groupings of licenses. Each of these issues is discussed more fully below.

**I. THE COMMISSION HAS FULL SUPPORT FOR ITS TENTATIVE CONCLUSION TO ALLOCATE THE B BLOCK ON A CMA BASIS IN THE LOWER BAND**

The comments filed in this proceeding express overwhelming support for the Commission's proposal to adopt Cellular Market Areas ("CMAs") as the geographic service area for licenses in the B Block (704-710 MHz and 734-740 MHz) of the Lower 700 MHz band. No one has opposed the Commission's proposal to adopt the licensing of the B Block on a CMA basis, while 24 commenters joined RTG in affirmatively stating that the Commission should adopt the licensing of the B Block on a CMA basis.<sup>6</sup> These parties acknowledge that adoption of this proposal will result in the availability of 734 CMA licenses in this block as opposed to 6 Economic Area Grouping ("EAG") licenses under the current band plan. The availability of a substantially greater number of licenses

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<sup>6</sup> See, e.g., Wireless Communications Association International, Inc. (WCA) Comments at pp. 12-13, Google Inc. (Google) Comments at p. 9, Ericsson Inc. Comments at pp. 23-26, McBride Spectrum Partners, LLC (McBride) Comments at pp. 8-9, SpectrumCo LLC (SpectrumCo) Comments at pp. 8-9, Central Wisconsin Communications, LLC *et. al* (700 MHz Independents) Comments at pp. 3-7, Blooston Rural Carriers (Blooston Rural Carriers) Comments at p. 4, Aloha Partners, L.P. (Aloha) Comments at pp. 2-3, Frontier Communications (Frontier) Comments at 2-3, Rural Cellular Association (RCA) Comments at pp. 11-12, United States Cellular Corporation (US Cellular) Comments at pp. 2, 4-8, National Telecommunications Cooperative Association (NTCA) Comments at pp. 3-5.

in smaller area groupings will afford small and rural carriers legitimate opportunities to acquire 700 MHz spectrum so that they may provide broadband services to rural America thereby promoting the public interest by satisfying numerous licensing objectives set forth by the FCC and Congress.<sup>7</sup> Since the record overwhelmingly supports this proposal, the Commission should proceed with its adoption.

## **II. THE FCC SHOULD ADOPT PROPOSAL #2 IN THE UPPER 700 MHZ COMMERCIAL SERVICES BAND BASED ON ELIMINATION OF THE GUARD BAND B BLOCK AND LICENSING OF THE C BLOCK ON A CMA BASIS**

In its FNPRM, the Commission is considering a number of alternative band plan proposals for the Upper 700 MHz Commercial Services band. As several commenters have duly noted only one of these proposals will bring the benefits of advanced services to rural communities. In this regard, RTG agrees with the commenters who request that the Commission adopt “Proposal #2” as discussed herein, and opposes the adoption of any other Upper 700 MHz Commercial Services Band band plan proposal set forth in the FNPRM.<sup>8</sup>

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<sup>7</sup> By modifying its 700 MHz licensing plan to license the B Block on a CMA basis, the FCC will “promote economic opportunity and competition” and ensure “that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of license and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.” 47 U.S.C. § 309(j)(3)(B).

<sup>8</sup> Many of these commenters specifically supported Proposal #2 with licensing on a CMA basis. *See, e.g.*, NTCA Comments at pp. 4-5; RCA Comments at pp. 14-15; Blooston Rural Carriers Comments at pp. 3-4; 700 MHz Independents at pp. 6-8; Frontier Comments at p. 6; Union Telephone Company (Union) Comments at pp.5-8; Wireless Internet Service Provider Association (WISPA) Comments at pp. 4-6; US Cellular Comments at p. 8; Sprint/Nextel Corporation (Sprint/Nextel) Comments at pp. 5-7; Aloha Comments at p. 3; Leap Comments at pp. 3-4; Cellular South Licenses, Inc. (Cellular South) Licenses Comments at pp. 13-14; Centennial Communications Corp. (Centennial) Comments at pp. 5-6; and MetroPCS Communications, Inc. (MetroPCS) Comments at pp. 14-17. Some commenters expressed general support for the use of smaller geographic license areas in the upper 700 MHz band utilizing Proposal #2. *See* SpectrumCo LLC (SpectrumCo) Comments at pp. 8-16 and Dobson Communications Corporation (Dobson) Comments at p. 3. Some commenters expressed support for CMAs in the Upper Band while not necessarily supporting Proposal # 2’s bandwidth proposal. *See, eg.*, CyrenCall Comments at p. 39; McBride Comments at p. 8; Frontline Comments at p. 52.

Under Proposal 2, the FCC would license 34 megahertz of commercial spectrum in the Upper 700 MHz band using a mix of REAG, EA and CMA geographic licensing areas. The proposal would create two 11-megahertz licenses (each composed of two 5.5-megahertz paired blocks) – the C and D blocks – and a 12-megahertz E block (composed of two 6-megahertz paired blocks). The Commission proposes to license the D block on an EA basis and the E block on an REAG basis, while licensing the C block on either a CMA or EA basis.

RTG urges the Commission to adopt Proposal 2 with the C block licensed on a CMA basis.<sup>9</sup> As discussed above, the licensing of 700 MHz spectrum on a CMA basis will afford small and rural carriers a legitimate opportunity to acquire 700 MHz spectrum and thereby bring advanced broadband services to rural and unserved areas.<sup>10</sup> Such a band plan will meet the statutory objectives of Section 309(j) of the Communications Act. Those opposing the designation of a CMA spectrum block in the Upper Band fail to cite to any support that could refute what this Commission already has witnessed first hand in the AWS auction, namely that a combination of small and large license blocks affords the most opportunity for more parties to acquire spectrum. More entrants will result in innovation and a robust marketplace especially in light of the recent consolidation of CMRS nationwide carriers and will ensure a wide variety of

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<sup>9</sup> Proposal # 2 most closely resembles the Balanced Consensus Plan (“BalCon”), a plan widely supported by a broad industry coalition of both large and small companies, which includes RTG. RTG along with the majority of commenters setting forth an opinion on the band plan support Proposal # 2, provided it includes a CMA block.

<sup>10</sup> Many RTG members are seeking 700 MHz spectrum to complement their 850 MHz spectrum to provide broadband mobile services. This spectrum in the upper band is critical to such deployment in rural areas.

participants.<sup>11</sup>

Any band plan that does not provide for licensing of CMAs will serve to benefit only the large incumbent wireless carriers, namely Verizon and AT&T, and will thereby stifle competition by precluding new entrants, rural carriers, minorities and women from obtaining spectrum.<sup>12</sup> Indeed, based on the experience of RTG members, it is unlikely that rural carriers and other new entrants will ever be able to access spectrum once acquired by Verizon and AT&T. As discussed in RTG's Comments,

Large carriers have shown again and again that they are uninterested and unwilling to partition or lease the rural portions of their license areas. Simply put, from the viewpoint of a large carrier who has acquired a vast license area that includes both densely populated urban and suburban area as well as sparsely populated rural areas, the transactional costs of making such spectrum available to companies who actually intend to use it to provide service to the most rural portions of the nation nullify any economic benefits of such a transaction.<sup>13</sup>

On the flip side, if the licenses are awarded in smaller blocks, Verizon and AT&T

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<sup>11</sup> See WCA Comments at pp. 12-13, Google Comments at p. 9, Ericsson Comments at pp. 23-26, McBride Comments at pp. 8-9, SpectrumCo. Comments at 8-9, 700 MHz Independents Comments at pp. 3-7, Blooston Rural Carriers Comments at p. 4, Aloha Comments at pp. 2-3, Frontier Comments at pp. 2-3, RCA Comments at pp. 11-12, US Cellular Comments at pp. 2, 4-8, NTCA Comments at pp. 3-5; SpectrumCo Comments at pp. 12-15.

<sup>12</sup> The only parties supporting REAGs for a CMRS use are Verizon Wireless (Verizon) (Verizon Comments at pp. 9-15) and AT&T, Inc. (AT&T) (AT&T Comments at pp. 6-7). The Commission should not kowtow to these two incumbent wireless carriers or structure license sizes that only serve to assist them in further consolidating spectrum to be used for CMRS type services. The 4 G Coalition also supports REAGs and 22 MHz of bandwidth for a very complex use. To date the members of the 4 Coalition have talked some big talk, but have not shown any commitment to build a broadband wireless network anywhere to even test the waters through the secondary markets or through resale. RTG agrees with SpectrumCo that the FCC should not design the band plan in hopes that any member of the 4 G coalition will come forward to build a wireless network from scratch within an REAG or on a nationwide basis. (SpectrumCo Comments pp. 12-14). Innovation will occur when more players are introduced to the market and that will not occur if the FCC adopts a band plan in the Upper Band that will only fit Verizon's and AT&T's business plans or some speculative business plans hatched by members of the 4 G Coalition. Sprint/Nextel, T-Mobile, Metro PCS and Leap all favor utilizing small license areas in the Upper Band so that spectrum can be tailored to individual operators' needs across the country as was accomplished in the AWS spectrum auction. See US Cellular Comments at p. 8; Sprint/Nextel Comments at pp. 5-7; Dobson Comments at p. 3; Aloha Comments at p. 3; Leap Comments at pp. 3-4; Cellular South Comments at pp. 13-14; Centennial Comments at pp. 5-6; and MetroPCS Comments at pp. 14-17; and T-Mobile USA, Inc. (T-Mobile) *Ex Parte* Letter of April 18, 2007.

<sup>13</sup> RTG Comments at p. 7.

can consolidate areas and work with rural carriers to build a larger footprint using the Commission's secondary market procedures.<sup>14</sup> Consolidation is far easier to implement than partitioning and disaggregating.<sup>15</sup> In sum, the use of CMAs will allow for more targeted spectrum acquisition and result in greater efficiencies for both large and small applicants, while not discriminating in favor of any single business plan.<sup>16</sup>

### **III. THE FCC SHOULD ADOPT PERFORMANCE REQUIREMENTS THAT ENCOURAGE BUILDOUT IN RURAL AREAS**

In its FNPRM, the FCC proposed a geographic service area and "keep what you use" approach to performance requirements. RTG and numerous other commenters filed comments supporting this general approach to performance requirements.<sup>17</sup> More specifically, RTG suggested a slight modification to the proposal that would allow a more relaxed build out requirement for Rural Service Area (RSA) licensees allowing RSA licensees to have only the 8 year build out requirement (*i.e.*, 75% of the geography of the RSA license area) applied to them, while several other commenters supported a variation

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<sup>14</sup> See SpectrumCo Comments pp. 14-15; MetroPCS Comments p. 20; McBride Comments at p. 9

<sup>15</sup> On a license by license basis, the FCC has approved many more assignments and transfers of control of whole licenses resulting in consolidation since the first auction took place than it has approved licenses that have been partitioned and/or disaggregated by large carriers. In sum, aggregation and consolidation has occurred far more often than partitioning and disaggregating.

<sup>16</sup> See US Cellular Comments at pp. 4-8, NTCA Comments at pp. 3-5, RCA Comments at pp. 11-13, Blooston Rural Carriers Comments at pp. 2-5, Embarq, CenturyTel, and Citizens/Frontier (Mid-Sized ILECs) Comments at pp. 5-6, Union Comments at pp. 2-5, WISPA Comments at pp. 4-6, Cellular South Comments at p. 4, Sprint/Nextel Comments at pp. 2-6, McBride Comments at pp. 8-9, Dobson Comments at pp. 2-7, Aloha Comments at p. 2, Leap Wireless International, Inc. (Leap) Comments at pp. 2-5, MetroPCS Communications, Inc. (MetroPCS) Comments at pp. 24-28, Frontline Wireless, LLC (Frontline) Comments at pp. 49-53, 53-66, and 700 MHz Independents at pp. 6-7.

<sup>17</sup> See NTCA Comments at p. 6, RCA Comments at pp. 5-10, WISPA Comments at pp. 12-14, Cellular South Comments at p. 7, Hawaii Department of Accounting and General Services (Hawaii DAGs) Comments at p. 3, Public Interest Spectrum Coalition (PISC) Comments at p. 37, Aloha Comments at pp. 3-5, and 700 MHz Independents Comments at p. 8.

of this proposal.<sup>18</sup>

As stated in its Comments, RTG supports the adoption of interim performance benchmarks for REAG, EA and non-rural CMA licenses, but proposes that rural CMAs (*i.e.*, RSAs)<sup>19</sup> be exempt from the three and five year interim buildout requirements. As recognized by several commenters, RSAs contain purely rural areas with low population density. As such, RSA licensees require more time to buildout their networks due to the additional time and cost involved, as well as the delay in the availability of equipment to rural markets.<sup>20</sup> In deciding to license cellular MSAs prior to RSAs, the FCC has recognized that there is benefit to delaying the buildout of rural areas until after carriers have determined the technology and equipment with which to build out the MSA. Accordingly, RSA licensees should be given additional time in which to meet their performance requirements, and should not be subject to the interim three and five year performance benchmarks.<sup>21</sup>

The FNPRM proposes that each 700 MHz Commercial Service licensee provide

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<sup>18</sup> See NTCA Comments pp. 5-7; Blooston Rural Carriers pp. 7-9; 700 MHz Independents pp. 7-10; WISPA Comments pp. 12-14; Union Comments pp. 7-13; Cellular South Comments pp. 3-8; Frontier pp. 10-12.

<sup>19</sup> CMAs include both Metropolitan Statistical Areas (“MSAs”) and Rural Service Areas (“RSAs”).

<sup>20</sup> If the Commission does impose three and five year interim construction benchmarks on licensees of RSAs, it should also afford such licensees a safety valve if they are unable to obtain equipment, particularly by a three-year benchmark. It is well documented that large urban carriers typically drive the market for equipment and that equipment for rural and small carriers often is not available until several years after the initial deployment by large carriers. See NTCA Comments pp. 5-7; Blooston Rural Carriers pp. 7-9; 700 MHz Independents pp. 7-10; WISPA Comments pp. 12-14; Union Comments pp. 7-13; Frontier pp. 10-12.

<sup>21</sup> See WISPA Comments at p. 13, footnote 34 *quoting* Statement of Commissioner Michael J. Copps, WT Docket No. 06- 150 (“Copps Statement”) at p. 3 (“we must not countenance spectrum warehousing or any other unreasonable delay in putting this spectrum to work.”)

coverage to 25 percent of the geographic area of the license area within three years of the grant of the initial license, 50 percent of this area within five years, and 75 percent of the area within eight years. RTG supports the use of the three and five year benchmarks for non-RSA license areas and the use of the eight year benchmark for all license areas. As many commenters recognized, the keys to the successful implementation of geographic performance requirements are in defining the relevant geographic area and clarifying the consequences for licenses that fail to meet their benchmarks.<sup>22</sup> In its comments, RTG proposed a workable solution that utilizes a bright line test for measuring service area coverage.<sup>23</sup> RTG continues to believe that use of these bright line tests will ensure that coverage benchmarks are actually met. Further, Commission staff is already familiar with these procedures and the engineering support needed to demonstrate coverage. The filing of such engineering support is not overly burdensome and can be accomplished quite readily with reasonably priced off the shelf software.

Some commenters argue that such performance requirements run afoul of the Commission's marketplace approach to licensing and are unnecessary since the marketplace is working fine.<sup>24</sup> RTG can only speculate as to the familiarity of these commenters with rural America, but in the rural parts of this nation served by RTG's

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<sup>22</sup> See NTCA Comments at pp. 6-7; RCA Comments at pp. 5-10; WISPA Comments at pp. 12-14; Cellular South Comments at pp. 3-4; Hawaii DAGs Comments at pp. 2-3; PISC Comments at p. 37; Aloha Comments at pp. 3-5; and 700 MHz Independents Comments at p. 8.

<sup>23</sup> Specifically, RTG proposed the use of a 32 dB $\mu$ V/m contour for measuring coverage of CMRS two-way broadband service and the use of a "Grade A" or "Minimum Field Strength" service contour for measuring coverage of one-way broadcast type service. RTG Comments pp. 10-11.

<sup>24</sup> See US Cellular Comments at pp. 14-18, Telecommunications Industry Association (TIA) Comments at pp. 7-8; APCO Comments at p. 17; Northrop Grumman Comments at p. 6; Motorola, Inc. (Motorola) Comments at pp. 31-35; Council Tree Communications, Inc. (Council Tree) Comments at pp. 12-15; McBride Comments at pp. 8-9; CTIA: The Wireless Association (CTIA) Comments at pp. 3-9; Leap Comments at pp. 2-5, Verizon Comments at pp. 19-30, SpectrumCo Comments at p. 11; AT&T Comments at pp. 14-16, Coalition for 4G in America (4 G Coalition) Comments at pp. 8-12, Cyren Call Comments at pp. 20-23, and MetroPCS Comments at pp. 29-37.

members, the marketplace is *not* working fine. RTG can assure the Commission that its members are repeatedly denied access to spectrum where population build out requirements or “substantial service” build out requirement are utilized. This warehousing of spectrum is unfair and denies many rural Americans the same types of services that are available in urban areas simply because a rural carrier who would like access to spectrum is denied the use of the spectrum because a licensee has met a population based build out requirement or a “substantial service” build out requirement. The Commission must take this opportunity to correct a marketplace failure by imposing more stringent build out requirements. The Commission should do so by adopting a “use it or lose it” rule similar to that used for licensing unserved cellular areas.<sup>25</sup>

#### **IV. THE FCC SHOULD NOT IMPOSE RESTRICTIONS ON INCUMBENT ELIGIBILITY**

RTG agrees with the 14 commenters who oppose the imposition of any type of eligibility restrictions on incumbent local exchange carriers (“ILECs”), incumbent cable operators or large wireless carriers.<sup>26</sup> The comments reveal virtually no support for the exclusion of ILECs, incumbent cable operators, and large wireless carriers from eligibility for licenses in the 700 MHz band,<sup>27</sup> or for alternative eligibility restrictions discussed in the FNPRM such as a limitation of eligibility to structurally separate affiliates and a limitation on eligibility for Upper 700 MHz C Block licenses to parties

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<sup>25</sup> See 47 C.F.R. § 22.949.

<sup>26</sup> See US Cellular Comments at 21, NTCA Comments at 7-8, Blooston Rural Carriers Comments at 5-7, Frontier Comments at 12-13, Union Comments at 17-18, Computer & Communications Industry Association (CCIA) Comments at 5, TIA Comments at 5-7, Qualcomm Incorporated Comments at 8-11, Ericsson Comments at 5-8, CTIA Comments at 10-17, Verizon Comments at 31-35, AT&T Comments at 20-22, SpectrumCo. Comments at 30-34, and 700 MHz Independents Comments at 10-11.

<sup>27</sup> Only one commenter, the Public Interest Spectrum Coalition, filed in support of this eligibility restriction proposed at the last minute by Media Access Project (MAP). See PISC Comments at 5.

not affiliated with existing wireline broadband service providers. As RTG stated in its comments, many RTG members are ILECs who would be prevented from bidding on 700 MHz licenses under such proposals. Such an eligibility restriction would totally undermine the Commission's stated goal in this proceeding of getting such spectrum into the hands of small and rural carriers and other new entrants. Rural wireline carriers and their affiliates represent the predominant class of entity interested in bringing advanced broadband services to rural areas. In short, an eligibility restriction on ILEC participation, especially rural ILEC participation, would serve no public interest purpose and contrary to the Public Interest Spectrum Coalition's assertion that exclusion of existing incumbents remains the simplest way to create a class of new entrants able to compete with existing providers, will have the opposite effect as it will prevent those that understand the marketplace and who have been successful in providing communications services from building on their knowledge and continuing to robustly compete to provide wireless services.

## **V. THE BROADBAND OPTIMIZATION PLAN SHOULD NOT BE ADOPTED**

The majority of commenters addressing the issue oppose the adoption of the Broadband Optimization Plan ("BOP").<sup>28</sup> As previously stated in its Comments, RTG is concerned that, without a guardband between the Lower 700 MHz C Block and Upper 700 MHz C Block, there is a risk of adjacent channel interference to the Lower 700 MHz C Block licensee. The risk of such interference will greatly diminish the value of that spectrum, as well as undermine the efficiencies to be gained by licensees of contiguous B

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<sup>28</sup> See, e.g., Ericsson Comments at 13-14, MetroPCS Comments at 45, Hawaii DAGs at 2-3, and 700 MHz Independents Comments at 6-8.

and C Block spectrum. There continues to be a strong record before the Commission not to adopt the BOP (or even a modified version thereof).

**VI. RTG SUPPORTS THE ROAMING PROPOSAL CONTAINED IN THE FRONTLINE OPEN ACCESS PROPOSAL FOR THE E BLOCK PROVIDED IT DOES NOT IMPACT THE ALLOCATION OF CMA LICENSES IN THE UPPER BAND**

RTG has reviewed the Frontline proposal and the comments filed in response thereto and is intrigued by certain aspects of it. To the extent that the Frontline proposal is not disruptive to the designation of CMA sized license blocks in both the Lower Band and the Upper Band, RTG is supportive of the E Block being used for both the commercial and public safety purposes. Moreover, RTG is intrigued by the possibility of its members being able to roam on the E block. As this Commission is aware, RTG members have been pushing for the FCC to adopt automatic roaming rules and for this Commission to intervene to create fair roaming practices among mobile carriers.<sup>29</sup> While many of Frontline's proposals are novel and specific to its own business plan, RTG would support open access and roaming on one block of spectrum in order to ensure that rural carriers will have access to fair roaming rates in urban areas provided that the Commission allocates CMA licenses in both the Lower Band and Upper Band along the lines of Proposal # 2.

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<sup>29</sup> *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers, Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Service*, 20 FCC Rcd 15047, 15062 (2005).

## **VII. THE FCC SHOULD NOT APPLY BLIND BIDDING OR COMBINATORIAL BIDDING PROCEDURES TO THE 700 MHZ AUCTION**

### **A. Blind Bidding Procedures Will Unduly Disadvantage Small and Rural Bidders**

The Commission's proposal to utilize "blind bidding" procedures (also referred to by the Commission as "limited information" or "anonymous bidding" procedures) in the upcoming auction of new 700 MHz licenses is a huge mistake and will serve to favor well-heeled participants over smaller ones. An overwhelming majority of commenters addressing the issue oppose the use of blind bidding for the 700 MHz auction. These commenters recognize that blind bidding favors one set of auction participants over another.<sup>30</sup> Those few commenters that favor blind bidding claim that blind bidding will facilitate a fairer auction process.<sup>31</sup> In reality, each of these commenters has another reason not to want a transparent auction. Verizon being the behemoth that it is will be able to put scores of analysts and software to use to determine the identity of participants based on their spectrum needs and bidding patterns giving it an unfair competitive advantage over smaller bidders and allowing it to purchase spectrum at a lower cost. McBride, who currently does not provide wireless services, implies that blind bidding will reduce the price paid for spectrum and allow entrepreneurs a chance to buy spectrum

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<sup>30</sup> See, US Cellular Comments at pp. 21-27; RCA Comments at p. 18; Blooston Rural Carriers Comments at p. 9; PISC Comments at p. 35; Dobson Comments at pp. 7-9; Leap Comments at pp. 7-10; Aloha Comments at pp. 8-9; AT&T Comments at pp. 36-39; SpectrumCo Comments at p.18; MetroPCS Comments at pp. 46-49; and 700 MHz Independents Comments at p. 11.

<sup>31</sup> See McBride Comments at p. 11; Verizon Comments at pp. 35-37; and Frontline Comments at p. 56.

at a lower cost.<sup>32</sup> Frontline appears to only be interested in the E block and is concerned that it will be a target since it has publicly stated that its whole business plan revolves around getting the E block with specific conditions imposed across the nation.<sup>33</sup> By advocating blind bidding, Frontline implies that it will not be targeted as easily by large bidders with deep pockets.<sup>34</sup> In short, the only three commenters supporting blind bidding will benefit from skewing the auction in a way that will suppress the value of the spectrum.

The Commission has been tasked with structuring its spectrum auctions in a manner that maximizes the “recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource.”<sup>35</sup> Blind bidding does not serve that congressionally stated purpose and disadvantages rural and smaller companies. Absent information regarding the identities of competing bidders, it is impossible for rural and small companies to make rational bidding decisions. The attractiveness of certain rural markets is greatly affected by the roaming behavior of neighboring carriers. Without information on the identity of bidders for neighboring markets, it is impossible for rural carriers to reasonably place the true value on the spectrum.

In sum, adoption of blind bidding will only serve to favor deep pocketed bidders and speculators who are seeking to suppress the cost of acquiring spectrum. If the Commission is seeking a robust auction that will truly allow the spectrum to be sold at its

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<sup>32</sup> McBride Comments at p. 11.

<sup>33</sup> Frontline Comments at pp. 56-57.

<sup>34</sup> *Id.*

<sup>35</sup> 47 U.S.C. § 309(j)(3)(C).

highest value, it is imperative for the Commission to hold a transparent auction where all bidders have knowledge of other bidders, their bid amounts and their eligibility.

**B. The Commission Should Not Utilize Combinatorial Bidding**

By more than a two to one margin, commenters oppose the use of combinatorial bidding in the 700 MHz auction for any blocks of spectrum.<sup>36</sup> As Verizon states in its comments, the use of combinatorial bidding would add unnecessary complexity and cost to the 700 MHz auction.<sup>37</sup> Using combinatorial bidding for even a specified number of licenses would add increased risk and uncertainty for all companies trying to participate in the auction.

As RTG states in its comments, combinatorial bidding is not necessary to allow a bidder to aggregate a nationwide or regional foot print.<sup>38</sup> With at least sixty megahertz of commercial spectrum up for auction, a bidder will have ample opportunity to aggregate licenses, from different blocks if necessary, to aggregate a large foot print, *if* such bidder most highly values the spectrum.

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<sup>36</sup> See US Cellular Comments at p. 3; RCA Comments at p. 14; Blooston Rural Carrier Comments at p. 9; Cellular South at pp. 20-21; Aloha Comments at pp. 5-7; Leap Comments at pp. 7-10; Verizon Comments at p. 38; SpectrumCo. Comments at p. 16; MetroPCS Comments at pp. 20-23; and 700 MHz Independents Comments at p. 12.

<sup>37</sup> See Verizon Comments at pp. 38-44; *See also*, Cellular South Comments at pp. 20-21; US Cellular Comments at pp. 9-13; Blooston Rural Carriers Comments at pp. 9-10; Aloha Comments at pp. 5-8; Leap Comments at pp.9-10; MetroPCS Comments at pp. 20-22; 700 MHz Independents at p. 13.

<sup>38</sup> RTG Comments at pp. 15-16.

For the foregoing reasons, RTG respectfully requests that the Commission act in accordance with the views expressed herein and in its previously filed comments.

Respectfully submitted,

**RURAL TELECOMMUNICATIONS GROUP,  
INC.**

By: \_\_\_\_\_ /s/

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