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
	)	
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
DOBSON COMMUNICATIONS CORPORATION

Dobson Communications Corporation ("Dobson")[1] hereby replies to certain comments filed in response to the Commission's *Further Notice of Proposed Rulemaking* in the above-captioned proceeding.[2] The commenting parties have stated several divergent viewpoints as to what performance requirements should be imposed by the Commission with respect to unauctioned commercial spectrum in the 700 MHz band. If

---

[1] Dobson is a provider of rural and suburban wireless communications services in 17 states, from Alaska to New York, with approximately 1.7 million customers and network operations covering a total population of over 12.7 million as of December 31, 2006. Dobson conducts its operations through two subsidiaries, Dobson Cellular Systems, Inc. and American Cellular Corporation, and offers services under the CELLULARONE® brand in all its markets.

[2] *See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket No. 06-150, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 07-72 (rel. Apr. 27, 2007).

the Commission is inclined to impose stricter performance requirements beyond "substantial service," then Dobson's alternative approach provides a logical comprise between the various positions. That is, the Commission should apply geographic-based coverage benchmarks for smaller-sized licensed markets – Cellular Market Areas ("CMAs") and Economic Areas ("EAs") – combined with a modified "keep what you use" re-licensing rule and population-based coverage benchmarks for larger licensed markets – Economic Area Groupings ("EAGs") and Regional Economic Area Groupings ("REAGs").

In its comments, noting the significant problems with a "use it or lose it" approach, Dobson reiterated that forced construction generally would not serve the public interest but would more likely create uneconomic choices for licensees to build networks where, at the time of construction, demand would not support deployment. Rather than allowing the gradual development of spectrum based on demand and the development of advanced services and technologies, burdensome build-out obligations actually stifle marketplace innovation.

Nevertheless, if the Commission chooses to impose such obligations, Dobson urged the use of geographic coverage benchmarks only for small-sized service areas with the first benchmark requirement falling at the eight-year mark.[3] This will provide licensees with sufficient time and flexibility to develop business plans for the spectrum and to deploy it in an efficient and meaningful way. To the extent that a licensee failed to satisfy this benchmark, the Commission could reclaim and re-license spectrum that went unused; if the benchmark was satisfied, the licensee would retain the entire licensed area.

[3] *See* Dobson Comments in WT Docket No. 06-150 at 4-7 (filed May 23, 2007).

At renewal, the licensee would be required to demonstrate "substantial service" in those service areas of the market where it has spectrum rights.

For larger licenses, Dobson continued to support use of a "substantial service" requirement.[4] If the Commission does decide to adopt performance requirements for REAG licenses, Dobson suggested that a population coverage requirement applicable to the licensed area as a whole (and not to any sublicensed area) would be sufficient to avoid the warehousing of spectrum.[5]

The primary driver for the imposition of material construction obligations is the misperception that, in the absence of such obligations, large, primarily rural, areas of the country would go underserved or even unserved. Construction benchmarks are thus intended to give licensees an incentive to invest in rural build-out very early in their license term. However, the vast majority of small providers and new entrants commenting in the proceeding have asked for exceptions to the more stringent requirements, which calls into question the validity of this rationale.

For example, the 700 MHz Independents,[6] Blooston Rural Carriers,[7] National Telecommunications Cooperative Association ("NTCA"), the Rural Telecommunications

---

[4] Dobson Comments at 6-7.

[5] *Id.*

[6] The 700 MHz Independents include the following: Central Wisconsin Communications, LLC; Chariton Valley Communication Corp., Inc.; CT Cube, L.P.; Grand River Communications, Inc.; Home Telephone Co.; Horry Tel. Coop., Inc.; Interstate Enterprises, Ltd.; Kanokla Tel. Assoc., Inc.; Palmetto Rural Tel. Coop., Inc.; Siskiyou Tel. Co.; and Southern Iowa 700, L.L.C.

[7] The Blooston Rural Carriers include the following: All West Communications, Inc.; BEK Communications Coop.; Big Bend Tel. Co.; Cannon Valley Communications, Inc.; CC Communications; Chibardun Tel. Coop., Inc.; Clear Lake Indep. Tel. Co.; Command Connect, LLC; Communications 1 Network; Eastern Colorado Wireless, LLC; FMTC Wireless, Inc.; Hancock Rural Tel. Co.; Harrisonville Tel. Co.; Haviland Tel. Co., Inc.; Heart of Iowa Communications; Interstate Telecom. Coop.; Kennebec Tel. Co., Inc.; Ligtel Communications, Inc.; Manti Tel. Co.; Mid-Rivers Tel. Coop., Inc.; Manti Tel. Co.; Mid-Rivers Tel. Coop., Inc.; Midstate Communications, Inc.; Nucla-Naturita Tel. Co.; Ponderosa Tel. Co.; Red River Rural Tel. Assoc., Inc.; Smithville Tel. Co.; South Slope Coop. Communications Co.; Ventura Communications Coop.; Webster Calhoun Coop. Tel. Assoc.; and Yadkin Valley Tel. Membership Corp.

Group, Inc. ("RTG"), and the Wireless Internet Service Provider Association ("WISPA") urged the Commission to exclude Rural Service Area ("RSA") licensees from interim construction benchmarks and instead only to apply an eight-year benchmark.[8] On the other hand, the Ad Hoc Public Interest Spectrum Coalition supported rigorous build-out requirements for incumbents but not for new entrants.[9]

These commenters, like Dobson, recognize that the imposition of short-term build-out obligations do not serve the public interest, and will not assure efficient and economically sound rural network development. Instead, "use it or lose it" obligations tend to skew investment decisions by forcing larger carriers to construct duplicative or non-economic networks in areas that are not critical to their primary business strategy merely for the purpose of preserving license availability. The result of such non-economic build will be to increase the overall cost of providing service to the larger carriers' primary target markets, while also creating additional challenges for smaller carriers to raise the capital needed to construct their networks. Forcing larger carriers to build immediately in areas farther from population centers necessarily cuts into these smaller, local carriers' opportunity for roaming revenues from them, and also splits an already small "pie" of rural subscribers among too many carriers, the larger of which are far more capable of surviving the loss of revenues. And as the wireless industry's experience demonstrates, when financial markets perceive an impending competitive

---

[8] *See* 700 MHz Independents Comments in WT Docket No. 06-150 at 8-10 (filed May 23, 2007); Blooston Rural Carriers Comment in WT Docket No. 06-150 at 7 (filed May 23, 2007); NTCA Comments in WT Docket No. 06-150 at 5-6 (filed May 23, 2007); RTG Comments in WT Docket No. 06-150 at 9 (filed May 23, 2007); WISPA Comments in WT Docket No. 06-150 at 13 (filed May 23, 2007). CMAs consist of RSAs and Metropolitan Statistical Areas.

[9] *See* Ad Hoc Public Interest Spectrum Coalition Comments in WT Docket No. 06-150 at 37 (filed May 23, 2007); *see also* Council Tree Comments in WT Docket No. 06-150 at 12-15 (filed May 23, 2007) (conditionally supporting exception for new entrants if tougher requirements are to be imposed).

threat to smaller carriers operating in smaller markets, the availability of capital shrinks and its cost increases. This strain will almost certainly fall most heavily on smaller enterprises, which are primarily focusing on building high quality, advanced technology networks in markets that larger carriers are likely to address later in product life cycles. The end result may be that the less urban areas may have less quality competition and fewer alternatives than they would otherwise have if the larger carriers were not forced by regulation to construct in these markets.

The smaller carriers who have advocated the imposition of stringent build-out obligations on REAG and EAG licensees are perhaps expecting that the Commission will, in the near term, be able to reclaim or re-license large rural areas that may go unserved and that they will win such licenses in the next round of auctions. Or these commenters may believe that the large area licenses will provide access to the spectrum through the secondary markets as they seek to monetize areas that might otherwise be lost. Dobson believes that these expectations as to REAG and EAG conduct are naïve, at best; carriers who pay for these larger licensed areas will not simply give large geographic areas away if they are required to build in them to keep their licenses. Of course, these rural carriers should have ample opportunity to acquire spectrum directly from the Commission through a band plan that accommodates at least three CMA and EA licenses – more than enough licensees to sustain a highly competitive and viable market in most rural areas The more likely result of imposing stringent geographic coverage requirements on these large-area licensees is, in Dobson's view, uneconomic overbuilds designed to protect territories with the adverse impact falling hardest on the smallest licensees.

If the Commission nonetheless chooses to adopt some level of construction obligations on all licensees, including those serving rural areas, Dobson's suggested approach takes components from the majority of the commenting positions and promotes service to both urban and rural areas on a more efficient and still timely basis. Subjecting larger licenses to substantial service or a population coverage requirement will further the objective of a national or large regional roll out of advanced services, as those licensees will inevitably focus their initial efforts on population centers. Meanwhile, smaller market area licensees subject to geographic-based requirements will be encouraged to pursue a local strategy in the less densely populated portions of this country, very quickly creating the "total area" coverage with a high degree of competition in virtually every market in the country. And they most likely will be able to do so without the threat of larger carrier licensees immediately encroaching in their markets purely to meet build-out requirements. When the larger carrier licensees can justify construction in these markets, they will surely expand into these rural markets as well, by which point smaller rural entrants are likely to be sufficiently mature in their business to compete. This approach will benefit the public through the efficient deployment of advanced wireless services and will also provide smaller providers with a greater opportunity to succeed in the marketplace.

CONCLUSION

For the reasons set forth above, if the Commission is inclined to adopt stricter performance requirements, then Dobson respectfully urges the Commission to impose a single geographic-based benchmark with "keep what you use" re-licensing for CMAs and EAs only and to impose either "substantial service" or a population coverage requirement for larger market areas, such as EAGs and REAGs.

Respectfully submitted,

DOBSON COMMUNICATIONS CORPORATION

By: __/s/ Ronald L. Ripley____________
Ronald L. Ripley, Esq.
Senior Vice President & General Counsel
Dobson Communications Corporation
14201 Wireless Way
Oklahoma City, OK 73134
(405) 529-8500

June 4, 2007