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
	)	
Declaratory Ruling on Reporting Requirement Under Commission's Part 1 Anti-Collusion Rule	)	WT Docket No. 07-166

To: The Commission

COMMENTS ON PETITIONS FOR RECONSIDERATION

The law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, on behalf of its rural telephone carrier clients (the "Blooston Rural Carriers") and pursuant to Section 1.429 of the Commission's Rules, hereby submits these comments on certain petitions for reconsideration of the *Second Report and Order* in the above-captioned proceeding, regarding the rules governing the upcoming 700 MHz auction (Auction No. 73).[1] In particular:

1. The Blooston Rural Carriers support the suggestion of MetroPCS Communications, Inc. that the Commission should exclude the following areas from any geographic coverage requirement: (1) bodies of water, (2) historic districts, (3) areas completely surrounded by licensee coverage, and (4) zip codes with a population density of less than 5 persons per square mile.[2] As for the fourth criterion, the Blooston Rural Carriers suggest that rather than zip codes with a population density of less than 5 persons per square mile, the Commission should exclude counties with a population density of less than 25 persons per square mile. County lines are simpler to administer than irregularly shaped zip codes, as the Commission has found in its partitioning process; and 25 persons per square mile is a very rural population density, well below the 100 person per square mile criterion used to define a "rural" service in the Commission's Rules.[3] While MetroPCS' refinements would help to make the geographic area requirement less onerous, for Cellular Market Areas (CMAs) that are Rural Service Areas (RSAs) as well, the best solution is to offer the licensee a population coverage option

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[1] *See* Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, *Second Report and Order*, WT Docket No. 06-150 and related proceedings, FCC 07-132 (*rel.* August 10, 2007) ("*Second Report and Order*").

[2] See September 20, 2007 Petition of MetroPCS Communications, Inc. for Clarification and Reconsideration, at pp. 11-13.

[3] See, e.g., 47 CFR 27.14(f)(1)(iii).

instead, for the reasons set forth in the Blooston Rural Carriers' September 24, 2007 Petition for Reconsideration and/or Clarification.

2. In this regard, the Blooston Rural Carriers agree with the Rural Telecommunications Group, Inc. (RTG) that, if CMA and Economic Area (EA) licensees must meet a geographic area build out requirement, the same geographic coverage requirement must be applied to Regional Economic Area Grouping (REAG) licensees as well.[4] As RTG correctly points out, REAG licensees will for the most part be able to meet their 75 percent population coverage requirement without serving rural areas, since every REAG contains substantial urban and suburban population areas. Thus, the REAG spectrum will lie fallow in rural areas for years, as has been the case with Metropolitan Trading Area (MTA)-sized PCS licenses. In contrast, CMA licensees serving an RSA by definition have no urban area to serve. They must meet their build out requirement by serving areas within the RSA that are either rural (small communities), or very rural (scattered ranches and farms) or extremely rural (largely uninhabited). As shown in the Engineering Study of Eugene Maliszewskyj (Exhibit A to the Blooston Rural Carrier's Petition), in many RSAs, it is possible to cover 70 to 90 percent of the population by putting a signal over well below 50 percent of the land area. This fact dictates that the best solution for RSA markets is for the Commission to provide a population coverage option for CMA winners, as it has done for the winners of large licenses. However, barring such solution, it is necessary for the Commission to apply a geographic coverage requirement to REAGs, in order to avoid running afoul of the requirement to treat similarly situated licensees even-handedly. A large regional or nationwide C-Block

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[4] See Rural Telecommunications Group, Inc. September 24, 2007 Petition for Reconsideration, at pp. 4-9.

licensee is going to be at least as capable, and generally more capable, of covering 70 percent of the geographic area of its REAG compared to a small rural telephone company trying to cover 70 percent of an RSA with no large customer base over which to spread the resulting extraordinary construction costs.

3. The Blooston Rural Carriers support the suggestion of MetroPCS that the Commission factor in a 15 percent "expansion zone" to CMA/EA coverage, when reclaiming area under the "keep what you use" rule. This suggestion is consistent with the Blooston Rural Carriers' request that the Commission define a "buffer zone" to ensure compatible, interference-free operation between an auction winner and subsequent "fill in" licensees.[5]

4. The Blooston Rural Carriers agree with the requests of both MetroPCS and RTG that the Commission provide clarification of the circumstances under which fines, license cancellation and other extreme penalties will be imposed on licensees, since these sanctions are impermissibly vague. The Blooston Rural Carriers can further agree with the suggestion that the only circumstances justifying fines and license cancellations would be if the licensee simply fails to construct any coverage. Otherwise, these sanctions take the rational economic decision-making process out of the hands of licensees, and will only discourage participation in Auction No. 73. If not clarified in the manner suggested by RTG, the forfeiture and cancellation penalties should be deleted. The strict keep-what-you-use penalties provide adequate incentive for rational, cost-justified coverage.

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[5] See Blooston Rural Carriers Petition at p. 19.

5. Finally, the Blooston Rural Carriers strongly oppose any suggestion by the *Ad Hoc* Public Interest Spectrum Coalition (PISC) that the Commission should adopt spectrum caps for Auction No. 73 on reconsideration.[6] The Commission correctly concluded that eligibility restrictions were inappropriate for Auction No. 73,[7] and a spectrum cap is clearly a limitation on eligibility. It is not entirely clear whether PISC is asking the Commission to adopt a cap on the C and D blocks only, or if instead broader spectrum caps are sought. As for PISC's specific proposal that the C and D Blocks cannot be held by the same licensee, the Blooston Rural Carriers express no opinion; however, to the extent that PISC's petition can be read to advocate spectrum caps in general, this outcome is unwarranted and harmful to bidding competition, especially at the CMA and EA levels. The Commission has now issued dozens of cellular, PCS, 700 MHz, AWS, BRS and other licenses of overlapping capabilities covering every square inch of the country. Therefore, it is impossible for a licensee, at the CMA and EA level, to exclude competition by bidding at auction. Moreover, licensees have different uses for spectrum. One block can be used for a cellular-like mobility play, while another may be used for fixed internet access. Specialty services are also possible. And as new, spectrum-hungry applications (such as 4G) come to market, it is difficult for carriers to know exactly how much spectrum they will need in the future. Therefore, spectrum caps are inappropriate and adverse to the public interest.

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[6] See September 24, 2007 Petition for Reconsideration of the *Ad Hoc* Public Interest Spectrum Coalition, at pp. ii, 2-3.

[7] See Second Report and Order, *supra* at paras. 256-259.

Respectfully Submitted,

The Blooston Rural Carriers

/s/

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CERTIFICATE OF SERVICE

I, John A. Prendergast, hereby certify that a copy of the foregoing Comments on Petitions for Reconsideration was served this 17th day of October, 2007, by hand delivery or by U.S. Mail, postage prepaid, to the following individuals at the addresses listed below:

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