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June 3, 2008

**Via Electronic Delivery**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band (WT Docket No. 07-195) (AWS-3);**

**Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands (WT Docket No. 04-356)(AWS-2)**

Dear Ms. Dortch:

The members of the Rural Broadband Group (“Rural Carriers”), by their attorneys, hereby strenuously object to the reported Federal Communications Commission (“FCC” or “Commission”) plan to issue an order in the above-referenced proceedings consolidating certain AWS-2 and AWS-3 spectrum and requiring the licensee of such spectrum to provide “free,” nationwide broadband service.<sup>1</sup> Specifically, it has been reported that the Commission is poised to issue an order reassigning five megahertz of spectrum at 2175-2180 MHz—originally designated for paired use as part of the AWS-2 J-Block—and combining such five megahertz block with the twenty megahertz of AWS-3 spectrum to create a contiguous twenty-five megahertz block in the 2155 to 2180 MHz band. It also has been reported that the Commission plans to require the licensee of such spectrum to provide “free,” broadband service, as well as certain content filtering. Further, it is the Rural Carriers’ understanding that the spectrum is to be awarded in a single nationwide license, or perhaps a few super-regional licenses.

The Rural Carriers strongly oppose the plan as reported, and request that, at a minimum, the Commission refrain from issuing an order and allow parties the opportunity to comment on the Commission’s plan through a further notice of proposed rulemaking. The Rural Carriers concur with the comments of MetroPCS Communications, Inc. (“MetroPCS”) in its *ex parte* letter of May 29, 2008 (“*MetroPCS Letter*”) in the above-referenced dockets.

<sup>1</sup> The members of the Rural Broadband Group are listed on Attachment A.

As demonstrated in the recently completed auction of 700 MHz spectrum (Auction 73), the demand for commercial mobile and broadband spectrum is substantial. Bidders paid record-breaking prices for spectrum in Auction 73, and competition for licenses was fierce. Unfortunately, most small and rural companies—and even most mid-sized companies—were not able to acquire spectrum in Auction 73, or were only able to acquire very limited spectrum. These companies remain hungry for spectrum with which to innovate and to deploy 3G, 4G and other bandwidth intensive broadband services. As the Commission is well aware, however, there is little spectrum available for licensing in the foreseeable future, and the H and J AWS-2 Blocks are potentially highly valuable spectrum resources. By reassigning 5 MHz from the AWS-2 J Block the Commission will be eliminating one of the last remaining paired blocks of spectrum that may be available for rural and small companies to acquire.

Also as demonstrated in Auction 73, there is tremendous demand for licenses to be awarded on the basis of smaller licenses areas, such as Cellular Market Areas (“CMAs”). Auctioning licenses on this basis allows companies to target their spectrum acquisitions to fit their particular business plans. The Commission’s current plan, at least as reported, does nothing to ensure that small and rural companies have access to spectrum over which to deploy new and innovative services and is inconsistent with Section 309(j) of the Communications Act, as amended. That section, among other things, requires the Commission to ensure that licenses are disseminated to a wide variety of entities, including rural telephone companies.

The Rural Carriers also vigorously oppose any auction and service rules, such as the purported “free” service obligations, that limit the AWS-2 and/or AWS-3 bands to one particular business model. This type of “designer allocation” is unwise and unworkable. The “free” service obligations are likely to result in the price of the spectrum being heavily discounted, a *de facto* government subsidy to the licensee that acquires the spectrum. This subsidy, and the prospect of facing competition from “free” service will adversely impact rural carrier plans to deploy broadband services to rural America where it is difficult to sustain even one broadband provider.

Although most rural carriers were not able to acquire 700 MHz spectrum, many of the Rural Carriers hold AWS-1 and/or PCS licenses over which they plan to deploy broadband services. The Commission’s plan to award a heavily subsidized nationwide license over which the licensee must provide “free” service, will have a serious chilling effect on the Rural Carriers’ broadband deployment plans. Notably, it will make it difficult to obtain financing, and to justify deploying resources in difficult to serve areas.

In addition, because the FCC will have heavily subsidized the AWS-3 licensee, and imposed “free” service obligations, the government will become a *de facto* business partner of the AWS-3 licensee, a partner in competition with the other entities that it regulates, entities that have paid full price for their AWS, PCS and 700 MHz spectrum. Entering into this type of relationship with a licensee is ill-advised. The Commission should not be in the business of picking winners and losers, and it should not be in the business of crafting bandplans and service rules tailored to one specific business plan. As the Commission itself stated in the AWS-2 NPRM:

“Our goal is to enable service providers to maximize the use of this spectrum. Ideally, the marketplace, not the government, should determine how this spectrum is used, within the wide limits of the fixed and mobile allocation.”

*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, FCC 04-218 (2004) (“AWS-2 NPRM”) ¶ 2.

The reported plan is full of potential pitfalls and will lead to unintended adverse consequences. Accordingly, and as further discussed by MetroPCS, prior to adopting an order adopting the Commission’s reported plan, the Commission must afford parties a full opportunity to assess and comment on the plan, including interference concerns about the H block, and whether reassigning a portion of the J block is in the public interest. The Commission must afford interested parties this opportunity under the Administrative Procedure Act.

For the reasons outlined above and in the *MetroPCS Letter*, the Commission should not issue any order adopting the reported plan. To the extent that the Commission wants to consider the plan, it should issue a further notice and seek comment. The Rural Carriers, however, oppose any plan that reduces the amount of paired commercial mobile spectrum to be licensed, or that is designed around, and tailored to one specific business plan.

Finally, if the FCC is not willing to remove the item under consideration in the above-referenced proceedings from the agenda of its upcoming meeting, then at a minimum, the FCC should shorten the sunshine period to allow parties additional time to comment on the Commission plan.

Respectfully submitted,

*/s/ Gregory W. Whiteaker*

Gregory W. Whiteaker

Attachment

cc (via email):  
Chairman Martin  
Commissioner McDowell  
Commissioner Adelstein  
Commissioner Copps  
Commissioner Tate  
Aaron Goldberger  
Angela Giancarlo  
Renee Crittendon  
Bruce Gottlieb  
Wayne Leighton

**Attachment A**  
**Rural Broadband Group**

Adams Telecom, Inc.  
Advantage Cellular Systems, Inc.  
Alenco Communications, Inc.  
Caprock Cellular Limited Partnership  
Central Texas Telephone Cooperative, Inc.  
Consolidated Telephone Company  
Home Telephone Company  
Lamar County Cellular  
Mediapolis Telephone Company  
Mid-Tex Cellular, Ltd.  
Molalla Communications  
Moline Dispatch Publishing Co. L.L.C.  
Nsight Wireless  
NTCH dba Cleartalk  
Palmetto Rural Telephone Cooperative, Inc.  
Panhandle Telephone Cooperative, Inc.  
Pioneer Communications  
Plateau Telecommunications, Inc.  
Public Service Communications  
RT Communications  
Syringa Wireless  
Texas RSA 7B3, LP dba Peoples Wireless  
Services  
Volcano Telephone Company  
Volcano Internet Provider  
Whisper Wireless