



OPASTCO

June 4, 2008

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

Written *Ex Parte* Presentation

**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 Organization for the Promotion and Advancement of Small Telecommunications Companies (“OPASTCO”)¹ hereby submits this *ex parte* letter regarding a reported FCC plan to auction certain consolidated AWS-2 and AWS-3 spectrum blocks as either a single nationwide license or a few super-regional licenses in which the licensee(s) would be required to provide free broadband service (hereinafter “AWS broadband license”). This proposal raises numerous issues and concerns, some of which are discussed below. However, the Commission should not move forward with a proposal of this magnitude without first issuing a notice of proposed rulemaking (NPRM) so that all interested parties can fully express their views.

First, OPASTCO is concerned that auctioning the proposed AWS broadband license on a nationwide or super-regional basis would have the effect of excluding rural carriers from any meaningful opportunity to acquire this valuable spectrum. Small, rural wireless carriers do not have a realistic opportunity to obtain spectrum when it is auctioned over large geographic license areas. This is due, in part, to the fact that they do not have access to the same levels of capital as their large counterparts. Rural carriers have a strong track record of disseminating high-quality communications services

¹ OPASTCO is a national trade association representing over 600 small telecommunications carriers serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 5.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37). Approximately half of OPASTCO members provide some form of wireless service.

throughout their territories. Auctioning this AWS spectrum on the basis of smaller license areas, such as Cellular Market Areas, would therefore provide greater assurance that the AWS spectrum would be acquired, in part, by carriers that are truly committed to serving rural consumers. Moreover, smaller license areas would further the section 309(j)² goal of ensuring that licenses are disseminated to a wide variety of entities, including rural telephone companies.

In addition, the Commission's proposed AWS broadband license is somewhat akin to a universal service program, and thus issues of competitive and technological neutrality should be considered. Specifically, because the AWS broadband licensee would be required to provide free broadband service, the auction for this spectrum can be expected to generate less revenue than it otherwise would absent this rule. As a result, consumers across the nation would, in essence, subsidize the cost of the AWS broadband license. As with any other universal service program, adherence to the principle of competitive and technological neutrality is important. Yet, the Commission's proposal would only make this "program" available to wireless carriers, excluding all other technologies.

OPASTCO strongly supports efforts to increase the deployment of broadband Internet access services to consumers all across the nation. OPASTCO's members have made great strides in deploying broadband to rural consumers using a variety of technologies, and the Commission's policies in this proceeding can and should facilitate the increased availability of this vital service. By issuing an NPRM to fully consider the numerous issues raised by this proposal, the Commission will better ensure that its policies further the goals of sections 254, 706, and 309(j) of the Communications Act and avoid unintended consequences.

Sincerely,

/s/ Stuart Polikoff

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² 47 U.S.C. § 309(j)(3)(B).