Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band	)	WT Docket No. 07-195
	)	
	)	
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
	)	

COMMENTS OF AT&T INC. IN SUPPORT OF T-MOBILE'S REQUEST FOR EXTENSION OF TIME TO FILE COMMENTS

AT&T Inc., on behalf of AT&T Mobility LLC and its wholly-owned and controlled wireless affiliates (collectively "AT&T") respectfully submits these comments in support of the request filed by T-Mobile USA, Inc. ("T-Mobile") that the Commission extend the date for filing comments in the above-captioned proceeding by 90 days, to October 7, 2008.[1] This 90-day extension would allow the Commission to conduct testing to evaluate the interference issues raised by the service rules it proposed in its Further Notice of Proposed Rulemaking ("*Further Notice*").[2] In the alternative, the Commission should grant T-Mobile's request to extend the deadline by 30 days or more to allow interested parties to conduct their own testing and/or incorporate test results into their comments.

---

[1] T-Mobile Request for Extension of Time to File Comments, WT Docket No. 07-195 (filed July 1, 2008) ("T-Mobile Request").

[2] Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band, Further Notice of Proposed Rulemaking, FCC 08-158 (2008) ("Further Notice").

As has been noted previously by AT&T in this proceeding, it is critical that the H Block and AWS-3 service rules contain controls that will prevent interference into the PCS and AWS-1 bands.[3] Nonetheless, the Commission's proposed service rules would permit mobile operations in both the AWS-3 band and the H Block while providing insufficient interference protection to adjacent PCS and AWS-1 operations.[4] Despite the complexity of the Commission's proposed service rules and the high risk of interference to incumbent operations raised by the *Further Notice*, the Commission allowed interested parties only 14 days to file comments and 7 days to file replies. As has been noted by T-Mobile, this already short comment period has been exacerbated by the fact that a federal holiday, July 4, falls within the initial comment window.[5]

T-Mobile has correctly observed that the Commission's abbreviated comment period is an insufficient period of time in which to assess the complex and critical issues raised by the *Further Notice*. In highly technical proceedings such as this one, testing and evaluation of the proposed service rules is critical to all parties' understanding of their impact. The fact that multiple parties to this proceeding have expressed concern about the interference implications of the proposed service rules underscores the need for empirical data regarding the impact of these rules on incumbent operations. T-Mobile correctly observed that "[t]he Commission cannot responsibly reach a decision on the proposal advanced in the FNPRM without gathering empirical data concerning the

---

[3] Letter from Jeanine Poltronieri, Executive Director, AT&T, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 07-195 (filed June 5, 2008) ("AT&T June 5 Ex Parte").

[4] *Further Notice* at ¶ 3.

[5] T-Mobile Request at n. 11.

interference risks that have been identified."[6] The Commission must allow time for it, as well as the interested parties to this proceeding, to gather and review the necessary evidence in order to allow interested parties to submit informed comments. Indeed, the Commission has itself recognized the importance of empirical testing and informed rulemakings, and for this reason has extended the TV white spaces proceeding in order to allow for comprehensive testing.[7] A 90 day extension of the comment deadline would allow for such testing and subsequent review by interested parties to take place.

Should the Commission decline to conduct or supervise independent testing on the potential for interference raised by its proposed service rules, it should extend the comment period by at least 30 days to allow interested parties to conduct independent testing and/or evaluate the test results of other parties. An extension is necessary for these parties because they "have not had adequate time to comprehensively finish their own interference analyses because they had no notice that the Commission would shift the burden to them to provide affirmative evidence of interference."[8] T-Mobile has already begun such accelerated testing,[9] and AT&T would welcome an opportunity to review these results, as well as results of any other testing initiated by parties to this proceeding, prior to submitting its comments in response to the *Further Notice*. For this

---

[6] T-Mobile Request at 3.

[7] *See, e.g.*, Office of Engineering and Technology Announces Plans for Conducting Measurements of Additional Prototype TV White Space Devices, Public Notice, DA 08-118 (Jan. 17, 2008) (announcing that the Commission would undertake a second phase of laboratory testing to assess the interference potential of prototype television white space devices).

[8] T-Mobile Request at 3.

[9] Letter from Howard J. Symons, Counsel to T-Mobile USA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 07-195 (filed June 20, 2008).

reason, AT&T supports T-Mobile's request that the Commission extend the comment deadline 30 days to accommodate its testing.

Courts have consistently stated that 30 days is an appropriate minimum comment window, and the Administrative Conference of the United States has similarly found that "the shortest period in which parties can meaningfully review a proposed rule and file informed responses is thirty days."[10] The Administrative Conference further stated that a 30-day comment period is an inadequate amount of time to allow parties to respond "to proposals that are complex or based on scientific data."[11] AT&T agrees that "it would be arbitrary for the Commission to rush to decision without giving itself and interested parties an opportunity to evaluate the test results."[12]

For the reasons stated above, AT&T agrees with T-Mobile that the Commission should extend the deadline for filing comments by 90 days to allow for supervised testing of potential interference raised by its proposed service rules. In the alternative, the Commission should extend the comment deadline by 30 days in order to allow interested parties to conduct their own testing or review the results of testing conducted by other parties to the proceeding. As has been noted by AT&T and by other parties to this proceeding, the proposed service rules for the H Block and AWS-3 spectrum raise crucial interference issues which could drastically affect the rights of existing license holders. The Commission must be able to draw on a well-developed record containing sufficient

---

[10] *Petry v. Block*, 737 F.2d 1193, 1201 (D.C. Cir. 1984) (citing Administrative Conference of the United States, A GUIDE TO FEDERAL AGENCY RULEMAKING 124 (1983)).

[11] *Id.*

[12] T-Mobile Request at 7.

technical data for it to consider as it develops the best service rules for H Block and AWS-3 spectrum.

Respectfully submitted,

AT&T INC.

By: */s/ Michael P. Goggin*

Paul K. Mancini
Gary L. Phillips
Michael P. Goggin
1120 20th Street, NW
Washington, DC 20036
(202) 457-2057

Its Attorneys

July 2, 2008