

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Rulemaking Regarding the)	RM No. 11510
Transition of Part 22 Cellular Services to)	
Geographic Market-Area Licensing)	
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REPLY COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

CTIA – The Wireless Association® (“CTIA”) hereby submits its reply comments in support of its above-captioned Petition for Rulemaking (“Petition”).¹ Consistent with the record amassed in this proceeding, CTIA urges the Commission expeditiously to transition cellular licensing from a system based upon transmitter sites to geographic-market, cellular market area (“CMA”) based licensing. As discussed below, the vast majority of commenters either support a transition to geographic market-area licensing or changes to the existing cellular rules that move in that direction. CTIA is very willing to explore some of the refinements suggested in these comments. Where commenters differ from the CTIA proposal, there is ample room to find common ground.

A transition to geographic-market licensing would yield a number of public interest benefits. Geographic-market area licensing as proposed herein would eliminate or reduce cellular filings and the attendant expenditure of time and resources by cellular licensees and Commission staff. A properly structured transition to geographic-marketing could ensure movement toward an environment in which similarly situated services, such as cellular and

¹ See Petition for Rulemaking of CTIA – The Wireless Association®, RM No. 11510 (filed Oct. 8, 2008) (“Petition”).

PCS, are subject to similar regulatory requirements while affording carriers the flexibility necessary to build out their networks. For these reasons, the Commission should expeditiously transition the cellular service to a geographic-market licensing regime.

I. THE RECORD SUPPORTS EXPEDITIOUSLY TRANSITIONING TO GEOGRAPHIC-MARKET LICENSING.

While commenters have proposed some changes to CTIA’s proposal, the vast majority of commenters either support a transition to CMA-based licensing or changes to the existing cellular rules that move in that direction.² For example, Broadpoint Inc. agrees that “CTIA’s request will generally produce positive results.”³ In addition, Commnet Wireless “has no objection *per se* to the conversion of Part 22 area licenses to geographic-area based licenses.”⁴ U.S. Cellular Corporation (“USCC”) agrees that “[c]learly modern digital technology lends itself to delineating market areas by recourse to geographic boundaries.”⁵ Further, the Rural Telecommunications Group (“RTG”) is “open to considering a hybrid geographic-based approach.”⁶

Even when commenters oppose certain elements of CTIA’s proposal, there is room to find common ground. For example, many commenters support affording existing licensees

² Comments of Broadpoint, Inc. (filed Feb. 23, 2009); Comments of Commnet Wireless LLC (filed Feb. 23, 2009); Comments of MetroPCS Communications, Inc. (filed Feb. 23, 2009) (agreeing with general proposition to move towards a market area licensing scheme); Comments of the National Telecommunications Cooperative Association (filed Feb. 23, 2009) (supporting an open rulemaking to consider modifications to the current licensing scheme); Comments of the Rural Telecommunications Group (filed Feb. 23, 2009); Comments of United States Cellular Corp. (filed Feb. 23, 2009). *See, e.g.*, Comments of AT&T Inc. (filed Feb. 23, 2009); Comments of Verizon Wireless (filed Feb. 23, 2009);

³ Comments of Broadpoint Inc. at 3.

⁴ Comments of Comment Wireless at 1.

⁵ Comments of United States Cellular Corp. at 2.

⁶ Comments of the Rural Telecommunications Group at 1.

flexibility to incrementally build out their existing service areas. RTG supports a hybrid geographic-based approach under which cellular licenses could be converted to CMA licenses provided there is not an unserved area of 50 square miles or more.⁷ USCC similarly proposes to allow further buildout by Phase II licensees provided the Commission also retains some kind of unserved area licensing process for those markets in which there is more than one licensee operating on the same cellular frequencies.⁸ GCI proposes a one-year period during which final Phase II applications to provide service in underserved areas could be filed, followed by a two-year period during which licensees could build out to those unserved areas.⁹ RTG, the National Telecommunications Cooperative Association, and other commenters also support allowing incumbent licensees to demonstrate expanded coverage area beyond that which is demonstrated by their certified CGSA.¹⁰ While the specifics of the transition to geographic-based licensing may differ somewhat from CTIA’s proposal, the goal remains the same—transitioning cellular licensees to geographic service area licenses while reconciling the realities of the current cellular service. CTIA is very open to investigating some of these proposals.

⁷ Comments of Rural Telecommunications Group at 5-6.

⁸ Comments of United States Cellular Corp. at 6.

⁹ Comments of GCI Communications Corp. at 2-3.

¹⁰ *See, e.g.*, Comments of Rural Telecommunications Group at 6 (“RTG also is receptive to the FCC allowing licensees to demonstrate expanded coverage showings and documentation supporting licensee’s construction certifications”); Comments of the National Telecommunications Cooperative Association at 4 (“When an incumbent certifies its actual service territory, it may demonstrate expanded coverage”).

II. THE RECORD ALSO CONFIRMS THAT EXISTING CGSA FILING REQUIREMENTS ARE A SIGNIFICANT BURDEN AND PROVIDE LITTLE USEFUL INFORMATION ABOUT THE DIGITAL SERVICES DEPLOYED IN THE FIELD.

The overwhelming majority of commenters agree that compliance with the existing CGSA filing requirements burdens cellular licensees while providing very little useful information to the Commission staff who must review and evaluate the filings, particularly in light of the analog sunset.¹¹ Commenters also state that the current CGSA licensing regime “wastes Commission resources”¹² and may be “cumbersome and outdated.”¹³ The current CGSA-licensing regime burdens the Commission with a considerably larger number of modification applications than the geographically-based PCS licensing regime. Further, “[t]he collection and maintenance of site-specific cellular data” is particularly onerous due to the continual evolution of digital networks, which require cellular licensees to “constantly adjust the power, direction and tilt of antennas,” which in turn “triggers the need for a filing” that requires a substantial amount of time to prepare

Not only are existing CGSA filing requirements burdensome on both the Commission and cellular licensees, but CGSA filings do not provide the Commission with useful information. As RTG recognized, the current “approach may no longer reflect a licensee’s

¹¹ Comments of the Rural Telecommunications Group at 2; Comments of Verizon Wireless at 2-4; Comments of United States Cellular Corporation at 2 (“the maps which define cellular service areas, often filed decades ago, are now inaccurate”); Comments of the National Telecommunications Cooperative Association at 5; Comments of MetroPCS Communications, Inc. at 10. *See* Comments of AT&T Inc. at 2-3; (“Cellular licensing rules that require the Commission to accept and review site-specific analog-based filings, which convey little, if anything, about a licensee’s real world digital coverage, wastes Commission resources.”)

¹² Comments of AT&T Inc. at 3.

¹³ Comments of the National Telecommunications Cooperative Association at 5.

true coverage area, particularly for CDMA and other evolving digital technologies.”¹⁴ The Rural Independent Competitive Alliance similarly notes that the formula currently utilized to calculate a licensee’s service area boundary does not reflect the efficiencies in digital technology that may produce a larger coverage pattern with less power than required for analog transmissions.¹⁵ Clearly, the consensus is to amend the current system.

III. CONCLUSION

To eliminate the burden of unnecessary CGSA filings that no longer provide useful information in the wake of the analog sunset and improve the information available to the Commission regarding the digital service and coverage provided by cellular licensees, CTIA supports proposals to expeditiously transition the cellular service to geographic-market licensing subject to the possible inclusion of some of the refinements in the proposed comments. Specifically, the Commission should expeditiously update its cellular licensing rules in a manner that:

- Moves in the direction of geographic-market, CMA-based licensing;
- Rapidly eliminates or reduces un-needed cellular filings and the burden and expense they impose on the licensees and the Commission;
- Ensures that similarly situated services—*i.e.*, cellular, PCS, and AWS—are subject to similar regulatory requirements; and
- Affords carriers the flexibility they need to build out their networks to respond to consumer demand.

¹⁴ Comments of the Rural Telecommunications Group at 2.

¹⁵ Comments of the Rural Independent Competitive Alliance at 3.

These actions are urgently needed to remove a significant, unnecessary burden to the Commission and to carriers, as well as to update the Commission's cellular licensing rules to reflect the realities of the digital era in which cellular services currently operate.

Respectfully submitted,

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Dated: March 9, 2009

CERTIFICATE OF SERVICE

I, Shanée Meeks, do hereby certify that on this 9th day of March 2009, I caused copies of the foregoing “Reply Comments of CTIA – The Wireless Association®” to be delivered to the following via First Class U.S. mail and/or email.

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