



advocate for rural wireless telecommunications providers

Washington, DC

February 4, 2010

Via Electronic Filing

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

Re: Petition for Rulemaking to Impose a Spectrum Aggregation Limit on all Commercial Terrestrial Wireless Spectrum Below 2.3 GHz (RM No. 11498)

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)

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

Service Rules for the 698-746, 747-762 and 777-792 MHz Bands (WT Docket No. 06-150)

Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band (PS Docket No. 06-229)

Fostering Innovation and Investment in the Wireless Communications Market (GN Docket No. 09-157)

A National Broadband Plan for Our Future (GN Docket No. 09-51)

Dear Ms. Dortch:

The Rural Telecommunications Group, Inc. (“RTG”) submits this letter to remind the Federal Communications Commission (“FCC” or “Commission”) of the need for action in the above-referenced proceedings to ensure a competitive environment for consumers of commercial mobile radio services in rural areas of this country. With a number of important spectrum auctions upcoming, it is critical to rural wireless carriers and their customers that the FCC prevent the two dominant nationwide wireless carriers – AT&T and Verizon Wireless (“Verizon”) – from acquiring additional spectrum in rural areas to the detriment of competition in those areas.

Preventing anticompetitive dominance by the two large nationwide carriers can be achieved, as discussed further below, by instituting a spectrum cap as advocated by RTG in its Petition for Rulemaking¹ or by adopting rules for the upcoming AWS and 700 MHz auctions that will prevent acquisition of spectrum in rural markets by AT&T and Verizon.

As a result of recent consolidation and dominance in spectrum auctions², Verizon and AT&T currently hold an effective duopoly in the provision of wireless telecommunications services. It is virtually a truism that spectrum is the lifeblood of wireless telecommunications providers. In order for competition to thrive, competitors to Verizon and AT&T must have both access to spectrum and the ability to obtain sufficient spectrum to adequately compete with the two spectrum behemoths.

The spectrum most likely to be made available in the near term includes:

- The AWS-2 H Block (1915-1920 MHz and 1995-2000 MHz);
- The AWS-2 J Block (2020-2025 MHz and 2175-2180 MHz);
- The Upper 700 MHz D Block (758-763 MHz and 788-793 MHz); and
- The AWS-3 band (2155-2175 MHz).

In allocating this spectrum for commercial use and developing auction rules, the Commission must ensure that its actions do not further entrench the AT&T/Verizon duopoly. Accordingly, the Commission should adopt the spectrum cap proposed by RTG in its Petition. To the extent the Commission is unable or unwilling to adopt such a cap prior to the adoption of auction rules for the upcoming AWS and 700 MHz auctions, the Commission should adopt rules that bar AT&T and Verizon from acquiring spectrum in the above-referenced AWS and 700 MHz bands.³ Such a prohibition will prevent AT&T and Verizon from further consolidating their market dominance and should apply both to spectrum acquired at auction and spectrum that is later made available in the secondary markets. As evidenced by recent transactions involving AT&T and Verizon, even a requirement that these companies divest certain acquired assets does not ensure that such divestiture enhances competition. As recent history has shown, instead of divested assets getting sold to new market entrants, or small, rural and regional CMRS providers (or even the two smaller remaining “national” operators, T-Mobile and Sprint), they are getting sold to the other 800 pound gorilla.⁴ Verizon and AT&T have a proven history of selling their assets to each other.

¹ *In the Matter of Rural Telecommunications Group, Inc. Petition for Rulemaking to Impose a Spectrum Aggregation Limit on all Commercial Terrestrial Wireless Spectrum Below 2.3 GHz*, Petition for Rulemaking, RM 11498 (filed July 16, 2008).

² In recently concluded Auction 73, AT&T and Verizon bought \$16 billion of the \$19 billion worth of licenses, acquiring the overwhelming majority of the available spectrum. *See* Comments of MetroPCS Communications, Inc., WT Docket No. 09-66, filed September 30, 2009.

³ In addition, the Commission should revise rules for all upcoming spectrum auctions to prohibit the award of bidding credits or other small business benefits to those entities that have a significant “material relationship” with large, incumbent in-region or national wireless service providers.

⁴ *See* Application of Cellco Partnership d/b/a Verizon Wireless and AT&T Inc. for Consent to the Transfer of Control of Commission Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act, WT Docket No. 09-104, File Nos. 0003840313, *et al.*

AT&T and Verizon currently have spectrum holdings in rural markets that greatly exceed their actual spectrum needs. Without a limit on the amount of spectrum they may hold, these carriers are able to “warehouse” spectrum, forcing large amounts of spectrum to lie fallow (especially in rural areas) while RTG members and other rural carriers desperately seek such spectrum to provide the advanced broadband services their rural customers demand. The most effective way to encourage AT&T and Verizon to divest themselves of spectrum they are currently warehousing is to impose a cap on the amount of spectrum they may hold, thereby incenting them to divest themselves of their least desirable spectrum, i.e., the spectrum they hold which currently lies fallow. Adoption of the proposed spectrum cap will ensure that broadband technology and services are enjoyed by all Americans, regardless of where they choose to live. Absent a spectrum cap, or at a minimum, restrictions on AT&T and Verizon’s acquisition of AWS and 700 MHz spectrum, both at auction and in the secondary market, Commission inaction will merely ensure a duopoly marketplace for broadband wireless services to the severe detriment of those living and working in rural areas.

Should you have any questions or require additional information, please do not hesitate to contact me.

Respectfully submitted,

Rural Telecommunications Group, Inc.

/s/ Caressa D. Bennet

By:

Caressa D. Bennet
General Counsel