

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Licensing Freezes and Petition for Rulemaking to Amend the Commission's DTV Table of Allocations to Prohibit the Future Licensing of Channel 51 Broadcast Stations and to Promote Voluntary Agreements to Relocate Broadcast Stations From Channel 51)	RM-11626
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Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks)	RM-11592
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COMMENTS OF RURAL CELLULAR ASSOCIATION

Rural Cellular Association (“RCA”) hereby submits these Comments in response to the Media Bureau’s request for comment on RCA’s Petition for Rulemaking and Request for Licensing Freezes, which was jointly filed on March 15, 2011 with CTIA – The Wireless Association.¹ As noted in its earlier filing,² RCA requests that the Federal Communications Commission (“FCC” or “Commission”) address current and potential interference issues in the Lower 700 MHz A Block by 1) revising its rules to prohibit future licensing of TV broadcast stations on Channel 51; 2) implementing freezes, effective immediately, on the acceptance, processing and grant of applications for new or modified broadcast facilities seeking to operate on Channel 51; and 3) accelerating clearance of Channel 51 where incumbent broadcasters reach voluntary agreements to relocate to an alternate channel. The Commission has ample authority to impose

¹ *In re* Request for Licensing Freezes and Petition for Rulemaking to Amend the Commission's DTV Table of Allocations to Prohibit the Future Licensing of Channel 51 Broadcast Stations and to Promote Voluntary Agreements to Relocate Broadcast Stations From Channel 51, *Petition for Rulemaking and Request for Licensing Freezes by CTIA – The Wireless Association® and Rural Cellular Association*, RM-11626 (Mar. 15, 2011).

² *Id.* at 1.

such freezes, which would give Lower 700 MHz A Block wireless carriers the protection they need from adjacent channel interference and allow them to proceed expeditiously with buildout of next-generation technologies. Additionally, RCA notes that minimizing the number of Channel 51 licensees at the time of auction would ensure the greatest return for the U.S. Treasury. Finally, RCA takes this opportunity to encourage the Commission to further maximize the utility of the 700 MHz ecosystem for 4G wireless deployment by taking the additional steps of addressing the need for device interoperability across the 700 MHz band, and harmonization of power levels in the Lower D and E Blocks.

I. INTERFERENCE ISSUES IN THE LOWER A BLOCK THREATEN TO DELAY BROADBAND DEPLOYMENT

The National Broadband Plan recognizes the instrumental role of next-generation wireless technologies—and in particular, those making use of the 700 MHz band.³ But in the current regulatory environment, Lower A Block licensees are unable to vigorously implement deployment of advanced broadband networks because of uncertainty surrounding the interference risks of Channel 51 operators. The A Block licensees are bound by rules that mandate certain protections to neighboring broadcasters operating on Channel 51,⁴ but because there are no such protections in place for them, 700 MHz base station and mobile equipment operators and users face substantial interference concerns that could result in a costly burden both on network infrastructure and device manufacture.⁵ Moreover, it is one thing to ask A Block wireless carriers to build out with an eye to accommodation of current

³ Federal Communications Commission, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN, at 78 (2010) (“*National Broadband Plan*”).

⁴ 47 C.F.R. § 27.60.

⁵ *In re* 700 MHz Block A Good Faith Purchasers Alliance, Petition for Rulemaking Regarding Exclusivity Arrangements Between 700 MHz Band Mobile Equipment Design and Procurement Practices, *Comments of Cellular South, Inc.*, RM-11592, at 7–8 (Mar. 31, 2010).

Channel 51 licensees, but it is an altogether more burdensome request to ask they do the same for future Channel 51 licensees as well. And yet, that is precisely the situation A Block licensees find themselves in.

RCA encourages the Commission to act affirmatively to address these interference concerns. Implementation of the recommendations made by RCA and CTIA in the Petition and Request would resolve the above-noted issues and help ensure an environment where ready and willing Lower A Block competitive carriers could pursue the aggressive buildout they have planned, and that the National Broadband Plan demands. RCA additionally notes that by adopting an automatic data roaming order on April 7th,⁶ the Commission has already taken a major step toward competitive connectivity. By resolving Channel 51 interference issues and interoperability—discussed further below—the Commission can truly free 700 MHz band licensees to make the most of their spectrum.

II. MINIMIZING CHANNEL 51 LICENSE HOLDERS WILL MAXIMIZE INCENTIVE AUCTION RETURNS FOR THE U.S. GOVERNMENT

The Commission has been contemplating the use of incentive auctions as a means to compensate broadcasters for their spectrum. If that were to indeed be the method by which additional spectrum was acquired for wireless broadband purposes, RCA appeals to the Commission to consider the benefits of minimizing the number of Channel 51 licensees at the time of auction. Simply put, more licensees on Channel 51 would result in less money going into the United States Treasury because of increased incentive payout. Whereas wireless companies would only be willing to pay up to a certain amount for a given swath of spec-

⁶ *In re* Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services, *Second Report and Order*, WT Docket No. 05-265 (April 7, 2011).

trum, the presence of a minimal number of Channel 51 incumbents to be paid out at the time of auction would maximize the post incentive-payout return for the government.

III. INTEROPERABILITY ACROSS THE 700 MHZ BAND ENSURES MAXIMUM UTILIZATION OF SPECTRUM FOR BROADBAND

As illustrated by numerous other commenters, 700 MHz interoperability is a gateway issue that must be addressed in the pursuit of a competitive wireless industry.⁷ Indeed, the Commission has already begun looking into the issue, as witnessed by the scheduling of an April workshop on the topic, a development applauded by RCA. As AT&T and Verizon (the “Big Two”) grow ever more powerful, their scale and concomitant buying power allow them to induce manufacturers to develop devices that work only within the 700 MHz bands that they select. The consequences—both for competitive carriers and consumers—are anticompetitive and undeniably detrimental to a healthy wireless market. AT&T’s and Verizon’s opposition to device interoperability effectively creates de facto device exclusivity, denying smaller carriers access to devices at a time when device selection is a crucial element of a carrier’s offering in the eyes of the consumer, while also increasing the price of mobile devices for all commercial and public safety users.⁸ By cordoning off certain spectrum bands for preferred device availability, the Big Two choke off competition and further exacerbate their increasingly dominant market position. Furthermore, lack of interoperability across the 700 MHz band threatens to neuter the recently adopted Data Roaming Order⁹ by creating a technological barrier to roaming. Finally—and perhaps most concerning in light of recent

⁷ Notice of Ex Parte Presentation by Vulcan Wireless, RM-11592, RM-11626, WT Docket No. 11-18, at 3 (April 1, 2011); *In re AT&T Mobility Spectrum LLC and Qualcomm Incorporated Seek FCC Consent to the Assignment of Lower 700 MHz Band Licenses, Reply to Joint Opposition to Petition to Deny of the Rural Telecommunications Group, Inc.*, WT Docket No. 11-18, at 9–12, 23–37 (Mar. 21, 2011).

⁸ Peter Crampton, 700 MHz Device Flexibility Promotes Competition, Rural Cellular Association study, RM Docket No. 11-592, at 10–11 (Aug. 10, 2010).

⁹ *See id.* at 7.

natural disasters at home and abroad—is the fact that public safety users will be unable to benefit from advantages in capacity, range, and redundancy.¹⁰

The Big Two have tried to deflect the issue of interoperability by citing supposedly insurmountable technical issues¹¹ or making appeals to the inviolability of the free market.¹² Both arguments miss the mark. Verizon itself admits that devices capable of operating across Band 12 are feasible, despite AT&T's equivocation in this regard.¹³ Meanwhile, simplistic appeals to the free market obscure the fact that true competition will occur only if the Commission prevents conduct (such as in the standards-setting process) that actively impedes interoperability. Similarly, the marketplace will produce nationwide broadband coverage, as envisioned by the President and the National Broadband Plan, only if there are baseline protections to ensure device interoperability. While the sorts of business stances noted above are nothing new for the Big Two, they are all the more damaging at this juncture. AT&T and Verizon continue to hamper the forward progress of otherwise aggressive plans for mobile broadband, and may threaten continued economic recovery.

IV. HARMONIZATION OF POWER LEVELS IN THE LOWER D AND E BLOCKS WILL FURTHER BENEFIT BROADBAND DEPLOYMENT

To the extent that the Lower D and E Blocks permit high power/height, broadcast-style operating parameters that create a significant risk of interference to nearby 700 MHz li-

¹⁰ See *In re* Petition for Rulemaking Regarding 700 MHz Band Mobile Equipment Design and Procurement Practices, *Comments of The Public Safety Spectrum Trust Corporation*, RM-11592, at 6 (Mar. 31, 2010) ; see also *In re* 700 MHz Block A Good Faith Purchaser Alliance Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks 700 MHz Mobile Equipment Capability, *Reply Comments of United States Cellular Corporation*, RM-11592 (April 30, 2010) [hereinafter *U.S. Cellular Reply*].

¹¹ *In re* 700 MHz Band Mobile Equipment Design and Procurement Practices, *Comments of AT&T Inc.*, RM-11592, at 10 (Mar. 31, 2010).

¹² *U.S. Cellular Reply*, *supra* note 10, at 7.

¹³ See *In re* 700 MHz Mobile Equipment Capability, Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, *Comments of Verizon Wireless*, RM-11592, at 9 (Mar 31, 2010).

censees, RCA supports imposition of conditions that would mitigate such risks. Specifically, RCA notes that AT&T would currently be permitted to broadcast at an Effective Radiated Power of 50 kW on its spectrum in the Lower D and E Blocks of 700 MHz spectrum if the pending Qualcomm spectrum assignment were approved. This power output is at odds with the surrounding A and B Block licensees and risks damaging interference. In order to provide the increased certainty necessary for 700 MHz band license holders to justify rapid network buildouts, these discordant power levels must be revised and harmonized with the surrounding 700 MHz blocks, thus avoiding harmful interference among adjacent licensees and downgrading otherwise valuable beachfront spectrum to second-rate status.

AT&T has paid lip service to the aforementioned interference risks, even going so far as to suggest that it would operate at transmitter heights and power levels well below those permitted by the Commission.¹⁴ Unfortunately, AT&T has since balked at the notion of lending any real weight to such promises of good-faith action, flatly rejecting the call for any sort of tangible assurances of performance in connection with its proposed acquisition of Qualcomm's spectrum.¹⁵ Contrary to the assertions of AT&T, such requests are not "impos[ing] conditions to remedy pre-existing harms or harms that are unrelated to the transaction."¹⁶ As RCA noted in its Reply in the AT&T-Qualcomm proceeding, the potentially seismic impact of AT&T's acquisition of large swaths of 700 MHz spectrum in multiple deals—including the pending Qualcomm assignment—in of itself constitutes grounds for consideration of any

¹⁴ Rinne Declaration, p. 6, Para. 18.

¹⁵ *In re AT&T Mobility Spectrum LLC and Qualcomm Incorporated Seek FCC Consent to the Assignment of Lower 700 MHz Band Licenses, Joint Opposition of AT&T Mobility Spectrum LLC and Qualcomm Incorporated to Petitions to Deny or to Condition Consent and Reply to Comments*, WT Docket No. 11-18, at 28–33 (Mar. 21, 2011) [hereinafter *Joint Opposition*]; *See also In re AT&T Mobility Spectrum LLC and Qualcomm Incorporated Seek FCC Consent to the Assignment of Lower 700 MHz Band Licenses, Reply of United States Cellular Corporation*, WT Docket No. 11-18, at 2 (Mar. 28, 2011).

¹⁶ *Joint Opposition, supra* note 6, at 28.

means by which resulting competitive harms may be avoided.¹⁷ Plainly, consideration of steps that may be taken to minimize the potentially negative effects of AT&T's operation on the spectrum here in question is "transaction-specific." Further, consideration of conditions limiting interference to other 700 MHz licensees is timely and appropriate in light of the rapid buildout envisioned in the National Broadband Plan, and should not be set aside for debate in separate Commission proceedings. To do so would needlessly forestall network deployment by competitive carriers when assurances of viability are needed in order to proceed.

V. CONCLUSION

The Commission has clearly emphasized that broadband adoption must entail both speed of service and speed of deployment. Further, the Commission has acknowledged the central role the 700 MHz band will play in the attainment of the National Broadband Plan's goals. And yet, as it currently stands, the 700 MHz band faces technical and market-based impediments that threaten to neutralize its great promise for improved broadband connectivity. For those reasons—and for the reasons noted above—RCA respectfully urges the Commission to move expeditiously in its efforts to cut off future licensing of Channel 51 TV broadcasters, freeze further processing of any outstanding applications for new or modified Channel 51 broadcast facilities, clear Channel 51 incumbents by way of voluntary agreements, mandate interoperability across the 700 MHz band, and harmonize power levels in the Lower D and E Blocks.

¹⁷ See *In re AT&T Mobility Spectrum LLC and Qualcomm Incorporated Seek FCC Consent to the Assignment of Lower 700 MHz Band Licenses*, *Reply of The Rural Cellular Association to Joint Opposition of AT&T and Qualcomm*, WT Docket No. 11-18, at 1–2, 8 (Mar. 28, 2011).

Respectfully submitted,

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