

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

In the Matter of)	
)	
Amendment of Parts 1 and 22 of the Commission’s Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Areas)	WT Docket No. 12-40 RM No. 11510
)	
Amendment of the Commission’s rules with Regard to Relocation of Part 24 to Part 27)	
)	
Interim Restrictions and Procedures for Cellular Service Applications)	

**COMMENTS OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (“NTCA”) hereby submits these comments in the above captioned proceeding.¹ All of NTCA’s members are rural telephone companies as that term is defined in the Communications Act of 1934, as amended.² NTCA’s members are full service telecommunications companies and provide a wide array of telecommunications services, including 800 MHz Cellular Radiotelephone (“Cellular”) Service, to their rural communities.

The Commission proposes to divide cellular licenses into two categories, Stage I and Stage II. Stage I licenses would include all Cellular Service markets that meet the “Substantially

¹ *In the Matter of Amendment of Parts 1 and 22 of the Commission’s Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area, Amendment of the Commission’s Rules with Regard to Relocation of Part 24 to Part 27, and Interim Restrictions and Procedures for Cellular Service Applications*, Notice of Proposed Rulemaking and Order, WT Docket No., 12-40, RM 11510, FCC 12-20 (Rel, Feb, 15, 2012) (“NPRM”).

² 47 U.S.C. §153(37).

Licensed” test. The Commission proposes considering a Cellular Market Area (“CMA”) Block to be “Substantially Licensed” if: (1) at least 95% of the total land area is licensed; or (2) there is no unlicensed parcel within the Block of at least 50 contiguous square miles. In Stage I, Overlay Licenses would be offered at auction and site-based licensing would cease in the markets. The existing site-based regime would continue in all other Cellular markets for a proposed seven years at which point Stage II would triggered.

NTCA generally supports the Commission’s efforts to revise the licensing model for Cellular Service from a site-based model to a geographic-based approach, but expresses concern about the proposal to auction the Overlay Licenses.

I. NTCA SUPPORTS THE TWO STAGE LICENSING APPROACH WITH A SLIGHT MODIFICATION

NTCA is pleased with the Commission’s plan to divide the revised licensing into two stages and accommodate a phase-in as part of the second stage. It is a common sense approach to accommodate those carriers who have substantially built out their service territory while recognizing that flexibility is required for those who are still expanding their networks. However, NTCA disagrees that all remaining CMA Blocks should transition to a geographic approach with Overlay Licenses in seven years. Instead, the Commission should apply the Overlay Licenses to Substantially Licensed territory and offer an additional 7 year period for those very few CMAs that are not Substantially Licensed at the conclusion of the initial 7 year period.

NTCA’s members serve the most rural territory in the United States. Many of these areas still lack adequate cellular coverage, and licensees are using the current Phase II cellular rules to serve the gaps.³ A process that provides for an automatic additional 7 year build out period for

³ 47 C.F.R. § 22.949(b).

licensees that need it would permit the Commission to consider each area individually without the need for the “exceptions” described in the NPRM.⁴

Build-out is a slow and expensive process in rural geographies, but rural carriers have made substantial progress over the last decade. Any progress left to be made should not halt after an arbitrary seven year period. It is possible that a competitor would obtain a license during Phase II for an area that is not Substantially Licensed for a reason other than to build it out. Indeed, a would-be Overlay Licensee could obtain the available spectrum merely for the purpose of preventing the incumbent from building it or for speculative purposes. Rather than risk continued unserved areas, the public interest is served by a more flexible approach which helps ensure that a licensee that is already making sound and demonstrable progress toward build-out can leverage its prior investments and complete that work.

II. NTCA DOES NOT SUPPORT THE COMMISSION’S OVERLAY LICENSEE PROPOSAL AS PRESENTED

The Commission proposes to award Overlay Licenses according to a competitive bidding process. It is not in the public interest to automatically enact an auction for every Overlay License. The Substantially Licensed areas that the Commission would seek to auction are quite small and, presumably, only an incumbent license holder serving the CMA would be interested in obtaining the license. Spectrum auctions are administratively expensive for both the Commission and the participants, and auctions are only appropriate when there are competing, mutually exclusive applications.⁵ Rather than forcing all applicants to an auction process, the Commission should initially limit applicants to incumbent license holders. Each CMA block could have an application fee attached that would be the rough equivalent of a minimum opening bid. If only one application is received, the process stops and the application fee is considered

⁴ NPRM at ¶¶ 38-39.

⁵ 47 C.F.R. § 1.2101.

the cost of converting the license. This process would save both the taxpayers and applicants the cost of an auction that would likely result in no revenues beyond the initial bid.⁶

III. CONCLUSION

NTCA applauds the Commission's interest in harmonizing its cellular licensing rules. Several NTCA members continue to use the Cellular Phase II licensing rules, and the Commission should consider flexible rules that carefully balance the need to encourage continued rural build-out with the need to address unserved areas. As Overlay Licensing takes effect, however, the Commission should not waste resources in conducting unnecessary spectrum auctions.

Respectfully submitted,



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⁶ If the Commission moves forward with an auction process, however, NTCA supports the Commission's proposed bidding credits for entrepreneurs, small businesses and very small businesses .NPRM paras. 48 -51.