

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

In the Matter of	)	
	)	
Service Rules for Advanced Wireless Services in the 2000- 2020 MHz and 2180-220 MHz Bands	)	WT Docket No 12-70
	)	
Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 16101626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz	)	ET Docket No 10-142
	)	
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 THE  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (“NTCA”)<sup>1</sup> hereby submits these comments on the above referenced Notice of Proposed Rulemaking and Notice of Inquiry. While NTCA has serious concerns about the introduction of another large, well-financed mobile wireless competitor in the market (the “Licensee”), we believe that such entry could be beneficial provided that the Commission adopts appropriate conditions to promote competition and protect rural consumers.

**I. INTRODUCTION**

The Commission is by now well aware that NTCA members find it extremely

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<sup>1</sup> NTCA represents nearly 600 rural telecommunications providers. All of NTCA’s members are full service local exchange carriers and many of its members provide wireless, video, broadband Internet, satellite, and/or long distance services to their communities; each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended

difficult to work with or compete on a level playing field with the current nationwide mobile wireless providers. Smaller providers, such as those in NTCA's membership, require nationwide voice and data roaming, interoperability and affordable access to popular handsets to provide meaningful competitive alternatives in a relatively consolidated national market. Each of these requires negotiation or agreements with the large carriers or entities (such as device manufacturers) whose operations are substantially influenced by the large carriers. The majority of NTCA's members report that large carriers are unwilling to work with them or offer onerous or unworkable terms and conditions.

A recent survey of NTCA's members confirms the dire situation for independent wireless providers.<sup>2</sup> Seventy-five percent of all respondents indicated that competition from nationwide carriers was among their greatest concerns in offering wireless services, while 61% selected handset/equipment availability and 55% the ability to negotiate roaming agreements with national carriers.<sup>3</sup> Sixty-eight percent of survey respondents further categorized their experience in negotiating data roaming and in-market roaming agreements with other carriers as moderately to extremely difficult.

In light of such pervasive and consistent experiences with nationwide operators, NTCA is reluctant to support efforts to introduce another nationwide mobile wireless provider into this landscape in the absence of protections that help to ensure that the Licensee's entry will promote a more robust competitive mobile wireless market for *all* consumers, including those in rural areas that are often served by smaller providers.

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<sup>2</sup> *NTCA 2011 Wireless Survey Report*, available on NTCA's website <http://www.ntca.org/images/stories/Documents/Advocacy/SurveyReports/2011ntcawirelessurveyreport.pdf>

<sup>3</sup> Totals exceed 100% as respondents were allowed to select more than one concern.

## **II. THE LICENSEE SHOULD BE REQUIRED TO OFFER RECIPROCAL VOICE AND DATA ROAMING TO SMALL PROVIDERS ACCORDING TO FAVORABLE TERMS AND CONDITIONS**

NTCA's members serve rural territory that is often unserved or underserved by the large, nationwide mobile wireless providers. Despite this, the large providers are often unwilling to negotiate agreements whereby their customers may roam on a rural carrier's network. They may be willing to let the rural carrier's customers roam on the nationwide network, but the cost of such access is prohibitive. A rural carrier thus has the "choice" to pay the exorbitant roaming rates or forgo offering a nationwide or regional calling plan. The rural consumer is harmed either way. If a roaming deal is negotiated, the consumer must pay a higher rate for service. If the rural provider declines to pay the high roaming rate or cannot negotiate a deal, the rural consumer will have the "choice" of: (1) a mobile phone that works well outside of his or her community, but not at home; (2) a mobile phone that works in their community, but not where they work or travel; or (3) subscribing to and carrying two handsets – one to use at home and one to use on the road.

To the extent the Licensee offers a mobile wireless product, consumers will be best served if the Licensee is required as condition of the license and the new rules to offer reciprocal roaming to small, rural mobile wireless providers on terms and conditions that are no less favorable than what it offers its other roaming partners.<sup>4</sup> Such a nondiscrimination provision would help promote a more competitive market in which *all* consumers – including those in rural markets – have greater and more practical "choices" among providers than they do today.

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<sup>4</sup> The provision should also apply to any licenses that are partitioned or disaggregated.

### **III. THE LICENSEE SHOULD BE PERMITTED TO FULFILL STRICT BUILD OUT REQUIREMENTS BY PARTNERING WITH RURAL PROVIDERS**

The Commission proposes strict build out benchmarks for the Licensee. Within three years the Licensee would be required to provide signal coverage and offer service to at least 30% of its total population. Within seven years, the Licensee would be required to provide signal coverage and offer service to at least 70% of the population in its each of its license authorization areas. If the three year benchmark is not met, all of the licenses would terminate automatically. At the seven year benchmark, the Licensee would lose the license to serve each area in which it fails to meet the build-out requirement.

NTCA supports the Commission's effort to foster timely deployment for the provision of wireless, terrestrial broadband service in the band. However, NTCA proposes that the Licensee be provided with some level of flexibility to meet these metrics. One creative and productive way to achieve such a balance would be to permit the Licensee to partner with rural wireless providers to meet the applicable benchmarks. Specifically, if the Licensee offers reciprocal roaming, marketing, leasing, or in any other meaningful way integrates a rural carrier's spectrum seamlessly into its network or operation, the population served by the rural provider should count toward the Licensee's build-out benchmarks.

The reasons for this approach are common sense. The benchmarks are population based. To meet the benchmarks, the Licensee will need to concentrate its build-out efforts on the population centers to gain the most pops in the shortest period of time. It will not make sense for the Licensee to use its resources building out sparsely populated,

rural territories or tribal lands. The benchmarks as proposed virtually guarantee that rural consumers will not see the benefit of the proposed license modifications. Furthermore, many rural territories cannot support numerous fixed and mobile wireless providers. The population cannot support them.

Therefore, the Commission should encourage the Licensee to work with rural providers to provide a seamless, integrated nationwide network while the Licensee concentrates its resources to build out a competitive offering in urban areas. Permitting the Licensee to include the population served by small, rural wireless providers as part of its service territory would benefit both the Licensee and consumers, while helping to ensure the survivability of providers who serve rural communities.

#### **IV. CONCLUSION**

The Commission has an opportunity afforded by the proposal to provide flexible use of the 2 GHz band to promote a more robust, multi-competitor environment for wireless services on a truly national scale – including the rural consumers who are often left with false and limited “choices” among wireless services. The Commission should not let pass this opportunity to advance consumer access to a seamless, integrated national network. To accomplish this end, it is essential that the Commission adopt rules and policies designed to ensure that the Licensee will not adopt a near-exclusionary focus to serving urban consumers and shutting out smaller providers. Specifically, the Commission should require the Licensee to offer reciprocal roaming to small, wireless providers with terms and conditions no less favorable than what are offered to other roaming partners. The Commission should also encourage the Licensee to partner with small providers by permitting the Licensee to include the population served by rural

partners, as carefully defined by license conditions and new rules, to meet its build-out requirements.



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