

June 1, 2012

**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 2180-2200 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, 1610-1626.5 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

**REPLY COMMENTS OF THE NATIONAL RURAL TELECOMMUNICATIONS
COOPERATIVE**

I. INTRODUCTION AND SUMMARY

In its initial comments in this proceeding,¹ the National Rural Telecommunications Cooperative (“NRTC”) expressed its support for the proposal of the Federal Communications Commission (“Commission” or “FCC”) to modify the MSS/ATC authority held by DISH Network Corporation (“DISH”) to enable DISH to provide terrestrial AWS-4 services. As

¹ Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 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, 1610-1626.5 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, *Notice of Proposed Rulemaking and Notice of Inquiry*, FCC 12-32 (rel. Mar. 21, 2012) (“2 GHz NPRM”).

NRTC noted, additional wireless entrants such as DISH are urgently needed to drive nationwide competition in the domestic wireless industry, which has generally neglected to sufficiently serve rural areas or to enter into partnerships that would allow rural providers to better serve their own populations.

Now that the other comments are in, it is clear that the Commission's plan has overwhelming support. All thirty-three commenters support the creation of AWS-4. Only one affirmatively opposes granting the AWS-4 rights to DISH, and that party's argument is facially defective, as explained below.

The comments also reinforce NRTC's other primary points. No party opposes encouraging DISH to provide service to rural areas, which makes perfect sense since doing so is clearly in the public interest. The comments are also generally supportive of granting maximum flexibility for the use of AWS-4, establishing clear interference rules, and harmonizing AWS-4 with other band and global wireless technology standards.

This proceeding is a prime opportunity for the Commission's and NRTC's efforts to bring improved competitive wireless services to rural America. Only with improved wireless competition will NRTC's rural utility members and the consumers that they serve achieve the job creation, competitiveness, and quality of life available in urban and suburban settings.

II. ARGUMENT

A. The Commission Should Modify the Current 2 GHz MSS/ATC Licenses to Permit DISH to Provide Terrestrial AWS-4 Service

The comments in this docket make one thing clear: the Commission should expeditiously implement its 2 GHz proposal in order to spur competition and innovative services for consumers. Both the FCC and the wireless industry have repeatedly called for freeing up

more spectrum to satisfy the explosion in mobile data usage,² and the two dominant wireless carriers control a disturbingly large portion of the national market.³ In fact, for the first time in a decade, the two most recent CMRS Competition Reports (the Fourteenth and Fifteenth) do *not* conclude that there is “effective competition” in the CMRS market.⁴ This rulemaking is a critical step in addressing this situation.

Support in the comments for creating AWS-4 spectrum rights is universal. Moreover, of the thirty-two parties that filed comments (other than NRTC), only *one* commenter opposed a grant of the AWS-4 license authority to DISH. Every other party either supported unconditioned grant of rights to DISH, conditioned grant of rights to DISH, or was silent on the matter.

The outlier, MetroPCS, opposes the grant of rights to DISH in part on the erroneous assumption that the sharing of spectrum by separate terrestrial and satellite licensees is technically feasible.⁵ But MetroPCS’s arguments on this point are wholly unconvincing. MetroPCS argues that spot beam technology is an enabler for satellite-terrestrial spectrum sharing because it will “permit the licensees to target their coverage to specific areas allowing the satellite operator to broadcast a signal in certain areas and not in others.”⁶ However, segregated spectrum use is inefficient, will not further the objectives of this proceeding, or constructively address the spectrum crunch that MetroPCS itself highlights. Further,

² 2 GHz NPRM, at ¶10 (quoting the Council of Economic Advisors).

³ *Applications of AT&T Inc. and Cellco Partnership D/B/A Verizon Wireless for Consent to Assign or Transfer Control of Licenses and Authorizations and Modify a Spectrum Leasing Arrangement*, Memorandum Opinion and Order, 25 FCC Rcd 8704 (2010).

⁴ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, Fourteenth Report, 25 FCC Rcd 11407, 11429-30 ¶ 6 (2010); *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, Fifteenth Report, 26 FCC Rcd 9664, 9668 ¶ 2 (2011).

⁵ *See Comments of MetroPCS Communications, Inc.*, at 13-21.

⁶ *Id.* at 20.

MetroPCS’s claim that “even if the satellite broadcasts in the same area as the terrestrial licensee, the satellite will not cause catastrophic interference which would exclude terrestrial use of the spectrum,” is not technically substantiated and is a one-sided view of the interference potential.⁷ In fact, the greater risk is the interference the terrestrial use would cause to the satellite signal.

DISH, on the other hand, has provided the Commission with detailed analysis as to why co-frequency sharing of the band between terrestrial and satellite operations is not technically feasible.⁸ Having reviewed the technical information provided in this proceeding, NRTC agrees with DISH that the same licensee must hold the terrestrial and satellite rights in order to provide the robust terrestrial services that the Commission seeks.

B. The Commission Should Encourage Deployment of AWS-4 to Rural Areas

As NRTC noted in its comments, the AWS-4 band is particularly relevant for serving rural areas because of its propagation characteristics and flexibility. Notably, no commenter raised any reason why the Commission should not create incentives for rural deployment and the Commission should take steps in this rulemaking to encourage DISH to serve such areas.

Though NRTC did not argue in its initial comments for imposing build-out milestones, it notes that even DISH has agreed to substantial build-out requirements.⁹ Assuming the Commission does impose construction benchmarks, NRTC urges the Commission to adopt provisions encouraging service in rural areas. To achieve this goal, the Commission should provide incentives for DISH to at least equally prioritize the deployment of a robust and commercially competitive service in rural areas as it would to serving more populated ones. For example, providing service to rural populations could extend the timeline for providing service to

⁷ *Id.*

⁸ *See DISH Network Corporation Comments*, at Exhibit I.

⁹ *See id.*, at 18-24.

urban or suburban populations and/or change the milestone calculation—e.g., each rural “pop” covered could double toward a milestone. The Commission should also encourage licensees to partner with rural organizations—e.g., when spectrum is leased to a rural entity, the population and/or geography associated with that lease could be applied toward satisfying the performance requirement.

NRTC wishes to underline these points in particular. NRTC is one of the few organizations in this proceeding advocating specifically for the needs of rural America. If the Commission authorizes AWS-4, but fails to provide sufficient incentives for rural service, it will have missed a critical and rare opportunity to improve rural wireless competition.

C. The Commission Should Adopt a Regulatory Framework that Provides Flexibility, Encourages Investment and Competition, and Ensures the Highest and Best Use for the Spectrum

In its comments, NRTC also urged the Commission to implement AWS-4 rules providing maximum flexibility to allow market and technology to drive efficient solutions, including ones beneficial to rural areas. The comments of other parties in this proceeding are in agreement. While many commenters unsurprisingly suggest different technical options for the AWS-4 rules, no commenter disagrees with NRTC’s main points.¹⁰ The FCC should therefore: (i) license the spectrum under Part 27 of its rules, (ii) allow a licensee that holds both A and B Blocks in a given area the flexibility to combine those licenses into a single block, (iii) extend its secondary

¹⁰ While other parties may have advocated for greater interference protections to other bands (*see, e.g., Comments of AT&T, Comments of Sprint Nextel Corporation, and Comments of United States Cellular Corporation*); other incumbent services (*see, e.g., Comments of Deere & Company, Comments of Greenwood Telecommunications Consultants, LLC, and Comments of EIBASS*); and limiting any technical rule changes to the AWS-4 band only (*see, e.g., Comments of Iridium Satellite LLC and Comments of the Satellite Industry Association*), NRTC did not find any disagreement with the recommendations that it put forth in its initial comments in this proceeding .

markets leasing policy to the AWS-4 band, and (iv) subject AWS-4 to the same general spectrum aggregation policies it applies to other Commercial Mobile Radio Service bands.

D. AWS-4 Spectrum Should Be Harmonized with Other Bands and Protected from Interference

Finally, the comments are also in accord that the Commission should harmonize the 2 GHz band rules with other bands and relevant standards organizations—and establish clear rules on interference to provide the certainty necessary for investment and innovation. To ensure harmonization, the 2 GHz rules should be made consistent with the rules for CMRS, such as the 1.9 GHz Personal Communications Service and 1.7/2.1 GHz and 700 MHz AWS. The Commission should also harmonize AWS-4 with those of international bodies, such as the International Telecommunications Union and 3GPP LTE technical standards and frequency coordination practices. In terms of interference protection, the Commission should establish clear rules to protect AWS-4 and other licensees, which should then be able to rely on these rules. This harmonization and clarity of AWS-4 rules will encourage development in the band through broad interoperability and certainty.

III. CONCLUSION

This proceeding presents an important opportunity for the Commission to bring urgently needed wireless competition and service to rural America while driving innovation, investment and job creation throughout the nation. The Commission should therefore expeditiously modify DISH's MSS/ATC authority, with targeted changes suggested by NRTC and the other supporting commenters, to enable DISH to provide terrestrial AWS-4 services to accomplish these goals.

Respectfully submitted,

A handwritten signature in black ink, consisting of several overlapping loops and a final horizontal stroke extending to the right.

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