



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON A PROPOSAL TO LICENSE THE 600 MHZ BAND USING “PARTIAL ECONOMIC AREAS”

GN Docket No. 12-268
GN Docket No. 13-185

Comment Date: January 9, 2014

Reply Comment Date: January 23, 2014

In the *Broadcast Television Incentive Auction NPRM*, the Commission sought public comment on creating a 600 MHz band plan from the spectrum made available for flexible use through the broadcast television incentive auction.¹ Specifically, it proposed to use geographic area licensing to license the 600 MHz band using Economic Areas (EAs).² The Commission also sought comment on whether it should use geographic areas larger or smaller than EAs, such as Cellular Market Areas (CMAs).³ Although a number of commenters support the Commission’s proposal to license the 600 MHz band on an EA basis,⁴ some commenters argue that EA licenses are too large for small and rural operators to obtain at auction or deploy.⁵ Consequently, these commenters

¹ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Notice of Proposed Rulemaking, 27 FCC Rcd 12357 (2012) (*NPRM*).

² *NPRM*, 27 FCC Rcd at 12411, para. 148. The United States Department of Commerce Bureau of Economic Analysis (BEA) defines EAs as “one or more economic nodes—metropolitan areas or similar areas that serve as centers of economic activity—and the surrounding counties that are economically related to the nodes.” Final Redefinition of the BEA Economic Areas, 60 Fed. Reg. 13,114 (Mar. 10, 1995). There are 172 EAs in the United States, as defined by the BEA. See also 47 C.F.R. § 27.6(a). In addition, the Commission separately licenses Guam and the Northern Mariana Islands, Puerto Rico and the United States Virgin Islands, American Samoa, and the Gulf of Mexico, which have been assigned Commission-created EA numbers 173-176, respectively. *Amendment of the Commission’s Rules to Establish Part 27, the Wireless Communications Service (“WCS”)*, GN Docket No. 96-228, Report and Order, 12 FCC Rcd 10785, 10900, § 27.6 Service areas (licensing Guam and the Northern Mariana Islands, Puerto Rico and the United States Virgin Islands, American Samoa, and the Gulf of Mexico as Commission created EA numbers 173-176).

³ *NPRM*, 27 FCC Rcd at 12411, para. 149. CMAs are standard geographic areas used for the licensing of cellular systems and are comprised of Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs). See 47 C.F.R. § 22.909; *Common Carrier Public Mobile Services Information, Cellular MSA/RSA Markets and Counties*, Public Notice, 7 FCC Rcd 742 (1992).

⁴ See, e.g., Comments of AT&T Inc. at 54; Comments of MetroPCS Communications, Inc. at 18; Comments of Verizon and Verizon Wireless at 60-62.

⁵ See, e.g., Comments of the National Telecommunications Cooperative Association at 4 (NTCA Comments) (asserting that “[t]he current plan to license the spectrum according to EAs all but ensures that no truly small carriers will succeed at auction . . . ultimately harming rural consumers and the objectives of competition, to deny rural carriers the opportunity to offer service”). The Rural Telecommunications Group states that EAs would inherently shut out rural companies in violation of

support licensing the 600 MHz band using CMAs.⁶ Others oppose using CMAs because they do not “nest” (*i.e.*, fit neatly) within larger EA-based license areas and because using smaller license areas can frustrate a carrier’s ability to acquire a larger footprint.⁷

On November 27, 2013, the Competitive Carriers Association (CCA)⁸ submitted an alternative proposed scheme for smaller license areas based on a new geographic area size that CCA calls Partial Economic Areas (PEAs).⁹ PEAs, as described by CCA, are a subdivision of EAs based on the CMA boundaries, which “ensure that some licenses consist of large population centers while other PEAs consist of less populous areas.”¹⁰ As a result, PEAs are smaller than EAs, and separate rural from urban markets to a greater degree than EAs.¹¹ Unlike CMAs, the geographic boundaries are set so that they “nest” into the larger EAs.¹² Although CCA continues to support CMAs as the optimal license size, it argues that PEAs are preferable to EAs in the 600 MHz band because PEAs “would enable smaller and rural carriers to bid on portions of EAs to obtain more efficiently sized spectrum licenses.”¹³ On December 3, 2013, AT&T filed an *ex parte* letter urging the Commission to seek public comment on the PEA proposal and, as described further below, seek comment on “how that proposal could be effectuated within a package-bidding framework.”¹⁴

The Wireless Telecommunications Bureau (WTB) hereby seeks comment on CCA’s proposed PEA licensing scheme, including the specific makeup and boundaries of the individual PEAs proposed by CCA. WTB encourages commenters to address the geographic area licensing issues raised in the *NPRM*, including the importance of using a license scheme that “nests” into EAs. We also seek comment on other new geographic

Section 309(j) of the Communications Act because EAs often include densely populated urban areas and typically cover larger geographic areas than the rural areas that rural carriers serve. Comments of the Rural Telecommunications Group, Inc. at 2 (RTG Comments). Section 309(j) requires the Commission to “prescribe area designations and bandwidth assignments that promote . . . economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies . . . [and] ensure that small businesses, rural telephone companies . . . are given the opportunity to participate in the provision of spectrum-based services.” 47 U.S.C. § 309(j)(4).

⁶ See, e.g., NTCA Comments at 4 (“It is appropriate and in the public’s interest for the Commission to license significant portions of the 600 MHz spectrum according to [MSAs/RSAs].”); RTG Comments at 2 (supports licensing the 600 MHz band on the basis of MSAs and RSAs).

⁷ See Reply Comments of T-Mobile USA, Inc. at 58-60. Nationwide carriers argue that the Commission should not adopt service areas smaller than EAs, because doing so would increase the risks to forward auction participants in aggregating a national or regional footprint without materially increasing the quantity of spectrum that can be repurposed in the auction. See also Reply Comments of Verizon and Verizon Wireless at 43-44.

⁸ CCA states that it “represents the interests of more than 100 competitive wireless carriers, including rural and regional carriers as well as national providers.” Comments of Competitive Carriers Association at 1.

⁹ Letter from Rebecca Murphy Thompson, Competitive Carriers Association, to Marlene Dortch, Secretary, FCC (Nov. 27, 2013) (CCA *ex parte*). In its filing, CCA emphasized that it still supports licensing by CMAs, but offers the PEA proposal as an alternative to the proposed EA regime. *Id.* at 2.

¹⁰ *Id.* A proposed map of PEAs along with a list of the counties contained in each PEA is attached to the CCA *ex parte*. The proposed map and the list of counties are also included in this Public Notice. CCA emphasizes that this “map represents CCA’s first draft proposal for a PEA licensing scheme.” *Id.*

¹¹ Pursuant to CCA’s *ex parte* filing, there are 348 PEA licenses in the continental United States as compared with 170 EA licenses. Compare CCA *ex parte* Att. with 47 C.F.R. § 27.6(a).

¹² CCA *ex parte* at 2.

¹³ *Id.*

¹⁴ Letter from Joan Marsh, AT&T, to Marlene Dortch, Secretary, FCC (Dec. 3, 2013) (AT&T *ex parte*) at 3. AT&T notes it “currently has no position on CCA’s PEA proposal as we have only just begun our review of CCA’s filing.” *Id.*

licensing proposals that address the issues under consideration in this *Public Notice*.¹⁵ In addition, to the extent parties may be interested in applying the PEA construct to other bands in which we are considering the issue of geographic license size, such as AWS-3,¹⁶ WTB seeks comment on applying this approach.

As discussed above, larger carriers express concern that it is more difficult to acquire a national or regional footprint using smaller geographic area licenses. To address such concerns, and consistent with the statutory directive to “consider assigning licenses that cover geographic areas of difference sizes,”¹⁷ we seek comment on approaches that might enable interested parties to seek packages of 600 MHz licenses covering multiple PEAs. CCA and smaller carriers oppose the use of package bidding generally, and specifically with respect to a package of populous PEAs, contending that most packages would “disproportionately burden rural and regional competitive carriers and undermine the benefits of the PEA hybrid proposal.”¹⁸ CCA proposes that if the Commission adopts package bidding in conjunction with a PEA-based licensing approach, any package should be “no more than the ten largest PEAs by population.”¹⁹ AT&T, on the other hand, supports a national package bidding approach in conjunction with a PEA-based licensing approach, or at a minimum, a package that consists of the top 100 markets.²⁰ Should the Commission offer geographic package bidding to 600 MHz auction bidders in conjunction with a PEA-based licensing approach? If so, how should the package(s) be composed? WTB seeks comment on these issues and, in particular, on the concept of a single package containing the top markets. WTB also seeks comment on the extent to which the licensing and package bidding concepts discussed herein may or may not affect the design of the incentive auction.

Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. When filing comments, please reference **GN Docket Nos. 12-268** and **13-185**.²¹

Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies.²² Comments filed through the ECFS can be sent as an electronic file via the Internet to

¹⁵ See, e.g., Letter from Caressa Bennet, Rural Wireless Association, and Jill Canfield, National Telecommunications Cooperative Association to Marlene Dortch, Secretary, FCC (Dec. 6, 2013).

¹⁶ *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands*, GN Docket No. 13-185, Notice of Proposed Rulemaking, 28 FCC Rcd 11479 (2013) (*AWS-3 NPRM*). Commenters addressing this issue with respect to the AWS-3 proceeding should file comments in GN Docket No. 13-185.

¹⁷ *NPRM*, 27 FCC Rcd at 12410, para. 145. Section 6403(c)(3) of the Middle Class Tax Relief and Job Creation Act of 2012 directs the Commission to “consider assigning licenses that cover geographic areas of a variety of different sizes.” Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6403(c)(3) (2012).

¹⁸ CCA *ex parte* at 2. See also Reply Comments of Cellular South, Inc. at 4-5; Reply Comments of King Street Wireless, L.P. at 6-7.

¹⁹ CCA *ex parte* at 2.

²⁰ AT&T *ex parte* at 3. In its *ex parte* filing, AT&T expresses continued support for EAs and geographic package bidding, noting that package bidding is even more imperative for AT&T if the Commission adopts PEAs instead of EAs. AT&T *ex parte* at 1.

²¹ These proceedings included Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. § 603, exploring the potential impact of the Commission’s proposal on small entities. *NPRM*, 27 FCC Rcd at 12523-44; *AWS-3 NPRM*, 28 FCC Rcd at 11568-75. The matters discussed in this notice do not modify in any way the previously issued IRFAs.

²² See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

<http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of the proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking numbers. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). Parties are strongly encouraged to file comments electronically using the Commission's ECFS. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

Documents in GN Docket Nos. 12-268 and 13-185 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. S.W., Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the *ex parte* rules.²³ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More

²³ *NPRM*, 27 FCC Rcd at 12494-95, para. 417; *AWS-3 NPRM*, 28 FCC Rcd at 11553-54, para. 188; *see also*, 47 C.F.R. § 1.1200 *et seq.*

than a one- or two-sentence description of the views and arguments presented generally is required.²⁴ Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the rules.²⁵

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²⁴ See 47 C.F.R. § 1.1206(b)(2).

²⁵ 47 C.F.R. § 1.1206(b).