

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

In the Matter of	)	
	)	
Expanding the Economic and Innovation	)	GN Docket No. 12-268
Opportunities of Spectrum Through Incentive	)	
Auctions	)	
	)	
Amendment of the Commission's Rules with	)	GN Docket No. 13-185
Regard to Commercial Operations in the	)	
1695-1710 MHz, 1755-1780 MHz, and 2155-	)	
2180 MHz Bands	)	

**To: The Wireless Telecommunications Bureau**

**COMMENTS OF THE BLOOSTON RURAL CARRIERS**

Dated: January 9, 2014

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## **Summary**

The Blooston Rural Carriers strongly urge the use of Cellular Market Area (or “CMA”) licensing for the 600 MHz band spectrum that will be made available in the upcoming broadcast incentive auction. Economic Area (or “EA”) licenses, in most cases, are too large for small and rural operators to secure at auction on their own or feasibly to deploy service. The recent “alternative” proposal by the Competitive Carriers Association (“CCA”) to conduct forward licensing of the 600 MHz band on the basis of Partial Economic Areas (“PEAs”) unfortunately would offer inadequate improvement over EA licensing for the many Blooston Rural Carriers that provide service in the West and Midwestern states. The Blooston Rural Carriers would instead urge the Commission to adopt CCA’s primary proposal, which is to license 600 MHz spectrum on the basis of CMAs. The Blooston Rural Carriers believe that the Commission has been offered a useful approach for tackling the complicated issues raised by the dual auction format of the 600 MHz band proceeding by the NTCA/RWA proposal for holding a “bifurcated” auction. This approach would feature an incentive auction and TV band repacking accomplished through bidding for metro CMAs (“MSAs”) that are grouped on an EA basis, and a separate, more “traditional” forward auction for licensing of the rural CMAs (“RSAs”). With CMA licensing for rural areas, the Commission can maximize the level of participation in a forward auction for the remainder of the reclaimed 600 MHz spectrum, resulting in greater overall auction revenues while at the same time meeting its statutory obligations under 47 U.S.C. 309(j) to ensure that auctions are used to disseminate licenses among a wide variety of applicants, including small businesses and rural telephone companies, and promoting economic opportunity by ensuring an equitable distribution of licenses and services among geographic areas. To the extent that the Commission feels EA licensing offers benefits, it can use a hybrid approach by splitting the reclaimed 600 MHz into EA- and CMA-sized blocks, as it has done in other auctions.

## **Table of Contents**

Statement of Interest .....	3
Introduction.....	3
I. Comment on CCA’s Partial Economic Area Proposal .....	5
II. Comment on NTCA/RWA “Bifurcated” Auction Model.....	6
III. Package Bidding for 600 MHz Licenses will Prejudice Small and Rural Carriers .....	8
IV. PEA Licensing Should Not be Used for AWS-3 Auction .....	9
V. Availability of CMA Licenses for the 600 MHz Band Spectrum will Help to Ensure Success of the Incentive Auction.....	10
Conclusion .....	11

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Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions	)	GN Docket No. 12-268
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**To: The Wireless Telecommunications Bureau**

**COMMENTS OF THE BLOOSTON RURAL CARRIERS**

The law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP (“Blooston”), on behalf of its clients that are rural wireless service providers (the “Blooston Rural Carriers”), respectfully submits the following comments in response to the Wireless Telecommunications Bureau’s (“Bureau”) *Public Notice* in the above-captioned proceeding.<sup>1</sup>

Consistent with their recent comments in the AWS-3 proceeding,<sup>2</sup> the Blooston Rural Carriers strongly urge the use of Cellular Market Area (or “CMA”) licensing for the 600 MHz band spectrum that will be made available in the upcoming broadcast incentive auction. Economic Area (or “EA”) licenses, in most cases, are too large for small and rural operators to secure at auction on their own or feasibly to deploy service. The recent “alternative” proposal by the Competitive Carriers Association (“CCA”) to conduct forward licensing of the 600 MHz band on the basis of Partial Economic Areas (“PEAs”) unfortunately would offer inadequate

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<sup>1</sup> Wireless Telecommunications Bureau Seeks Comment on a Proposal to License the 600 MHz Band Using “Partial Economic Areas,” GN Docket Nos. 12-268 and 13-185, *Public Notice*, DA 13-2351 (*rel.* Dec. 11, 2013).

<sup>2</sup> See Reply Comments of the Blooston Rural Carriers, GN Docket No. 13-185 (*filed* Oct. 28, 2013).

improvement over EA licensing for the many Blooston Rural Carriers that provide service in the West and Midwestern states. The Blooston Rural Carriers would instead urge the FCC's Wireless Telecommunications Bureau (the "WTB" or "Bureau") to adopt CCA's primary proposal, which is to license 600 MHz spectrum on the basis of CMAs.<sup>3</sup> In this regard, the Blooston Rural Carriers believe that the Commission has been offered a useful approach for tackling the complicated issues raised by the dual auction format of the 600 MHz band proceeding by the NTCA/RWA proposal for holding a "bifurcated" auction. This approach would feature an incentive auction and TV band repacking accomplished through bidding for metro CMAs ("MSAs") that are grouped on an EA basis, and a separate, more "traditional" forward auction for licensing of the rural CMAs ("RSAs"). With the expected high demand for 600 MHz spectrum in metro areas, there is little doubt that the initial incentive auction will bring in sufficient revenues to meet the Commission's statutory obligation to compensate broadcasters for transitioning their operations to a smaller portion of the TV band. And with CMA licensing for rural areas, the Commission can maximize the level of participation in a forward auction for the remainder of the reclaimed 600 MHz spectrum, resulting in greater overall auction revenues while at the same time meeting its statutory obligations to ensure that auctions are used to disseminate licenses among a wide variety of applicants, including small businesses and rural telephone companies, and promoting economic opportunity by ensuring an equitable distribution of licenses and services among geographic areas.<sup>4</sup>

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<sup>3</sup> See CCA November 27, 2013 Ex Parte Presentation, GN Docket No. 12-268 at p. 1; CCA December 23, 2013 Ex Parte Presentation, GN Docket No. 12-268 (providing revised map and county data representing potential PEA boundaries).

<sup>4</sup> See 47 U.S.C. 309(j)(3)(B) [Design of systems of competitive bidding] and 47 U.S.C. 309(j)(4) [Contents of regulations].

## **Statement of Interest**

The Blooston Rural Carriers are a diverse group of Tier III Commercial Mobile Radio Service (“CMRS”) service providers that are dedicated to providing high-quality, advanced wireless services in the smaller communities and sparsely populated expanses of rural America. Most are subsidiaries or affiliates of privately-held rural telephone companies or community-owned rural telephone cooperatives that are eligible small businesses under the Commission’s Rules, and all are equally committed to meeting the wireless service needs of their customers. In this regard, the Blooston Rural Carriers would like to have the opportunity to participate in future 600 MHz band auctions; however, these carriers know that they would be foreclosed from any meaningful opportunity to obtain initial 600 MHz licenses if they are assigned on the basis of EAs.

## **Introduction**

The 600 MHz spectrum band, which will be made available for licensing in the Broadcast Television Incentive Auction, may provide an opportunity for rural telephone companies and small businesses to obtain spectrum that is especially well suited for their needs. It is well established that lower frequency bands – such as the 700 MHz and Cellular bands – have more favorable propagation characteristics than spectrum in higher bands, and can provide superior coverage over larger geographic areas, through adverse climates and terrain, using less infrastructure. However, designing the world’s first two-way incentive auction is very complex: The process requires that the FCC simultaneously persuade TV Broadcasters to relinquish a portion of their spectrum rights through a “reverse auction” and hold a traditional “forward bidding” auction for wireless carriers to acquire geographic 600 MHz licenses. In the midst of this exchange, the FCC’s auction software must figure out how to “repack” the broadcast

operations that remain into a smaller portion of the TV band, in accordance with the Commission's own strict requirements. These complexities have led the FCC to propose the use of the 176 EAs as the size of licenses to be sold at the initial 600 MHz band auction. Put simply, using large license areas reduces the number of variables that need to be accounted for in the reverse auction and TV band repacking process.

At the same time, however, the administrative convenience of using EAs as the basis for Incentive Auction bidding stands at odds with the well documented need of rural telephone companies and other small businesses to have spectrum made available for them in smaller licensing areas. Use of larger license areas will mean that small companies (or coalitions of small companies) will find themselves more often bidding against deep pocketed regional and/or nationwide carriers that are primarily interested in securing rights to metropolitan areas within the EA, and who may have little or no interest in serving rural portions of the market. Moreover, the rural carriers would be bidding on large urban areas in which they have neither an interest nor adequate resources to serve.

It is in this context that two alternative 600 MHz licensing models involving smaller geographic markets are now under consideration. The models include an alternative proposal by CCA to license the 600 MHz band spectrum using "Partial Economic Areas," which would be smaller than EAs but often times quite a bit larger than individual CMAs, and a proposal by NTCA in conjunction with the Rural Wireless Association ("RWA") that would involve the licensing of RSAs (*i.e.*, the rural CMAs) separate from the more densely populated MSAs in a second "traditional" auction that would follow the complicated broadcast Incentive Auction and TV band repacking process. The Incentive Auction and band repacking would still be accomplished on an EA basis, but it would involve a "forward" auction of MSAs that are

grouped on the basis of EAs (in other words, all of the MSAs within a particular EA would be bundled together for purposes of the forward bidding). The Blooston Rural Carriers offer their comments and observations on these alternative proposals below.

## **I. Comment on CCA's Partial Economic Area Proposal**

After a careful review of CCA's proposed alternative scheme for smaller license areas based on Partial Economic Areas ("PEAs"), the Blooston Rural Carriers have concluded that PEAs, in many cases, do not provide a meaningful improvement for small and independent service providers in terms of 600 MHz band initial licensing opportunities. The Blooston Rural Carriers appreciate CCA's good faith effort at coming up with a compromise solution to help its smaller members. However, review of the proposed PEA boundaries shows that proposed "new" service areas in the Midwestern and Western states are often identical to current EA boundaries.<sup>5</sup> Because these areas are predominantly rural, additional subdivision of EAs in states west of the Mississippi River are minimal. North Dakota, South Dakota, Montana, Wyoming all show little or no improvement in creating smaller license areas when comparing EAs to PEAs. Likewise New Mexico and Nevada see very small changes, and just about every proposed PEA includes five to seven (or more) CMAs, and often at least one CMA from an adjacent state. Because many rural and independent service providers have operations that are limited by their bylaws and/or articles of incorporation to operating in one particular state, the uncertainty and inefficiency of having to count on post-auction transactions to trim a license area to a manageable size is a further disincentive to small and rural company participation in an 600 MHz auction that is based on EAs or PEAs. Indeed, in making its alternative proposal, CCA made it clear that CMA-sized licensing is the best plan, and that the PEA approach constituted a

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<sup>5</sup> This situation exists with respect to the PEA proposals described in CCA's November 27<sup>th</sup> *ex parte* presentation and the revised proposal and county data described in CCA's December 23<sup>rd</sup> *ex parte* presentation.

lesser of two evils approach to the Commission's EA proposal.

With respect to concern about whether CMAs "nest" into EAs, a review of the 734 CMAs and their constituent counties shows that in all but three cases, involving two CMAs in Michigan and one CMA in New Hampshire, CMAs do fit neatly within the larger EAs. The Blooston Rural Carriers therefore agree with NTCA and RWA that any disinclination to use CMA licensing based on "nesting" concerns is unfounded. The WTB can address the three exceptions by simply choosing to associate the outlying counties with a CMA in the adjacent EA, and to allow the eventual winning bidders to sort things out in the after-market, if desired.

Thus, in the absence of significant further splitting of the proposed areas throughout states west of the Mississippi River, PEAs appear to be still much too large for most small and rural carriers to have a realistic shot. And if small and rural carriers are shut out of any initial licensing opportunity in the 600 MHz band, it is unlikely that they will ever have an opportunity to participate in the 600 MHz service because large and regional carriers will not be inclined to partition this valuable spectrum in rural areas. In the absence of significant further subdividing of the proposed PEA approach, the Blooston Rural Carriers do not feel this avenue will adequately address the Commission's obligations under Section 309(j).

## **II. Comment on NTCA/RWA "Bifurcated" Auction Model**

On December 6, 2013, NTCA in conjunction with RWA filed an *ex parte* presentation with a proposal that would allow licensing of the 600 MHz band on the basis of MSAs and RSAs (collectively CMAs). Under the RWA/NTCA auction model, the Commission would conduct the auction that is the subject of the Incentive Auction NPRM in a bifurcated proceeding using the boundaries of the 176 existing EAs. In the initial auction phase, the Commission would

conduct the reverse broadcast auction and initial forward auction, which would include the repacking of the broadcast spectrum. Forward auction bidders would bid on the basis of EAs, but each winning bidder would receive licenses covering only the MSA or MSAs (when there is more than one MSA) located within the relevant EA. NTCA and RWA believe these pre-defined MSA groupings would be targeted mainly by larger national carriers and growing regional carriers that would pay top dollar for such spectrum in these densely populated areas. After bidding is completed in the initial auction phase, the remaining 429 RSAs could be auctioned separately in a second auction. The Blooston Rural Carriers understand that the bifurcated auction approach is being refined to make it clear that bidders in the first phase would not have to apply all over again to participate in the second phase. This will reduce administrative burdens on participants.

The Blooston Rural Carriers support this approach as a creative solution that facilitates the availability of initial 600 MHz licenses in smaller and rural-specific geographic areas. While larger carriers have expressed concern that a CMA approach would hinder their ability to assemble a nationwide footprint, it is respectfully submitted that larger carriers will have little trouble outbidding small and rural carriers for a particular CMA they feel is needed to complete their footprint. Moreover, it is expected that more than one license will be made available by the TV repacking process in each geographic area. Indeed, the aim is to make 120 MHz of spectrum available throughout the country, which could be divided into several licenses.<sup>6</sup> Therefore, the Commission can consider a “hybrid” approach that would license certain of the 600 MHz channels made available by the reverse auction on a CMA basis (using a procedure such as that advocated by NTCA/RWA), and others on an EA basis. This would satisfy the concerns of both

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<sup>6</sup> While the Commission may not be able to gain 120 MHz of repacked spectrum in certain areas, these are likely to be the largest urban areas. In most rural areas, the 120 MHz goal is much more likely to be reached.

small and large carriers. The Commission has conducted numerous “mixed size” license auctions in the past. A conversion of certain licenses to CMAs should not interfere with the Commission’s formulation of a band plan, technical rules, etc. While it may introduce some degree of additional complexity to the auction, this additional step will more than pay for itself by yielding substantial additional revenues, as demonstrated by the economic study submitted to the Commission by CCA.<sup>7</sup>

The Blooston Rural Carriers urge that the Commission adopt small business and rural bid credits for any auction of 600 MHz spectrum. However, bid credits alone will not be sufficient to allow rural carriers to bid successfully in an EA auction, and will not remedy the dynamic that these carriers should not have to bid on large areas that they do not wish to serve and cannot realistically build out.

### **III. Package Bidding for 600 MHz Licenses will Prejudice Small and Rural Carriers**

The Blooston Rural Carriers believe that package bidding should not be available for all 600 MHz Band licenses. This will effectively “undo” any benefit of creating smaller geographic license sizes because large carriers will tend to bid higher amounts for larger geographic footprints based on valuation of the metro areas within the footprint. The comparatively larger per-pop valuation that independent and rural carriers tend to put on rural markets will then be “eclipsed” by high valuation and bidding for metro areas, and the rights to rural spectrum will not go to companies that truly value this spectrum the most. If the Commission is inclined to consider package bidding rights, the Blooston Rural Carriers support CCA’s proposal that

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<sup>7</sup> See Lehr, W. & Musey, J. A., “Right-sizing Spectrum Auction Licenses: The Case for Smaller Geographic License Areas in the TV Broadcast Incentive Auction,” Summit Ridge Group, LLC, filed in GN Docket No. 12-268 as part of a November 30, 2013 Ex Parte Presentation by CCA.

package bidding be limited to the ten largest PEAs by population.<sup>8</sup>

#### **IV. PEA Licensing Should Not be Used For AWS-3 Auction**

As a final point, the WTB seeks comment on the idea of applying the PEA geographic license model to other bands in which the FCC is considering the issue of license size, such as the AWS-3 band. The Blooston Rural Carriers oppose use of PEA licensing for other wireless services for reasons described herein, and support CMA licensing for the AWS-3 band as explained in the AWS-3 docket.<sup>9</sup> The Commission is under a statutory obligation to promote economic opportunity and competition in the provision of wireless services by ensuring that auctions are used to disseminate licenses among a wide variety of applicants, including small businesses and rural telephone companies, and to employ service area designations that promote economic opportunity to these entities as well as an equitable distribution of licenses and services among geographic areas.<sup>10</sup> Reverse auction concerns are not present with respect to the AWS-3 auction, and CMA licenses were the subject of the most robust bidding and highest per-pop prices in the AWS-1 auction. To the extent AWS-3 spectrum will be used to provide supplemental capacity for other types of wireless networks (especially AWS-1 and 700 MHz band networks), valuable and limited spectrum resources would be put to use most efficiently if the geographic license areas for AWS-3 match the geographic areas used for these other services (e.g., CMAs). Moreover, ample evidence in the record of the AWS-3 proceeding demonstrates that EA licensing is impractical for carriers that have chosen to serve smaller and rural communities, and who do not have sufficient resources to bid for EAs that include larger urban

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<sup>8</sup> See CCA November 27, 2013 Ex Parte Presentation, GN Docket No. 12-268 at p. 2.

<sup>9</sup> See Reply Comments of the Blooston Rural Carriers, GN Docket No. 13-185 (*filed* October 28, 2013).

<sup>10</sup> See 47 U.S.C. 309(j)(3)(B) [Design of systems of competitive bidding] and 47 U.S.C. 309(j)(4) [Contents of regulations].

and metropolitan areas. EAs virtually never match up with the incumbent service areas of smaller rural telephone carriers, and CMA licensing is far more efficient in this regard.

## **V. Availability of CMA Licenses for the 600 MHz Band Spectrum will Help to Ensure Success of the Incentive Auction**

In an Official FCC Blog posting on December 6, 2013, FCC Chairman Tom Wheeler likened the complexities of the multi-part broadcast incentive auction to a Rubik's cube, and he announced a six-month delay in the projected auction start date of the auction (until the middle of 2015) because "we have but one chance to get the incentive auction right."<sup>11</sup> The Blooston Rural Carriers appreciate Chairman Wheeler's candid assessment of the technical and policy challenges presented by the world's first incentive auction, as well as the hard work by other FCC Commissioners and members of the Incentive Auction Task Force. From the perspective of small and rural carriers, one of the most important policy considerations in "getting the incentive auction right" will be to ensure that CMA licensing is made available for a meaningful portion of the 600 MHz band. A recent economic study that was submitted for the record in this proceeding by CCA<sup>12</sup> makes a strong case for the use of appropriately small-sized geographic license areas for the 600 MHz band spectrum in order to promote competition and other important economic and social goals. The Blooston Rural Carriers urge the WTB and Incentive Auction Task Force to draw upon the excellent ideas and analysis provided by Messrs. Lehr and Musey when evaluating proposals for forward licensing in the 600 MHz band. It may be necessary to think outside of the box, but the extended mid-2015 auction date should facilitate a workable solution that gets to CMA licensing.

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<sup>11</sup> See Wheeler, T. "The Path to a Successful Incentive Auction," Official FCC Blog, December 6, 2013 (at <http://www.fcc.gov/blog/path-successful-incentive-auction-0>).

<sup>12</sup> See Lehr, W. & Musey, J. A., "Right-sizing Spectrum Auction Licenses: The Case for Smaller Geographic License Areas in the TV Broadcast Incentive Auction," Summit Ridge Group, LLC, *supra* Note 7.

**Conclusion**

Wherefore, the Blooston Rural Carriers urge the Commission to foster opportunities for rural and independent service providers by adopting CMA licensing for the forward licensing of 600 MHz band spectrum that is reclaimed from the broadcast incentive auction and other measures consistent with these comments.

Respectfully submitted,  
**BLOOSTON RURAL CARRIERS**



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## **The Blooston Rural Carriers**

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Beresford Municipal Telephone  
Brookings Municipal Utilities d/b/a Swiftel Communications  
Copper Valley Wireless, LLC  
CRST Telephone Authority  
Faith Municipal Telephone  
FMTC Wireless, Inc. d/b/a OmniTel Communications  
Fort Randall Telephone Company  
Fuego Wireless, LLC  
Golden West Telecommunications Cooperative  
Interstate Telecommunications Cooperative  
James Valley Telecommunications Cooperative  
Kennebec Telephone Company  
Long Lines  
Midstate Communications Cooperative  
Nucla-Naturita Telephone Company  
Peñasco Valley Telephone Cooperative  
RC Communications  
Roberts County Telephone Cooperative Association  
Santel Communications Cooperative  
South Dakota Telecommunications Association  
Strata Networks  
Table Top Telephone Company  
The Ponderosa Telephone Company  
TrioTel Communications Cooperative  
Valley Telecommunications Cooperative  
Venture Communications Cooperative  
West River Cooperative Telephone Company  
West River Telecommunications Cooperative  
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