

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

In the Matter of	)	
	)	
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions	)	GN Docket No. 12-268
	)	
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
	)	
To: The Commission	)	

**REPLY COMMENTS OF TWIN VALLEY TELEPHONE, INC.**

Twin Valley Telephone, Inc. (“Twin Valley”), by its attorneys, hereby files these reply comments in response to comments filed by various parties with regard to the *Public Notice*<sup>1</sup> released by the Wireless Telecommunications Bureau (“Bureau”) of the Federal Communications Commission (“FCC” or “Commission”) seeking comments on the Competitive Carriers Association (“CCA”) proposal<sup>2</sup> to adopt Partial Economic Areas (“PEAs”) to award licenses in the 600 MHz Broadcast Incentive Auction. The *Public Notice* also sought comment on any additional geographic licensing proposals, including the joint proposal submitted by the

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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 (WTB, Dec. 11, 2013) (“*Public Notice*”).

<sup>2</sup> Letter from Rebecca Murphy Thompson, General Counsel, Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC (Nov. 27, 2013) (“CCA PEA Ex Parte”); *see also* Letter from C. Sean Spivey, Competitive Carriers Association, to Marlene Dortch, Secretary, FCC (Dec. 23, 2013) (“CCA Revised PEA Ex Parte”).

Rural Wireless Association, Inc. (“RWA”) and NTCA – The Rural Broadband Association (“NTCA”)<sup>3</sup> to conduct a two-phased Incentive Auction.

Twin Valley is a rural communications provider that serves predominately rural areas in north-central Kansas. Twin Valley agrees with commenters’ widespread support<sup>4</sup> for the use of Cellular Market Areas (“CMAs”), rather than Economic Areas (“EAs”), as the geographic license area for the Broadcast Incentive Auction. As discussed below, CMAs would provide Twin Valley the most meaningful opportunity to participate in the Incentive Auction. However, in the event that the Commission decides against using CMAs as the auction’s geographic license area, Twin Valley believes that the RWA/NTCA Proposal is the best alternative to encourage robust industry-wide auction participation.<sup>5</sup> As they are currently proposed, PEAs remain too large for many small and rural carriers, like Twin Valley, to effectively compete for auctioned licenses.

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<sup>3</sup> Letter from Caressa Bennet, Rural Wireless Association, Inc., and Jill Canfield, NTCA - The Rural Broadband Association to Marlene Dortch, Secretary, FCC (Dec. 6, 2013) (“RWA/NTCA Proposal”).

<sup>4</sup> See, e.g., Joint Association Comments; Supplemental Comments of Competitive Carriers Association, *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, 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 Nos. 12-268 & 13-185 (filed Jan. 9, 2014) (“CCA Comments”); Comments of the Blooston Rural Carriers, GN Docket Nos. 12-268 & 13-185 (filed Jan. 9, 2014) (“Blooston Comments”); Comments of Peoples Telephone Cooperative, Inc., GN Docket Nos. 12-268 & 13-185 (filed Jan. 9, 2014) (“Peoples Comments”); Comments of King Street Wireless, L.P., GN Docket Nos. 12-268 & 13-185 (filed Jan. 9, 2014); Comments of United States Cellular Corporation, GN Docket Nos. 12-268 & 13-185 (filed Jan. 9, 2014).

<sup>5</sup> Under the RWA/NTCA Proposal, the Commission would conduct the reverse broadcast auction contemporaneously with the initial auction phase. During this phase, forward auction bidders would bid on the basis of EAs, but receive licenses covering only the MSA or MSAs (when there is more than one MSA) located within the relevant EA. After bidding is completed in the initial auction phase, the remaining 428 Rural Service Areas (“RSAs”) would be auctioned in the second auction phase. RWA/NTCA Proposal at p. 2.

**I. SECTION 309(j) OF THE ACT REQUIRES THE COMMISSION TO ADOPT RULES AND PROCEDURES THAT PROMOTE INCENTIVE AUCTION PARTICIPATION OF RURAL CARRIERS.**

Twin Valley agrees with the Comments filed by RWA, NTCA, the Blooston Rural Carriers and others that neither the use of EAs, nor CCA's PEA approach, would adequately address the Commission's obligations under Section 309(j) of the Communications Act of 1934, as amended ("the Act").<sup>6</sup> Section 309(j) requires the Commission to adopt auction and service rules, license sizes, and bandwidth assignments that, among other things, (1) ensure the timely deployment of new services to people residing in rural areas;<sup>7</sup> (2) promote economic opportunity and competition;<sup>8</sup> (3) ensure new technologies are readily available to the public by avoiding the excessive concentration of licenses;<sup>9</sup> (4) disseminate licenses to a wide variety of applicants, including small businesses and rural telephone companies;<sup>10</sup> (5) prevent stockpiling or warehousing of spectrum;<sup>11</sup> and (6) promote an equitable distribution of licenses among different geographic areas and promote economic opportunities for small businesses and rural carriers.<sup>12</sup> As discussed below, if the Commission was to adopt EAs and (to a lesser extent) PEAs as the Incentive Auction's geographic license area, many small and rural carriers would be unable to participate. As a result, the Commission would contravene the Section 309(j) requirements put in place to protect provider diversity and encourage rural wireless deployment.

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<sup>6</sup> See, e.g., Joint Association Comments at pp. 5-6; Blooston Comments at pp. 1, 6.

<sup>7</sup> 47 U.S.C. § 309(j)(3)(A).

<sup>8</sup> 47 U.S.C. § 309(j)(3)(B).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> 47 U.S.C. § 309(j)(4)(B).

<sup>12</sup> 47 U.S.C. § 309(j)(4)(C). See also Joint Association Comments at p. 6.

## **II. COMMISSION USE OF EAs AS GEOGRAPHIC LICENSE AREAS WOULD PREVENT TWIN VALLEY FROM PARTICIPATING IN THE INCENTIVE AUCTION.**

While Twin Valley supports the Commission's use of geographic license areas, the use of large geographic license areas such as EAs will prevent Twin Valley from participating in the Incentive Auction. Twin Valley's current service area falls within three CMAs that have a combined population of 328,787. If EAs are used for the Incentive Auction, in order to acquire spectrum covering its service area, Twin Valley would have to bid on two EA licenses which contain a total population of 1,686,340 people. These two massive EA licenses cover 81 counties, which are located in two states. Realistically, Twin Valley cannot compete under such an auction scenario. Indeed, a spectrum auction utilizing EAs as the license size would force Twin Valley to bid on two EA licenses that in total contain five times the population of the three CMAs that cover Twin Valley's service area.

Twin Valley is not alone. The Summit Ridge Group, based on an analysis of letters to the FCC, has identified 12 local carriers that will not participate in the auction if an EA structure is used exclusively for licensing 600 MHz spectrum.<sup>13</sup> The NERA Report identified several additional rural carriers for which the use of EA geographic licensing areas would make Incentive Auction participation difficult, if not impossible.<sup>14</sup>

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<sup>13</sup> William Lehr and J. Armand Musey, *Right-sizing Spectrum Auction Licenses: The Case for Smaller Geographic License Areas in the TV Broadcast Incentive Auction*, at p. 17 (Nov. 20, 2013) ("Summit Study"). See also Richard Marsden, Dr. Chantale LaCasse, and Jonathan Pike, *Local and Regional Licensing for the US 600 MHz Band (Incentive Auction)*, at pp. 14-15 (January 2014) ("NERA Report").

<sup>14</sup> NERA Report at pp. 14-15.

### **III. AS CURRENTLY PROPOSED, PEAs WILL NOT MAXIMIZE AUCTION PARTICIPATION.**

Though PEAs would be a better geographic license area option than EAs, Twin Valley agrees with other commenters that CCA's current PEA proposal does not adequately address the concerns many small and rural carriers have regarding the size of the licenses to be auctioned.<sup>15</sup> As the Blooston Rural Carriers make clear, because PEA boundaries in Midwestern and Western states largely follow current EA boundaries, states such as North Dakota, South Dakota, Montana, Wyoming, New Mexico, and Nevada would see little improvement from the use of PEAs under the current CCA proposal instead of EAs.<sup>16</sup> Indeed, one proposed PEA in Twin Valley's service area is identical to the current boundaries of EA 123. For providers in these states, and several others, use of PEAs would preclude auction participation in much the same way as EAs.

For its part, Twin Valley would have to bid on three PEAs covering 50 counties and 761,844 people in order to cover its service area. If the Commission were to adopt CMA-based licenses instead of PEAs, Twin Valley would have to bid on three CMAs covering 19 counties and half the population, allowing Twin Valley to be much more competitive.

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<sup>15</sup> See Blooston Comments at pp. 1-2 (noting that the use of PEAs would "offer inadequate improvement over EA licensing for the many Blooston Rural Carriers that provide service in the West and Midwestern states"); see also Peoples Comments at pp. 2-3 (stating that a PEA overlapping portions of its study area is too large, and use of PEA geographic license areas may preclude its participation in the Incentive Auction).

<sup>16</sup> Blooston Comments at p. 5. PEAs in Texas pose similar issues for at least some carriers. See Peoples Comments at pp. 2-3.

**IV. THE RWA/NTCA PROPOSAL WOULD ALLOW FOR ROBUST AUCTION PARTICIPATION BY ALL CARRIERS, INCLUDING TWIN VALLEY.**

In the event the Commission decides against using all 734 CMAs as geographic license areas in a single phase auction, Twin Valley believes that the alternative RWA/NTCA Proposal, as outlined in the NERA Report, will maximize carrier participation and offer the best opportunity for a successful Incentive Auction. The two-phase Incentive Auction framework would allow the Commission to conduct the reverse broadcast auction, spectrum repacking, and a First Phase Forward Auction on the basis of 176 EAs, but award licenses on the basis of MSAs.<sup>17</sup> A Second Phase Forward Auction would auction the remaining 428 RSAs. Although the use of CMAs would best allow Twin Valley and other small and rural carriers to compete for licenses in the Incentive Auction, the RWA/NTCA Proposal is a reasonable alternative for providing Twin Valley an opportunity to participate in the Incentive Auction.

**V. CONCLUSION.**

Twin Valley strongly encourages the Commission to adopt CMAs when awarding these valuable 600 MHz licenses. In the event that the Commission decides to use an alternative geographic licensing scheme, Twin Valley supports the RWA/NTCA Proposal as outlined in the NERA Report. Only by adopting licensing areas that are sufficiently small to provide small and rural carriers, such as Twin Valley, a meaningful opportunity to participate in the Incentive Auction will the Commission meet the statutory mandate of Section 309(j) of the Act.

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<sup>17</sup> See Joint Association Comments at p. 10.

Respectfully submitted,

**Twin Valley Telephone, Inc.**

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