

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

In the Matter of)	
)	
Amendment of Part 2 of the Commission's)	ET Docket No. 00-258
Rules to Allocate Spectrum Below 3 GHz for)	
Mobile and Fixed Services to Support the)	
Introduction of New Advanced Wireless)	
Services, including Third Generation Wireless)	
Systems)	
)	
Petition for Rulemaking of the Cellular)	RM-9920
Telecommunications Industry Association)	
Concerning Implementation of WRC-2000:)	
Review of Spectrum and Regulatory)	
Requirements for IMT-2000)	
)	
Amendment of the U.S. Table of Frequency)	RM-9911
Allocations to Designate the 2500-2520/2670-)	
2690 MHz Frequency Bands for the Mobile-)	
Satellite Service)	

COMMENTS OF THE PUBLIC UTILITY COMMISSION OF TEXAS

On January 5, 2001, the Federal Communications Commission ("Commission") released a Notice of Proposed Rule Making ("NPRM") to explore the possible use of frequency bands below 3 GHz to support the introduction of new advanced wireless services, including third generation ("3G") as well as future generations of wireless systems. The NPRM explores the possibility of introducing new advanced mobile and fixed services in frequency bands currently used for cellular, broadband Personal Communications Service ("PCS"), and Specialized Mobile Radio ("SMR") services, as well as in five other frequency bands. The Texas Public Utility Commission (Texas PUC), having regulatory jurisdiction over telecommunications services in Texas, herein provides its initial comments in response to the NPRM.

The Texas PUC has not previously provided comments on matters related to spectrum allocation, as we lack the jurisdictional authority and expertise necessary to evaluate the technical issues involved. Our sole interest in this matter relates to public policy, and we ask that the Commission consider the impact of spectrum reassignment on the opportunity for deployment of broadband services in rural areas of Texas and other parts of the nation. Throughout the country, policymakers are struggling to identify techniques that will encourage the deployment of advanced and broadband services to customers in rural areas. One of the most promising distribution methods is the use of fixed wireless technology, such as Multichannel Multipoint Distribution Service (MMDS), in the provision of broadband services in rural areas. To the extent that the Commission's spectrum decisions may hinder MMDS providers, for example, from extending such services to rural customers, the policy would conflict with the requirements of section 706 of the 1996 Act.

We recognize the balance that must be shown by the Commission in this proceeding. The third generation wireless technology addressed in the NPRM promises to offer advanced services to mobile customers, and should be allowed to evolve. In addition, the Texas PUC shares the Commission's concern regarding the efficient and full utilization of assigned spectrum in all areas. Carriers that acquire rights to spectrum for the purpose of providing advanced or broadband services should make those services available in a timely manner. Carriers should not be allowed to hoard spectrum. If it has not already done so, the Commission should enact and enforce requirements whereby a carrier that does not provide services within a specified amount of time (such as 24 months) after it acquires the spectrum in a particular area should lose its

rights to those frequencies. However, it is important to allow wireless broadband technologies to emerge without undue regulatory barriers.

We appreciate the opportunity to provide comments in this proceeding.

Respectfully submitted,

**Public Utility Commission of Texas
1701 N. Congress Avenue
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February 22, 2001

/original signed/

**Pat Wood, III
Chairman**

/original signed/

**Judy Walsh
Commissioner**

/original signed/

**Brett A. Perlman
Commissioner**