

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

In the Matter of	)	
	)	
Facilitating the Provision of	)	
Spectrum-Based Services to Rural	)	WT Docket No. 02-381
Areas and Promoting Opportunities	)	
For Rural Telephone Companies to	)	
Provide Spectrum-Based Services	)	

**COMMENTS OF THE  
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

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## SUMMARY

In these comments, the Cellular Telecommunications & Internet Association (“CTIA”) responds to the Commission’s request for information regarding the effectiveness of current Commission rules and policies to deliver spectrum-based services to rural areas. At the outset, CTIA notes that the wireless industry provides services throughout the United States. As the FCC’s own internal data indicates, consumers in all U.S. counties or local government equivalents have access to wireless service, except for one recently created borough (county) in Alaska. Furthermore, the record illustrates that rural areas have a wide array of spectrum-based services that are available at the same prices as in urban areas.

One of the best examples of the wireless success stories in rural and insular areas has been the experience of Cellular One of North East Arizona. Since introducing its “VisionOne” service in June 2001 after receiving designation as an Eligible Telecommunications Carrier, Cellular One of North East Arizona has provided new and innovative service to thousands of residents of the Navajo, Hopi, White Mountain Apache, and Zuni Native American Reservations in Northern Arizona. Of these new customers, 82% indicated that they had never had any telephone service before, illustrating the effectiveness of USF support for wireless services in rural areas. Accordingly, CTIA urges the Commission to continue its efforts to emphasize technologically-neutral ETC designation policies for wireless carriers.

The Commission should also retain a flexible regulatory approach as a means of spurring additional investment in rural communities. Inflexible policies, such as additional build-out requirements or rigid geographic service areas, do not hasten

development of rural services, and may in fact impede investment in rural areas. In contrast, policies that encourage flexibility, such as adoption of a “secondary markets” approach and additional opportunities for partitioning and disaggregation of service areas, will encourage the continued development of advanced spectrum-based services in rural areas.

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CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association (“CTIA”)<sup>1</sup> hereby submits the following comments in response to the Commission’s December 20, 2002, Notice of Inquiry regarding the effectiveness of current Commission rules and policies to deliver spectrum-based services to rural areas.<sup>2</sup> The Notice states that the Commission will use the record established in this proceeding to determine whether to revise or adopt new policies to promote further expansion and utilization of spectrum-based services in rural areas. To that end, the Commission has requested data and comment on a number of different issues, including the effect of universal service support on deployment of wireless service in rural areas, geographic licensing areas, band manager licensing, technical and operational issues, and the use of unlicensed spectrum in rural areas.

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<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, Notice of Inquiry*, WT Docket No. 02-328, FCC 02-325 (rel. Dec. 20, 2002) (hereinafter “Notice”).

At the outset, CTIA notes that the wireless industry provides services throughout the United States. As the FCC's own internal data indicates, consumers in all U.S. counties or local government equivalents have access to wireless service, except for one recently created borough (county) in Alaska. Furthermore, the provision of service in the vast majority of areas is highly competitive. As noted in the *Seventh Annual CMRS Competition Report*, "268 million people, or 94 percent of the total U.S. population, live in counties with access to three or more different operators . . . offering mobile telephone service."<sup>3</sup>

CTIA also notes that the fierce competition in the wireless industry has led to very competitive pricing in both urban and rural markets. As the *Seventh Annual CMRS Competition Report* notes, an October 2001 analysis conducted by EconOne "found that there was virtually no difference in the average monthly charge for wireless service" between urban markets and rural markets.<sup>4</sup> Accordingly, all current evidence points to an extremely competitive wireless market in both urban and rural areas.

CTIA supports efforts by the Commission to expand and improve service in all areas throughout the United States, including rural areas. The Commission should, however, remain mindful of the fact that the highly competitive CMRS industry has been enhanced by the absence of heavy-handed regulation, or regulations that favor one provider or service over another. Accordingly, CTIA urges the Commission to avoid

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<sup>3</sup> *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, Seventh Report*, 17 FCC Rcd 12985, 12990-91 (2002).

<sup>4</sup> *Id.* at 13024.

new rules or policies that would seek to create “winners or losers” in any area, including rural service areas.

**I. ETC Designation of Wireless Carriers Has Increased Wireless Deployment in Rural Areas**

The Commission requests comment “generally on whether the Commission’s ETC rules have promoted deployment of wireless service to rural areas and greater subscribership in those areas.”<sup>5</sup> In addition, the Notice also requests specific examples of cases where wireless ETCs are providing new services that were not previously available to households in rural and tribal areas.<sup>6</sup>

In the last few years, ETC designation of wireless carriers has brought new and innovative telecommunications services to a number of rural areas, including some areas that previously had no telecommunications services at all. One dramatic example of the success of wireless carriers bringing new service to rural and tribal areas is the experience of Cellular One of North East Arizona (“Cellular One”), which through its “VisionOne” program has brought state-of-the-art telecommunications services to Navajo, Hopi, White Mountain Apache, and Zuni Native American reservations in Northern Arizona.<sup>7</sup>

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<sup>5</sup> Notice at 17, ¶ 30.

<sup>6</sup> *See id.*

<sup>7</sup> *See Cellular One, Nokia and CTIA to Connect Tribal Lands, Press Release, Nov. 19, 2001, at 2.* The cellular “A” band license used to provide the service in the area is owned by Smith Bagley, Inc., and is marketed and branded as Cellular One of North East Arizona.

According to U.S. Census Bureau data, in 1990, 86.1 percent of all Navajos living in Arizona, New Mexico, and Utah did not have any telephone service.<sup>8</sup> Similarly, in 1990, 64.5 percent of residents of the White Mountain Apache reservation lacked service, and 49.3 percent of residents of the Hopi Reservation lacked telephone service.<sup>9</sup> However, efforts to end the telecommunications isolation on the reservations took a great leap forward on December 12, 2000, when the Arizona Commerce Commission granted Cellular One ETC status to serve the reservations.<sup>10</sup> Shortly thereafter, in June 2001, Cellular One introduced the VisionOne program on the reservation, which provides qualifying residents of the reservations with a new Nokia 282 wireless handset and 200 minutes of local airtime minutes for 25 months for an upfront fee of \$25.00. In addition, the plan provides residents of the reservations, which are very isolated and often located far away from public safety facilities, with immediate access to police, public safety and other community services.

The results of the VisionOne program have been nothing short of remarkable. To date, almost 26,700 individuals have signed up for service under the VisionOne plan in the 20 months that it has been offered in the 4 reservation areas – an average of almost 1,300 customer additions a month. In addition – and perhaps most significant – surveys of the new customers conducted by Cellular One have indicated that 82% of the individuals signing up for the VisionOne plan have never had any telephone service.

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<sup>8</sup> See Amanda Johnson, *Local Company Helping People Take Giant Leap in Communications*, WHITE MOUNTAIN INDEPENDENT, Dec. 27, 2000, at 1 (citing 1990 U.S. Census Bureau data).

<sup>9</sup> See *id.*

<sup>10</sup> See Arizona Corporation Commission, *Smith Bagley, Inc. – Application for Designation as an Eligible Telecommunications Carrier Under 47 U.S.C. Section 214(e)(2) and A.C.C. Section R14-2-1203*, Case No. T-02556A-99-0207.

Accordingly, under the VisionOne program, almost 22,000 people in isolated tribal areas who have never had telephone service now have wireless service that connects them to both the community, as well as public safety services. Furthermore, the VisionOne statistics indicate that ETC designation of wireless carriers and those carriers' efforts to connect isolated communities have been a resounding success.<sup>11</sup>

In light of the phenomenal success story that is taking place on the Navajo, Hopi, White Mountain Apache, and Zuni Native American Reservations, CTIA urges the Commission to continue its efforts to emphasize a technologically-neutral process for both wireline and wireless carriers to become ETCs.<sup>12</sup> In addition, CTIA also urges the Commission to work with states that exercise jurisdiction over the ETC-designation process to shorten the length of time for approval of ETC status to ensure that all residents of rural and tribal areas can have the same access to telecommunications services as those living in urban and suburban areas.<sup>13</sup>

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<sup>11</sup> Other wireless ETCs also report similar success in underserved areas. For example, Western Wireless has signed up thousands of new customers on the Oglala Sioux Pine Ridge Indian Reservation in western South Dakota. Of those new subscribers, approximately 75% did not have any telephone service prior to signing up with Western Wireless.

<sup>12</sup> CTIA notes that a technologically-neutral designation process is not only desirable – it is also mandated by the Telecommunications Act of 1996. *See* 47 U.S.C. § 254(e); *see also Alenco Communications, Inc. v. FCC*, 201 F.3d 608, 616 (5<sup>th</sup> Cir. 2000) (“[T]he [universal service] program must treat all market participants equally – for example, subsidies must be portable – so that the market, and not local or federal government regulators, determines who shall compete for and deliver services to customers. Again, this principle is made necessary not only by the economic realities of competitive markets *but also by statute.*”) (emphasis added).

<sup>13</sup> A “rural” section on the Wireless Telecommunications Bureau website with general information on state and, where applicable, federal ETC designation procedures, along with information on other applicable government programs, would also help create a “one-stop” source for wireless carriers seeking information on rural areas.

## **II. Flexible Partitioning and Disaggregation Policies Will Help Spur the Development of Wireless Services in Rural Areas**

In the Notice, the Commission requests comment on whether the “size of geographic service area[s] affect the provision of wireless services to rural areas by entities other than rural telcos.”<sup>14</sup> In addition, the Notice also addresses partitioning and disaggregation policies, and the extent to which “partitioning and disaggregation policies enhance competition in the provision of wireless services to rural areas.”<sup>15</sup>

CTIA does not believe that the size of initial geographic service areas plays a major role in either hastening or impeding the development of wireless services in rural areas. Wireless services in the U.S. continue to evolve and expand at a very fast pace. As services expand and evolve, determinations regarding appropriate service areas also evolve as new market opportunities develop for carriers. Accordingly, rather than attempting to optimize specific geographic service areas, CTIA urges the Commission to adopt an approach that allow carriers flexibility to aggregate and disaggregate spectrum and partition license areas as markets develop. Such a process will allow carriers to quickly take advantage of new opportunities in rural areas and encourage the development of new service in those areas.

## **III. Adoption of a “Secondary Markets” Approach Will Help Improve Rural Wireless Access**

In addition to the partitioning and disaggregation questions noted above, the Notice also requests comment on whether the Commission should adopt band manager licensing as a method of expanding spectrum access for small businesses and rural

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<sup>14</sup> Notice at 12, ¶ 18.

<sup>15</sup> *Id.* at 13, ¶ 20

telecommunications providers.<sup>16</sup> CTIA opposes the imposition of a strict “band manager” licensing regime. Instead, CTIA supports either the adoption of a “secondary markets” approach that grants licenses broad flexibility to either lease spectrum usage rights voluntarily to secondary users, or additional flexibility to allow licensed carriers to aggregate or disaggregate exclusive-use spectrum.

While it is not completely clear from the Notice whether the proposed band manager approach would involve an independent third-party “band manager,” or a system where specific licenses would be granted “band manager” status, CTIA believes that adoption of a secondary markets approach that grants *all* licenses flexibility to lease spectrum usage rights voluntarily to secondary users represents the best approach. As the Commission recognized in its *Notice of Proposed Rulemaking in the Secondary Markets* proceeding, the leasing of spectrum through secondary market arrangements should “promote more efficient use of spectrum and allow more entities to gain access to spectrum so that it may be put to innovative uses.”<sup>17</sup> The Spectrum Task Force also noted the potential of the secondary markets model, and stated in its recent report that, “the secondary markets model takes advantage of the flexibility and adaptability of the market to solve access problems.”<sup>18</sup> Accordingly, CTIA urges the Commission to avoid the imposition of a strict band manager approach, and instead give licenses the ability to make the most efficient use of spectrum through a secondary markets approach that

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<sup>16</sup> *Id.* at 15-16, ¶ 26.

<sup>17</sup> *Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, Notice of Proposed Rulemaking*, 15 FCC Rcd 24203, 24210 (2000).

<sup>18</sup> *Spectrum Policy Task Force Report*, ET Docket No. 02-13, at 57 (rel. Nov. 7, 2002).

allows all licenses to lease spectrum rights, and through more flexible disaggregation policies.

#### **IV. Performance Benchmarks, Such as New Build-Out Requirements, May Impair Rural Deployment of Wireless Services**

The Commission also requests comment on performance requirements, such as construction or geography-based benchmarks.<sup>19</sup> Specifically, the Notice requests comment on the extent to which such benchmarks “are effective in ensuring that spectrum-based services are provided to rural areas.”<sup>20</sup> CTIA believes that performance benchmarks are neither necessary nor effective in a highly competitive marketplace. As noted earlier, 94 percent of the U.S. population lives in counties where three or more wireless providers offer service. These penetration numbers illustrate the fact that wireless carriers are aggressively building-out networks, and are continuously seeking opportunities to serve customers in new markets. The desire for large carriers to create a national “footprint” also provides a very strong incentive for upgrading service in all areas of the country, including rural areas.

Furthermore, the imposition of any new performance requirements may actually stifle development of new wireless services in rural and insular areas. As the Commission is well aware, the wireless industry, along with the rest of the telecommunications sector, is currently undergoing a severe capital crunch. Under these trying financial circumstances, the best policy the Commission can adopt is to allow carriers sufficient flexibility to allocate resources to areas, including rural and insular areas, where market demand indicates a need for such services.

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<sup>19</sup> See Notice at 13-15, ¶¶ 21-25.

<sup>20</sup> *Id.* at 14, ¶ 22.

## V. Technical and Operational Rules

The Notice further requests comment on the Commission's technical and operational rules, and how possible changes might impact operations in rural environments.<sup>21</sup> Specifically, the Commission requests comment on the possibility of "increasing permissible power levels" in rural areas.<sup>22</sup>

While carriers in rural areas might be able to increase the power at their tower sites, such a change would do nothing to modify the power levels of existing wireless handsets, which would negate any possible benefit of increasing the power levels at carrier sites. In addition, it is unlikely that handset makers would make specific handsets with increased power levels due to the relatively small size of the markets where such handsets would be useful, and possible interference problems that such handsets may generate.

Moreover, such a system would likely cause substantial problems with roaming, as customers with one type of handset with one power level would likely run into difficulty roaming on another network that operates on different power levels. This, in turn, could undermine the ability of wireless customers to roam nationwide – a result that is certainly not in the overall public interest. Accordingly, CTIA urges the Commission to maintain its current technical and operational rules.

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<sup>21</sup> See Notice at 16.

<sup>22</sup> *Id.*

## VI. Spectrum Usage in Rural Areas

Finally, the Notice requests comment on spectrum allocation and usage in rural areas.<sup>23</sup> Specifically, the Notice requests comment on whether “the Commission should adopt a “commons” model” for “unserved areas in the Cellular Radiotelephone Service.”<sup>24</sup> CTIA opposes the adoption of a “commons” approach in rural areas for two main reasons.

First and foremost, any use of the commons model in the Cellular Radiotelephone Service will undoubtedly lead to serious interference problems that will impact the ability of licensed carriers operating in adjacent areas to provide adequate service. As the Commission illustrates in the Notice, under the current system “unserved areas” often become available for re-licensing on a site-by-site basis.<sup>25</sup> If these unserved areas were converted to a commons model, however, it is almost inevitable that unlicensed devices from the small “unserved areas” will interfere with the right of licensed carriers to provide service in adjacent areas.

Second, on a more practical level, it is hard to see how a commons model would spur any additional service offerings in rural areas than under the current system. Currently, there is no shortage of actual licensed spectrum available in many rural areas that entities desiring to provide service, including incumbent rural telecommunications providers, could acquire. It is also hard to see how new entrants would want to make the substantial investment required to provide service in rural areas under a commons model. Accordingly, in light of the serious interference concerns with a commons model,

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<sup>23</sup> *See id.* at 14.

<sup>24</sup> *Id.*

<sup>25</sup> *See id.* at 14, n.83.

combined with the practical fact that such a model is unlikely to attract any investment, CTIA urges the Commission to reject the use of a “commons model” in any area of the Cellular Radiotelephone Service.

### **CONCLUSION**

As these comments illustrate, the Commission’s current policies have largely been effective in bringing wireless services to all areas of the country, including rural and insular areas. Going forward, CTIA urges the Commission to utilize policies, such as technologically-unbiased USF-designation rules, as a means of encouraging new service in rural areas, rather than imposing new mandates that will only stifle development of new rural wireless services.

Respectfully submitted,

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