

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

REPLY COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION

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February 19, 2003

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The National Telecommunications Cooperative Association (NTCA)¹ hereby submits its reply comments in the above referenced proceeding.² In these reply comments NTCA responds only to Western Wireless' misuse or misinterpretation of information from NTCA's wireless survey and seeks to clarify the record regarding NTCA's position on the availability of universal service funding.

As NTCA stated in its initial comments, rural telephone companies are in a unique position to provide spectrum-based services in rural America. They have both the ability and the desire. Unlike larger companies, rural telephone companies are motivated by factors other than the profit margin. In most rural communities, the telco is the largest or one of the largest businesses in town. The rural telco's prosperity is tied to the community's prosperity and future. Rural telcos are motivated not only by the bottom

¹ NTCA is a not-for-profit association established in 1954. It represents more than 550 rate-of-return regulated rural telecommunications companies. NTCA members are full service telecommunications carriers providing local, wireless, cable, Internet, satellite and long distance services to their communities. All NTCA members are small carriers that are defined as "rural telephone companies" in the Telecommunications Act of 1996. 47 U.S.C. § 153(37).

² In the Matter of 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. 02-381 (NOI) (released December 20, 2002).

line, but also by a civic duty to ensure the viability of their community as this country moves toward a wireless future. Rural telephone companies provide service because their communities need it, not simply because of the current availability of universal service funding for wireless service. For these reasons Congress directed the Commission to provide spectrum opportunities to rural telephone companies.

While rural telephone companies have been struggling in their quest for spectrum in recent years, the recent lower 700 MHz auction proves that if the Commission takes action to ensure opportunities for rural telephone companies, rural telephone companies will prevail. This Notice of Inquiry provides an exciting opportunity for the Commission to explore other ways to ensure that rural communities have services and that rural telephone companies have opportunities to provide that service.

WESTERN WIRELESS CONSISTENTLY MISSTATES AND MISUSES INFORMATION FROM NTCA'S 2002 WIRELESS SURVEY

In its comments, Western Wireless refers to NTCA's most recently completed wireless survey³ to bolster their misguided assertion that "rural telcos have ample opportunities to provide wireless service."⁴ Unfortunately, Western Wireless consistently misrepresents, misinterprets or conveniently omits relevant survey results. Given the clear and concise nature of the presentation of the survey results in NTCA's report, one can be lead to the conclusion that this blatant misuse of NTCA data is willful.

First, Western Wireless notes that "85% of NTCA's wireless operators reported annual customer retention rates greater than 75%, and 55% reported retention rates of

³ *NTCA 2002 Wireless Survey Report*, October 2002. Available online at www.ntca.org.

⁴ Western Wireless comments at 10.

90% or more.”⁵ While this constitutes one of the few occasions when Western Wireless has accurately reported NTCA’s numbers, it is unclear what point Western Wireless is trying to make. In the survey report, NTCA interprets these results to mean that “the vast majority of respondents’ customers find enough value in the respondents’ service offerings to continue subscribing to them.”⁶ These findings, however, relate to the performance of those survey respondents who choose to offer wireless service and able to do so; they have absolutely nothing to do with NTCA member companies’ opportunities to provide service.

Western Wireless asserts, “the [NTCA] survey indicated that a significant percentage of respondents (24%) do not see value in a wireless license.”⁷ This is both a misrepresentation and a misinterpretation of survey results. In actuality, 53% of survey respondents hold an interest in a wireless license, either on their own or with others, and 47% do not. Of the 47% who do not, 72% indicated they would like to acquire a license.⁸ Conversely, then, 28% of the 47% who do not currently hold an interest in a license-- 13% of all survey respondents--indicated that they are not currently interested in acquiring access to a wireless license. First, 13% is far less than Western Wireless’ erroneously reported figure, and hardly represents “a significant percentage.” Second, and perhaps more important, it is simply wrong to assume that these respondents “do not see value in a wireless license,” as Western Wireless carelessly does. It is entirely possible, for example, that wireless simply does not fit into these respondents’ business plans at this point in time. The bottom line is that the survey question makes no inquiry

⁵ *Id.*, at 12.

⁶ *NTCA 2002 Wireless Survey Report* at 7.

⁷ Western Wireless comments at 12.

whatsoever into the respondents' motivation, and Western Wireless is fallacious in making any such inference.

Western Wireless claims, "less than half of [NTCA survey] respondents (41%) have attempted to approach an existing licensee about partitioning or disaggregation opportunities."⁹ Though not identified by Western Wireless as such, this figure would seem to refer to the 2001 NTCA Wireless Survey, not the most recent edition.¹⁰ According to the 2002 survey, 68% of those respondents without a wireless license indicated they would enter into a partitioning agreement with a license holder if given the opportunity.¹¹ After accounting for the previously-noted 13% of respondents who were not interested in obtaining access to a wireless license at the time the survey was taken, that leaves only 19% of respondents who wish to obtain access to spectrum yet would not enter into a partitioning agreement, if given the opportunity.

Finally, in their comments Western Wireless states that "[t]he Commission's finding that rural telcos had not demonstrated a 'historical lack of access to capital' and did not need special bidding credits continues to hold true today."¹² While Western Wireless is quick to cite NTCA's wireless survey results (albeit inaccurately) when they are perceived to support Western Wireless' arguments, they conveniently ignore NTCA's survey findings that directly contradict this statement. According to the survey, an overwhelming 84% of those respondents with experience obtaining capital for wireless projects classified the process as "somewhat difficult," "very difficult," or "virtually

⁸ *NTCA 2002 Wireless Survey Report* at 5.

⁹ Western Wireless comments at 12.

¹⁰ *NTCA 2001 Wireless Survey Report*, September 2001, at 6. Available online at www.ntca.org

¹¹ *NTCA 2002 Wireless Survey Report* at 12.

¹² Western Wireless comments at 11.

impossible.”¹³ This figure is dramatically higher than the 56% of respondents who answered the same question the same way in the 2001 Wireless Survey.¹⁴ Clearly, many NTCA member companies do perceive obtaining financing as a significant barrier to be overcome.

NTCA conducts its wireless survey annually so that we (as an association representing our members), the Commission, and the industry have a better idea of the array of services provided by rural telephone companies and to identify service obstacles. Western Wireless attempts to distort our findings to use them against rural telephone companies and to prove that rural telephone companies deserve no regulatory advantage. Western Wireless’ assertions are false and ignore the very real and demonstrable difficulty that rural telephone companies have in their quest for spectrum.

UNIVERSAL SERVICE ISSUES ARE BEST HANDLED IN A SEPARATE PROCEEDING

It is NTCA’s position that the unrestrained designation of wireless carriers as competitive ETCs in rural telephone company service areas is threatening the viability and sustainability of the entire universal service funding (USF) program. USAC data indicates that the annualized amount of high-cost funding going to wireless providers with approved status from the fourth quarter of 2001 through the first quarter of 2003 would increase by \$95.5 million.¹⁵ The amount of portable USF support provided to wireless carriers has skyrocketed from \$440 thousand in 1999 to a projected \$101.85 million in 2003. This explosion in the universal service fund cannot be ignored and it is

¹³ *NTCA 2002 Wireless Survey Report* at 12.

¹⁴ *NTCA 2001 Wireless Survey Report* at 8.

for this reason that NTCA filed the petition for rulemaking cited in Western Wireless' comments.¹⁶

NTCA is not alone in its concerns. At least three of the FCC's Commissioners are questioning the apparent policy of using universal service support to create competition in high cost areas. At NTCA's recent Annual Meeting, Commissioner Adelstein addressed the concerns of a ballooning universal service fund and the need to balance competition against the public good, stating, "The public interest . . . demands that regulators seriously consider whether a market can support more than one carrier with universal service. If not, then new designations shouldn't be given as a matter of course just because it appears they meet other qualifications."¹⁷

Commissioner Adelstein's remarks echo earlier statements of Commissioner Martin. In a separate statement to the Order adopting the MAG plan, the Commissioner questioned "the Commission's policy . . . of using universal service support as a means of creating 'competition' in high cost areas."¹⁸ Commissioner Martin recognized that subsidizing multiple competitors in an area that cannot support it "may make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in a rural area, leading to inefficient and/or stranded investment and a ballooning universal service fund."

¹⁵ See USAC HC01 Reports for 4Q01 through 1Q03.

¹⁶ Western Wireless Comments, p. 26.

¹⁷ "Adelstein, "Rural America and the Promise of Tomorrow," NTCA Annual Meeting & Expo, Phoenix, Arizona (February 3, 2003).

¹⁸ Separate Statement of Commissioner Kevin J. Martin in *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers Federal-State Joint Board on Universal Service Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, 16 FCC Rcd 19613 (2001).

The Chairman of the Commission challenged the former Commission's "pro-competitor industrial policy"¹⁹ and On November 8, 2002 the Commission requested the Federal-State Joint Board on Universal Service to review many of the Commission's rules relating to the high-cost universal service support mechanisms.²⁰ The Joint Board will be examining high-cost support levels in study areas with competitive ETCs, support for second lines and the process for designating competitive ETCs.²¹ The Joint Board will be reviewing the methodology for calculating support for ETCs in competitive study areas and considering whether the Act's goals would be served if support were limited to a single connection to the end-user, whether provided by the incumbent or the competitive ETC.²²

Clearly, a change of universal service funding policies is imminent. The recommendations that stem from this NOI should not prejudice any of the complicated and essential issues now being considered by the Federal-State Joint Board on Universal Service. The entire spectrum of universal service issues, including the designation of competitive ETCs is best handled in a separate proceeding.

CONCLUSION

Western Wireless blatantly misuses and misrepresents NTCA's 2003 wireless survey. As the survey demonstrates, NTCA's rural telephone company members are doing a great job of providing a wide range of services to their rural customers where opportunities exist. Unfortunately, rural telephone companies are often stymied in their

¹⁹ Speech by Michael K. Powell at the Goldman Sachs Communicopia XI Conference, New York, NY (Oct. 2, 2002).

²⁰ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 02-307(rel. Nov. 8, 2002) (Portability Proceeding).

²¹ Portability Proceeding, ¶ 1.

²² *Id.*, ¶¶ 5-9.

efforts to obtain valuable spectrum to provide high quality wireless service. The Commission must use this proceeding to further Congress's objectives of providing wireless service to rural Americans and opportunities for rural telephone companies and not be lulled into furthering Western Wireless' universal service funded business plan.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jill Canfield, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in WT Docket No. 02-381, FCC 02-325 was served on this 19th day of February 2003 by first-class, U.S. Mail, postage prepaid, to the following persons.

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