

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

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

**REPLY COMMENTS OF  
AT&T WIRELESS SERVICES, INC.**

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**REPLY COMMENTS OF AT&T WIRELESS SERVICES, INC.**

Pursuant to the Commission’s Notice of Inquiry, AT&T Wireless Services, Inc. (“AWS”) hereby submits its reply comments in the above-captioned proceeding.<sup>1/</sup>

**INTRODUCTION AND SUMMARY**

AWS strongly supports the Commission’s continued efforts to ensure that all consumers, including those in remote and rural areas, enjoy the benefits of wireless voice, data, and broadband services. As the comments confirm, the Commission’s existing rules and polices are having the intended effect of bringing a variety of spectrum-based services to rural areas. Indeed, this proceeding demonstrates that rural consumers are demanding -- and receiving -- state-of-the art wireless services from a range of providers at competitive prices.

The Commission therefore can best serve the public interest in promoting the availability of innovative wireless services to rural customers by maintaining its existing rules and policies, in particular its current partitioning and disaggregation rules. As evidenced from the success stories presented by the comments, these rules have resulted in both the deployment of wireless service to rural areas and getting spectrum into the hands of carriers seeking to serve rural areas.

In addition, the Commission should as soon as possible adopt rules to govern spectrum leasing arrangements and other secondary market initiatives. These initiatives, in contrast to strict band manager regimes or uneconomic buildout requirements, would promote the Commission's objective of encouraging further deployment of wireless services in rural areas by giving carriers the flexibility to aggregate and disaggregate spectrum as markets develop, not based on regulatory fiat. The Commission also should consider adopting market-based incentives like those advocated by many commenters to encourage increased use of the Commission's partitioning, disaggregation, and proposed spectrum leasing tools.

The comments make clear that the current eligible telecommunications carrier ("ETC") designation process has been successful in bringing a variety of wireless services to previously unserved areas. The Commission should decline to impose additional regulations on wireless carriers seeking ETC status, such as requiring wireless providers to offer equal access to interexchange carriers. Rather, the Commission should streamline the current designation process to make it easier for wireless carriers to obtain ETC status and continue serving rural areas.

Finally, the Commission should not allow unlicensed devices to operate at higher power levels in rural areas. While AWS recognizes the potential of unlicensed devices, permitting such operations even in rural areas heightens the possibility of interference to existing licensed services.

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<sup>1/</sup> *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services*, 17 FCC Rcd 25554 (2002) ("NOI").

## **I. THE COMMISSION'S CURRENT RULES ALLOW MARKET FORCES TO WORK AND PROVIDE ADEQUATE INCENTIVES FOR THE PROVISION OF WIRELESS SERVICES TO RURAL AREAS**

The comments in this proceeding make clear that the rural wireless market is just as competitive as urban or suburban markets.<sup>2/</sup> Smith Bagley reports that over 25,000 persons residing on Native American lands have subscribed to its Lifeline service (local calling throughout the Smith Bagley's network and toll and airtime-free calls to community services for \$1.00 per month) since its initial rollout in June 2001, and roughly 19,000 of those subscribers had no telephone service at all before they signed up for Smith Bagley's service.<sup>3/</sup> Likewise, Dobson was one of the first carriers to install digital technology in 100 percent of its markets, even though approximately 85 percent of its coverage is in rural areas.<sup>4/</sup> The Commission's own data demonstrate that, on average, rural markets generally have access to slightly more than three wireless carriers.<sup>5/</sup> The Commission's current regulations have resulted in rural communities being served by numerous wireless carriers that offer a variety of innovative services. As Commissioner Abernathy has recognized, wireless carriers will "provide significant competition in rural areas where multiple facilities-based providers have not developed as rapidly in some more densely populated areas."<sup>6/</sup> The evidence clearly demonstrates that the Commission's existing policies have been successful in fostering service to rural areas.

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<sup>2/</sup> See, e.g., CTIA at 2; Dobson at 4; United States Cellular Corporation at 2-4; Western Wireless at 3-5; Wireless Communications Association at 2.

<sup>3/</sup> See Smith Bagley at 4-5.

<sup>4/</sup> See Dobson at 2.

<sup>5/</sup> See *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*, FCC 02-179, Seventh Report, at 38 (rel. July 3, 2002).

<sup>6/</sup> *Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-*

**A. The Commission’s Existing Partitioning and Disaggregation Rules Provide Significant Opportunities to Serve Rural Areas**

The Commission seeks comment on the extent to which partitioning and disaggregation provides rural telephone companies with access to spectrum and facilitates the provision of wireless services in rural areas.<sup>7/</sup> Contrary to some commenters’ claims,<sup>8/</sup> every wireless carrier, even a large nationwide carrier, has the incentive to ensure that its spectrum is being used as efficiently and economically as possible, including spectrum it is licensed to use in rural areas. In today’s difficult economic climate, no carrier can afford to “hoard” unused spectrum. To the contrary, there is a strong economic incentive for large carriers to partition or disaggregate portions of their spectrum for which the carrier cannot recoup its costs. AWS, for example, has recently signed contracts, or has come to terms and is in the process of negotiating, definitive agreements to partition and/or disaggregate spectrum in several rural counties and other areas to seven different licensees. Partitioning and disaggregation have proven their value as an extremely efficient means of getting spectrum into the hands of entities who are willing and able to bring service to rural areas.

The Commission can build on the success of partitioning and disaggregation by giving licensees additional market-based incentives to make spectrum available to third parties who can put it to its highest and best use.<sup>9/</sup> For example, some rural carriers note that transaction costs are

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*1675 MHz, and 2385-2390 MHz Government Transfer Bands*, 17 FCC Rcd 9980, Statement of Commissioner Kathleen Q. Abernathy (2002).

<sup>7/</sup> *NOI* ¶ 20.

<sup>8/</sup> *See, e.g.*, NTCA at 11; Telecom Consulting Associates at 7-8; United States Cellular Corporation at 8; South Dakota Telecommunications Association at 13-15.

<sup>9/</sup> The *Spectrum Policy Task Force Report* explicitly notes the benefits that a secondary markets regime can bring to promote access to rural spectrum, and specifically recommends that “[t]o improve providers’ ability to gain access to spectrum in rural areas, the Commission [] promote the development of an efficient and flexible secondary markets regime that, in addition

often the biggest impediment to the successful completion of partitioning and disaggregation agreements.<sup>10/</sup> In such circumstances, providing “reverse discounts” to carriers that partition portions of their service area to rural carriers could encourage such carriers to enter into partitioning and disaggregation agreements.<sup>11/</sup> The Rural Cellular Association’s suggestion that the Commission accept unused spectrum in exchange for a monetary credit toward a carrier’s future auction purchases could also encourage private market agreements between carriers.<sup>12/</sup> As Corr notes, such proposals serve two main goals -- to make the sale of rural territories economically feasible for large carriers and to ensure that the Commission remains in the same position financially as if a rural carrier had successfully bid on the spectrum in the first place.<sup>13/</sup>

Under no circumstances, however, should the Commission adopt a mandatory partitioning and disaggregation requirement.<sup>14/</sup> As Dobson explains, “[i]f a market need exists for a particular service that is not being provided in a particular area, and a partition or disaggregation can fill that need and offer value to both sides, the transaction should occur naturally.”<sup>15/</sup> By contrast, mandatory partitioning and disaggregation requirements would undermine the Commission’s goals and have a “chilling effect upon participation in future

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to partitioning, facilitates the leasing of spectrum usage rights in rural areas, which would significantly lower transaction costs.” Spectrum Policy Task Force, *Report*, ET Docket No. 02-135, at 59-60 (November 2002) (“*Spectrum Policy Task Force Report*”).

<sup>10/</sup> *NOI* at n.80 (citing to Testimony of Caressa Bennet, Counsel for the Rural Telecommunications Group); *see also* South Dakota Telecommunications Association at 15 (asking the Commission to provide large licensees with greater incentives to deal with rural carriers).

<sup>11/</sup> *See* Corr at 9; Monet at 7.

<sup>12/</sup> *See* Rural Cellular Association at 12.

<sup>13/</sup> *See* Corr at 10.

<sup>14/</sup> *NOI* ¶ 20; *see also* Monte R. Lee ¶ 20; NTCA at 12; OPASTCO & RTG at 12; South Dakota Telecommunications Association at 15; Telecom Consulting Associates at 8.

<sup>15/</sup> Dobson at 10-11.

auctions.”<sup>16/</sup> Carriers should have the flexibility to aggregate and disaggregate spectrum as markets develop, not based on regulatory fiat.<sup>17/</sup>

Quick action in the pending *Secondary Markets* proceeding would complement the Commission’s existing rules and ensure that rural areas continue to receive a variety of spectrum-based services. As AWS has explained, robust secondary markets allow licensees to ensure that spectrum is utilized in the most efficient and economical way possible, particularly in unserved or underserved areas.<sup>18/</sup> To date, however, wireless carriers have been unable to take full advantage of potential opportunities to trade or sell spectrum in such secondary markets because the Commission has not yet clearly defined the regulatory scheme that governs such markets.<sup>19/</sup> AWS agrees with those commenters who argue here that secondary market transactions would help to facilitate the provision of wireless services to rural areas because rural carriers would be able to access the spectrum they need to fill unserved market niches.<sup>20/</sup> AWS urges the Commission to take immediate action to adopt clear secondary market rules that would

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<sup>16/</sup> See Monet at 9-10.

<sup>17/</sup> See CTIA at 6; Western Wireless at 33.

<sup>18/</sup> See *Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets*, WT Docket No. 00-230, Comments of AT&T Wireless Services, Inc. (filed Feb. 9, 2001) (“AWS Secondary Market Comments”); *Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets*, WT Docket No. 00-230, Reply Comments of AT&T Wireless Services, Inc. (filed Mar. 12, 2001) (“AWS Secondary Market Replies”).

<sup>19/</sup> Despite the fact that the Commission has yet to define the regulatory scheme that governs spectrum leasing, AWS believes that spectrum leasing is permissible under and consistent with the Communications Act, when used in conjunction with appropriate safeguards.. See generally AWS Secondary Market Comments; AWS Secondary Market Replies.

<sup>20/</sup> See, e.g., Dobson at 10; Monet at 4-5.

allow licensees, investors, and others to make informed, rational economic decisions without the need to overcome superfluous regulatory barriers.<sup>21/</sup>

By contrast, the “band manager” licensing model proposed by some commenters would not make it easier for rural telephone companies to obtain access to spectrum.<sup>22/</sup> As other commenters point out, the use of a band manager would not be workable for most rural areas because the majority of carriers, even rural carriers, require flexibility to be able to take advantage of changes in the marketplace.<sup>23/</sup> Rather than providing that flexibility, the band manager approach would only insert another layer of administrative delay into the spectrum leasing process. For those reasons, AWS agrees with CTIA that the best approach would be to grant all licensees the flexibility to lease spectrum based on arm’s length negotiations, not through regulatorily-imposed administrators.<sup>24/</sup>

Finally, while the creation of a database on available spectrum may have some superficial appeal,<sup>25/</sup> much of the information the Commission seeks to disseminate is already available via the Commission’s Universal Licensing System (“ULS”) database. Populating another database and keeping it up to date would impose additional significant administrative burdens on the Commission and additional unnecessary reporting obligations on carriers. Given the database functionality that exists today via ULS, the minimal benefits derived from an additional database do not outweigh the significant burdens such a requirement would impose. The Commission

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<sup>21/</sup> See CTIA at 7; Dobson at 10; Monet at 5.

<sup>22/</sup> NOI ¶ 26.

<sup>23/</sup> See, e.g., CTIA at 7; South Dakota Telecommunications Association at 16; Monte R. Lee ¶ 23.

<sup>24/</sup> CTIA at 7.

<sup>25/</sup> NOI ¶ 12. Only one party -- Western Wireless -- supported the development of a database, but offered no justification or potential benefits that outweighed the imposition of this additional burden. See Western Wireless at 33.

should let the marketplace dictate the appropriate level of information disseminated in conjunction with partitioning and disaggregation agreements.

## **II. THERE IS NO NEED FOR THE COMMISSION TO REDESIGN ITS LICENSING PROCESS OR ITS BUILDOUT RULES FOR RURAL AREAS**

The Commission should not adopt different spectrum allocation, auction, or licensing processes for rural areas.<sup>26/</sup> Such an approach would be fraught with logistical difficulties and would inject uncertainty into the regulatory process.<sup>27/</sup> And, as the comments demonstrate, there is no justification for adopting specialized licensing or buildout rules specifically for rural areas. Rather, the Commission should rely on marketplace forces to ensure that rural communities continue to receive a wide variety of wireless services.

*License Areas.* There is no need for the Commission to adopt smaller geographic licenses areas in order to facilitate the provision of wireless services to rural areas.<sup>28/</sup> While using small license areas may provide benefits in some services, requiring the use of rural service areas in every auction could introduce inefficiencies and would be inconsistent with the wireless industry's history of consolidation. Moreover, as CTIA explains, permitting carriers to partition, disaggregate, and enter into other market-based leasing arrangements renders the size of the initial geographic area irrelevant to ensuring rural areas receive wireless services.<sup>29/</sup> As

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<sup>26/</sup> See NOI ¶ 18 (asking whether geographic service areas should be tailored for rural areas); *id.* ¶ 16 (seeking comment on developing specialized bidding credits for rural areas); *id.* ¶ 22 (requesting comment on modifying the buildout requirements for rural areas).

<sup>27/</sup> See *Spectrum Policy Task Force Seeks Public Comment on Issues Related to Commission's Spectrum Policies*, ET Docket No. 02-135, Ex Parte Comments of AT&T Wireless Services, Inc., at 11, 13-14 (filed July 12, 2002) ("AWS Ex Parte Spectrum Policy Comments") (discussing differential treatment of rural areas and the interference issues of increased flexibility).

<sup>28/</sup> See CTIA at 6; Dobson at 13.

<sup>29/</sup> See CTIA at 6.

explained above, a carrier's decision to buildout to rural areas is driven by economic and competitive factors, not the geographic size of the license.<sup>30/</sup> Market-based arrangements are also more cost effective than re-engineering market sizes. Under a marketplace approach, rather than a regulatory approach, a carrier can obtain precisely the right market size for its products and services without the administrative burdens associated with overhauling the Commission's licensing regime.

**Bidding Credits.** Nor is there a need for the Commission to adopt a specific bidding credit for rural telephone companies.<sup>31/</sup> Given the number of carriers offering service to rural markets, the Commission need not favor rural telephone companies in order to facilitate the provision of wireless services to rural areas.<sup>32/</sup> As several commenters note, the Commission already provides numerous incentives to small businesses; for example, the majority of rural telephone companies qualify for bidding credits.<sup>33/</sup> According to the Commission, 84 percent of the qualified bidders in the auctions completed as of September 2002 (that offered small business bidding credits) were identified as rural telephone companies and were eligible to receive a small business bidding credit.<sup>34/</sup>

Along with the available bidding credits from the Commission, there are numerous alternative sources of funding available to rural providers, including the loan program from the

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<sup>30/</sup> See Dobson at 13; Monet at 10.

<sup>31/</sup> NOI ¶ 16.

<sup>32/</sup> See Dobson at 14-15; Monet at 8.

<sup>33/</sup> See, e.g., Dobson at 14; Western Wireless at 11.

<sup>34/</sup> NOI ¶ 6; see also *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, 15 FCC Rcd 15293, n.165 (2000) (acknowledging that in the first 15 auctions, rural telephone companies won about 44 percent of the 123 rural Basic Trading Area licenses available).

Department of Agriculture's Rural Utilities Service<sup>35/</sup> and the recently-enacted Farm Security and Rural Investment Act of 2002.<sup>36/</sup> Given these resources, there is simply no justification for favoring rural telephone companies over other entities with respect to credits.<sup>37/</sup> If the Commission nevertheless decides to adopt an additional bidding credit for rural areas, it should be available to any carrier, not just rural telephone companies, that seeks to offer wireless services to rural communities.<sup>38/</sup>

***Performance Requirements.*** Finally, the Commission should not adopt specific performance requirements for rural areas.<sup>39/</sup> Wireless buildout requirements generally are unnecessary because other, market-based incentives ensure that carriers use their spectrum allocations as efficiently and economically as possible. As CTIA notes, "performance benchmarks are neither necessary nor effective in a highly competitive marketplace."<sup>40/</sup> Adopting more restrictive construction obligations in rural areas would impose high efficiency costs on carriers which, in turn, could force carriers to abandon service entirely or require carriers to focus on meeting artificial requirements rather than offering high quality services to

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<sup>35/</sup> See 7 C.F.R. §§ 1735.1-1735.101.

<sup>36/</sup> Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, 116 Stat. 134, 415-18 (2002).

<sup>37/</sup> Cf. NTCA at 5; South Dakota Telecommunications Association at 7.

<sup>38/</sup> See Monet at 8; Western Wireless at 30-31; see also Rural Cellular Association at 5 (arguing that rural wireless carriers should be given the same opportunities as rural telephone companies).

<sup>39/</sup> NOI ¶ 22.

<sup>40/</sup> CTIA at 8.

rural consumers.<sup>41/</sup> As a result, harsher benchmarks could actually stifle the development of new wireless services in rural areas.<sup>42/</sup>

Under no circumstances should the Commission adopt the “use it or lose it” approach advocated by some commenters, which would require a licensee to provide service to all or a substantial portion of a rural service area or face the loss of its license entirely or the right to serve the unbuilt area in the future.<sup>43/</sup> Imposing such draconian penalties would essentially force licensees to deploy service even in areas in which there is insufficient demand to support the costs of immediate deployment. Adopting a “use it or lose it” approach also would deprive the Commission of the discretion to respond to extraordinary facts or circumstances affecting buildout.

If the Commission nonetheless concludes that some modification of its buildout requirements is necessary, it should adopt a “substantial service” requirement for all wireless carriers, regardless of the areas in which those carriers offer service.<sup>44/</sup> The substantial service standard provides the Commission with the flexibility to respond to specific facts and circumstances, including the rural nature of a market, and whether economic or regulatory factors have affected deployment in those areas.

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<sup>41/</sup> See CTIA at 8; Western Wireless at 34.

<sup>42/</sup> See UTStarCom at 3.

<sup>43/</sup> See, e.g., Corr Wireless at 3; National Telecommunications Cooperative Association at 12; OPASTCO and RTG at 13.

<sup>44/</sup> See 47 U.S.C. § 27.14.

### III. WIRELESS ETCs ARE A CRITICAL COMPONENT TO ENSURING THE PROVISION OF WIRELESS SERVICES TO RURAL AREAS

AWS agrees that the Commission’s rules governing universal service support for ETCs affect the deployment of wireless services to rural areas.<sup>45/</sup> The comments make clear that the ETC designation process for wireless carriers has brought a variety of new and innovative telecommunications services to rural, remote, and tribal lands, including to some areas that previously had no telecommunications services at all.<sup>46/</sup> As the Rural Cellular Association notes, at least 24 wireless carriers have obtained ETC status in the rural areas of at least 16 states and territories since the initial adoption of the ETC rules.<sup>47/</sup> Rather than undermine competition as the South Dakota Telecommunications Association contends,<sup>48/</sup> the current ETC rules provide “exactly the right incentive for [carriers] to extend service into areas that would otherwise not be economically feasible to construct and maintain.”<sup>49/</sup>

In order to ensure that the ETC process continues to promote the deployment of wireless services, remove barriers to entry, and enhance competition,<sup>50/</sup> the Commission should not impose *additional* burdens on wireless providers seeking to obtain ETC status, such as a requirement to provide equal access to long distance carriers. Western Wireless notes that some state commissions and other parties have sought to apply outdated, wireline-centric obligations

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<sup>45/</sup> *NOI* ¶ 30.

<sup>46/</sup> *See, e.g.*, CTIA at 3; Dobson at 17; Rural Cellular Association at 9; Smith Bagley at 6; Western Wireless at 5-6; Marion County Chamber of Commerce at 1; Hattiesburg Chamber of Commerce at 1.

<sup>47/</sup> Rural Cellular Association at 9.

<sup>48/</sup> *See* South Dakota Telecommunications Association at 19.

<sup>49/</sup> Smith Bagley at 6.

<sup>50/</sup> *See* Dobson at 17.

to wireless carriers as a condition to obtaining ETC status.<sup>51/</sup> The imposition of such requirements would needlessly limit the number of wireless carriers seeking or obtaining ETC status,<sup>52/</sup> which would reduce the number of wireless providers serving rural areas -- the primary recipients of wireless ETC designations. Such a result would hardly serve the interests of rural Americans in access to the fullest range of telecommunications services. To avoid this result, the Commission should hold fast to its technology-neutral stance on the ETC designation process and affirm that no additional obligations may be imposed on wireless carriers as a condition to obtaining ETC status and receiving universal service support.<sup>53/</sup>

As numerous carriers suggest, rather than add new burdens, the Commission should streamline and simplify the current ETC designation process to ensure that rural areas continue to receive the benefits of such designations.<sup>54/</sup> The ETC designation process is often a difficult, multi-layered process for wireless carriers and often takes years to complete.<sup>55/</sup> Although

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<sup>51/</sup> See Western Wireless at 19, 28.

<sup>52/</sup> See Rural Cellular Association at 8.

<sup>53/</sup> See Western Wireless at 28-29; Rural Cellular Association at 8; *see also* Dobson at 16-17; CTIA at 2-3. As AWS has explained previously, treating wireless carriers seeking ETC status differently than wireline carriers seeking the same benefits would be inconsistent with the principles of competitive neutrality and the Commission's deregulatory goals. *See generally* *Petition of the State Independent Alliance and the Independent Telecommunications Group for a Declaratory Ruling that the Basic Universal Service Offering Provided by Western Wireless in Kansas Is Subject to Regulation as Local Exchange Service*, WT Docket No. 00-239, Opposition of AT&T Wireless Services, Inc. to Petition for Reconsideration and Clarification (filed Oct. 16, 2002) ("AWS Kansas Opposition"). As the Commission previously found, "competitive neutrality does not require [commercial mobile radio service ("CMRS")] carriers to provide equal access merely because incumbent local exchange carriers ["ILECs"] provide it." *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 79 (1997). Forcing CMRS carriers to emulate the ILECs' regulatory scheme as a condition of ETC status lacks any basis in law or policy. An equal access requirement, for instance, would be inconsistent with wireless carriers' statutory exemption from that obligation. *See generally* AWS Kansas Opposition (citing 47 U.S.C. § 332(c)(8)).

<sup>54/</sup> See CTIA at 5; Western Wireless at 19-20; Dobson at 16; Monet at 8.

<sup>55/</sup> See Western Wireless at 19-20.

substantial progress has been made, more needs to be done to ensure that wireless providers can easily and efficiently obtain ETC status and begin to serve rural areas. AWS supports Monet's view that relaxation of the eligibility requirements for obtaining ETC status would reduce the costs of deploying wireless services to rural communities and therefore enhance wireless competition in those areas.<sup>56/</sup>

#### **IV. THE COMMISSION SHOULD NOT ALLOW INCREASED POWER FOR UNLICENSED OPERATIONS IN RURAL AREAS AT THIS TIME**

Many commenters responded to the Commission's inquiry regarding the extent to which unlicensed spectrum is being used to provide wireless services to rural areas.<sup>57/</sup> The majority of these commenters are wireless Internet service providers ("WISPs"), which use unlicensed spectrum bands to provide broadband applications to rural consumers.<sup>58/</sup> While many of these commenters ask the Commission to increase the power levels for unlicensed devices operating in rural communities, none of them address the heightened interference risk posed by operating at such levels. In fact, as other commenters point out, allowing unlicensed devices to operate at higher power levels would pose a threat to licensed incumbent operations.<sup>59/</sup> Until more is known about the interference that may be caused by such operations, the Commission should not allow unlicensed devices to operate at higher power levels in rural areas.<sup>60/</sup> Rather, unlicensed

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<sup>56/</sup> See Monet at 8.

<sup>57/</sup> NOI ¶ 29.

<sup>58/</sup> See, e.g., CC Net at 1; Applegate Broadband LLC at 1; Old Colorado City Communications at 1; WaveRider Communications at 1; Slingshot Wireless at 1; Redline Communications at 1.

<sup>59/</sup> See South Dakota Telecommunications Association at 18-19; see also NOI at n.97 (citing to NTCA 2002 Wireless Survey Report).

<sup>60/</sup> See AWS Ex Parte Spectrum Comments at 13 (discussing the relationship between interference and increased flexibility); *Commission Seeks Public Comment on Spectrum Policy*

devices should only be permitted to operate at higher power levels in conjunction with spectrum leasing or other negotiations with the incumbent licensee to avoid the potential for harmful interference.<sup>61/</sup> In addition, such a power increase should only be considered in conjunction with raising the power limits for *licensed* services as well, which, as the Commission notes, could also improve the provision of spectrum-based services in rural areas.<sup>62/</sup>

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*Task Force Report*, ET Docket No. 02-135, Comments of AT&T Wireless Services, Inc., at 13 (filed Jan. 27, 2003) (noting the need for a greater understanding of interference generally and the noise environment in particular).

<sup>61/</sup> See, e.g., Itron at 1; Dobson at 12.

<sup>62/</sup> *NOI* ¶ 27; see also *Commission Seeks Public Comment on Spectrum Policy Task Force Report*, ET Docket No. 02-135, Comments of the Rural Telecommunications Group, at 12 (filed Jan. 27, 2003).

## CONCLUSION

For the foregoing reasons, the Commission should maintain its existing regulations rather than adopting specialized licensing and definitional rules for rural areas. In addition, the Commission should reaffirm the application of its current ETC rules to wireless carriers and streamline the ETC designation process to ensure that wireless ETCs may continue to serve rural areas. Finally, the Commission should not permit unlicensed devices to operate at higher power levels in rural areas because of the potential interference to incumbent providers.

Respectfully submitted,

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I, Angela Collins, hereby certify that on this 19th day of February 2003, copies of the foregoing "Reply Comments of AT&T Wireless Services, Inc." were sent via first-class mail, postage prepaid, to the following:

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