NORTH CAROLINA COMMUNITY COLLEGE SYSTEM
H. Martin Lancaster, President

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
Room TW-A325
445 12th Street, SW
Washington, DC 20554

October 23, 2003

Re: WT Docket 03-66
North Carolina Community College System
North Carolina Association of Community College Presidents
Reply Comments on RM-10586

Proposed Rulemaking to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands

Dear Ms. Dortch:

The North Carolina Community College System ("NCCCS") and the North Carolina Association of Community College Presidents ("NCACCP"), (together the "Community College Commenters")[1] file these Reply Comments regarding the "Proposed Rulemaking to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands (the "NPRM")".

The Community College Commenters support the Comments provided by the "Coalition" of the Wireless Communications Association ("WCA"), National ITFS Association ("NIA") and Catholic Television Network ("CTN") on the Proposed Rule Making to modify the MDS and ITFS regulatory regime to reflect new opportunities and realities in the market for wireless services and to further enhance the quality and scope of educational service offerings, as well as the separate Comments filed by CTN and NIA.

In addition, the Community College Commenters specifically provide the following Reply Comments on:
(1) the discussion in ¶¶ 107-118 of the NPRM of restriction on eligibility for ITFS spectrum, including;
(2) the discussion in ¶¶ 60-82 of the two approaches for allowing use of unassigned spectrum – licensed and unlicensed uses,

[1] The Community College Commenters represent 22 of North Carolina's 58 community colleges that have been granted conditional licenses to for ITFS stations as well as 14 community colleges whose applications for ITFS licenses are pending. These Licensees and applicants include ITFS channel groups in all of the markets in North Carolina.

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(3) the discussion at ¶¶ 49-57 of the NRPM on two basic ways of modifying the band plan to resolve the problem resulting from both high power and low power operations,

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1. The Community College Commenters strongly support the Comment from the Education Community[2] "that eliminating the educational requirements for ITFS licensees, permitting commercial entities to hold ITFS licenses and/or allowing licensees to sell their licenses to commercial bidders would irreparably damage the education community.[3]"

   Reducing or eliminating current eligibility restrictions for ITFS licensees could potentially eliminate the use of the spectrum for educational purposes by allowing non-educational entities to purchase licenses, thereby making the spectrum available to the highest bidder. The Community College Commenters understand that the FCC may be seeking to provide ITFS licensees with greater flexibility in their licenses, including the ability to capture the financial value of their licenses by selling them to commercial operators. However, the end result would be that the ITFS educational spectrum would go to the highest bidder, and thereby become 'commercial' spectrum that would no longer be available for education and related economic development. In many areas, including rural counties of North Carolina and other states, with low population density, wide-spread broadband access to Internet-based services is only economically feasible through the use of wireless spectrum, due to the prohibitively high cost per square mile for wireline broadband services such as DSL and cable modems. Such wireless services are not technically feasible through unlicensed frequencies due to the lack of interference protection.

   Examples of applications that would not be economically feasible in low-population-density areas if the ITFS spectrum were available to commercial bidders include web-based and streaming video for instruction in adult literacy / basic skills, emergency medical and fire services, law enforcement and corrections that are provided at a variety of locations by community colleges throughout the State. The role of community colleges in providing training for citizens whose employment opportunities are limited by the closing of manufacturing plants and continued reduction in agricultural employment would be significantly limited if ITFS spectrum was made available to the highest bidders.

   The Comments submitted by Spectrum Markets, the Information Technology Industry Council (ITI) and Cellular Telecommunications & Internet Association (CTIA) clearly demonstrate these Commenters intentions to utilize the ITFS bandwidth to provide unrelated services such as cellular telephone services rather than meet educational and economic development needs. These Comments indicate a misconception that the FCC's responsibility for protecting the "public good" is fulfilled through private businesses with the opportunity to

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[2] The American Association of Community Colleges (AACC), American Association of School Administrators (AASA), Association of American Universities (AAU), American Council on Education (ACE), Association of Community College Trustees (ACCT), Association for Communications Technology Professionals in Higher Education (ACUTA), Association of Educational Service Agencies (AESA), Association of Research Libraries (ARL), California Community Colleges (CCC), Consortium for School Networking (CoSN), Council of Chief State School Officers (CCSSO), EDUCAUSE, International Society for Technology in Education (ISTE), The National Association of College and University Business Officers (NACUBO), National Association of Independent Schools (NAIS), National Association of State Universities & Land-Grant Colleges (NASULGC), National Education Knowledge Industry Association (NEKIA), National Parent Teacher Association, and University Continuing Education Association (UCEA)

[3] Education Community Comment, p. 8

provide cellular communications services to their subscribers, who are characterized as the "public". The Community College Commenters believe that this limited concept of "public good" is invalid, especially in comparison to the clear public benefits from increased access to training and education.

The Community College Commenters also believe that Comments of "Rural Commenters"[4] and others, and the Reply Comment from the Network for Instructional Television (NITV) represent an attempt by organizations that have previously provided services in collaboration with educational licensees to obtain control of the ITFS spectrum rather than continuing to assist educational licensees in utilizing the ITFS spectrum for its intended purpose.

The Community College Commenters therefore strongly support continuing to require all ITFS licensees to be educational institutions, state educational entities (such as school districts) or non-profit educational organizations that provide service to institutions or state educational entities.

2. Licensing of currently unassigned ITFS spectrum opens the possibility that unassigned ITFS spectrum could be used on an unlicensed basis under Part 15 of the FCC's rules. It is very likely that this use would have the result of interfering with educational uses when the ITFS spectrum is eventually assigned to an eligible educational licensee based on pending license applications. The Community College Commenters therefore oppose this approach, which is both unworkable as a practical matter and would remove ITFS spectrum from educators. As noted in 1., above, the loss of ITFS spectrum would severely impair the ability of community colleges to provide training opportunities, especially in low-population density areas.

   The Community College Commenters therefore strongly support continuing to limit the use of ITFS spectrum to Licensees to ensure that future Licenses are not precluded from using the licensed spectrum without interference from unlicensed operations.

3. The NPRM at ¶¶ 49-57 suggests that there are two basic ways of modifying the band plan to resolve the problem resulting from both high power and low power operations:
   - One way is to segment the band (either into three main segments, with the high power segment located between two low-power segments, as the Coalition suggests, or using other segmentation approaches it examined in the 2001 *3G Final Report*);
   - The other approach is not to segment the band at all, but impose across-the-board power limits. In essence, this solves the incompatibility between high power video and low power data operations by simply eliminating existing or planned high power video and data transmissions, forcing all future ITFS service to be provided on a cellularized basis.

   Since not segmenting the ITFS band at all would eliminate the existing and potential use of high-power video and data transmissions, this approach would make it economically infeasible to provide educational services in areas of low-population density where cellular-based systems would be too costly to implement in support of the educational services described in 1., above. For this reason, the Community College Commenters strongly support segmentation of the ITFS band as proposed by the Coalition to facilitate economical delivery of education services, particularly in rural areas.

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[4] Adams Telcom, Inc., Central Texas Communications, Inc. & Leaco Rural Telephone Cooperative, Inc.

Finally, the Community College Commenters note that the Wireless Telecommunications Bureau of the Federal Communications Commission is a partner with the U.S. Dept. of Agriculture's Rural Development-Rural Utilities Service in the Federal Rural Wireless Outreach Initiative. In many states, including North Carolina, educational institutions, including public schools, community colleges and universities, are actively pursuing similar partnerships with government and private organizations to utilize broadband communications technologies to provide economic development in rural areas. These partnerships at the Federal and State level require that the FCC's Rule Making recognize and encourage the critical role of the ITFS band in providing educational services in rural areas. The Community College Commenters specifically recommend that the Rule Making include the following:

1. Continued restriction of eligibility for ITFS licenses to educational institutions, state educational entities (such as school districts) or non-profit educational organizations that provide service to institutions or state educational entities;
2. Continuing to limit the use of ITFS spectrum to Licensees to ensure that future Licensees are not precluded from using the licensed spectrum without interference from unlicensed operations, and
3. Segmentation of the ITFS band as proposed by the Coalition to allow continued and planned uses of high-power video and data systems.

Thank you for the opportunity to provide Reply Comments on the Proposed Rule Making.

Sincerely,

/s/ *H. Martin Lancaster*

H. Martin Lancaster, President
North Carolina Community College System

/s/ *Kenneth A. Boham*

Kenneth A. Boham, President
North Carolina Association of
Community College Presidents