

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

In the Matter of	)	
	)	
Service Rules for the Advanced Wireless	)	WT Docket No. 12-357
Services H Block—Implementing Section	)	
6401 of the Middle Class Tax Relief and Job	)	
Creation Act of 2012 Related to the 1915-	)	
1920 MHz and 1995-2000 MHz Bands	)	

**NTCA—THE RURAL BROADBAND ASSOCIATION  
REPLY TO OPPOSITIONS**

NTCA—The Rural Broadband Association<sup>1</sup> respectfully submits these reply comments in support of the Rural Wireless Association, Inc., (f/k/a Rural Telecommunications Group, Inc.) (“RWA”) Petition for Reconsideration filed in the above-captioned proceeding.<sup>2</sup> While the instant NTCA filing is a “Reply to Opposition” to the Petition for Reconsideration, no party filed in opposition challenging the RWA Petition. The only party to comment on the RWA Petition expressed its support.<sup>3</sup>

The *RWA Petition* asks the Federal Communications Commission (“FCC” or “Commission”) to reconsider certain provisions of the “*H Block Report and Order*” adopted on

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<sup>1</sup> NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers (“RLECs”). All of NTCA’s members are full service local exchange carriers and broadband providers, and many provide wireless, video, satellite, and competitive local and/or long distance services as well.

<sup>2</sup> *Petition For Reconsideration Of The Rural Wireless Association*, WT Docket No. 12-357 (filed Sept. 16, 2013) (“*RWA Petition*”).

<sup>3</sup> Comments in support of the RWA Petition for Reconsideration of the NTELOS Holdings Corp. (“nTelos”), WT Docket No. 12-357 (fil. Nov. 12, 2013).

June 27, 2013.<sup>4</sup> The *Order*, among other things, adopted Economic Area (“EA”)-based license areas for 1915-1920 MHz and 1995-2000 MHz band (“H Block”) licenses. NTCA supports the *RWA Petition* and urges the Commission to reconsider the *H-Block Report and Order* and adopt Cellular Market Area (“CMA”)-based license areas for H Block licenses.

The Commission’s decision to license the H-block spectrum according to EAs is contrary to law and good policy. As the Commission is well aware, Congress adopted Section 309(j) of the Communications Act (the “Act”) to “avoid[] excessive concentration of licenses,” and to “ensure that small businesses [and] rural telephone companies...are given the opportunity to participate in the provision of spectrum-based services.”<sup>5</sup> Unfortunately, as the *RWA Petition* demonstrates, the *H-Block Report and Order* runs contrary to this statutory directive. As NTCA has argued on several occasions,<sup>6</sup> EA-based licenses are likely to end up in the hands of the nation’s largest carriers that already hold much of the limited and valuable spectrum necessary

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<sup>4</sup> Service Rules for Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands, WT Docket No. 12-357, Report and Order, 28 FCC Rcd 9483 (rel. June 27, 2013) (“*H-Block Report and Order*” or “*Order*”).

<sup>5</sup> 47 U.S.C. § 309(j)(3)(B) and (4)(D).

<sup>6</sup> Comments of NTCA—the Rural Broadband Association, GN Docket No. 12-268 (fil. Jan. 25, 2013), p. 4 (arguing that licensing spectrum in the 600 MHz band on the basis of Economic Areas “all but ensures that no truly small carriers will succeed at auction”); *Ex Parte* Letter from Jill Canfield, NTCA—the Rural Broadband Association to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 12-268 (fil. Aug. 2, 2013), p. 2 (discussing the 600 MHz band and “the consumer benefit of CMA licensing in terms of faster service rollout to rural areas and increased competitive offerings available to wireless consumers”); *Ex Parte* Letter from Jill Canfield, NTCA—the Rural Broadband Association to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 12-268, *et al.* (fil. Mar. 1, 2013), p. 2 (discussing 600 MHz spectrum and stating that EA “licenses are generally too large to provide a meaningful spectrum opportunity to small, rural telecommunications providers”); Comments of the National Telecommunications Cooperative Association, WT Docket Nos. 07-195 & 04-356 (fil. Jul. 25, 2008), p. 4.

for the provision of advanced wireless services. These carriers, understandably, concentrate their build-out efforts and resources in more profitable, easier-to-serve, urban areas where there are larger addressable markets. For this reason, rural consumers often depend on smaller, local wireless providers for service in the areas where they live and work. This basic reality necessitates a strict adherence to the precepts of Section 309(j), which requires the Commission to grant small businesses, and specifically “rural telephone companies,” the opportunity to participate meaningfully in spectrum auctions. EA-based licenses do not provide small rural carriers a meaningful opportunity to compete at auction against the resources of a nationwide carrier.

The *RWA Petition* not only demonstrates that the *H-Block Report and Order* fails to meet the Commission’s statutory duty in creating the auction structure; it also demonstrates that the *Order* is based, in part, on faulty assumptions and a selective reading of the statute. As RWA points out,<sup>7</sup> the *Order* claims that it will enable the Commission to “meet several statutory goals, including providing for the efficient use of spectrum; encouraging deployment of wireless broadband services to consumers; and promoting investment in and rapid deployment of new technologies and services.”<sup>8</sup> This selective statutory reference by the Commission unfortunately fails to recognize the agency’s duty to *also* promote the development and rapid deployment of new technologies, products, and services for the “the benefit of the public, including those residing in rural areas.”<sup>9</sup> RWA further notes that the Commission “improperly based its decision

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<sup>7</sup> *RWA Petition*, p. 5

<sup>8</sup> *H-Block Report and Order*, ¶ 37.

<sup>9</sup> 47 U.S.C. § 309(j)(3)(A).

to adopt EAs on the fact that licenses for the frequency bands adjacent to the H Block were licensed based on EAs and H-Block licensees will be able to nest their licenses into larger aggregated areas.”<sup>10</sup> RWA is correct in its observation that the Act “does not require the Commission to adopt licensing schemes that allow licensees to ‘nest’ their licenses with existing licenses.”<sup>11</sup> It instead does require the Commission to enable rural carriers to meaningfully participate in spectrum auctions in order to provide their customers with access to new and advanced wireless services. Finally, it’s also worth noting that the *Order* appears to rely, at least in part, on the comments of an organization that represents larger carriers as evidence that an EA-based licensing scheme is supported by small, rural wireless carriers.<sup>12</sup> RWA corrects the record in this regard.<sup>13</sup>

Wireless spectrum is a limited resource and the lifeblood of wireless services. It’s value is only increasing in light of the exploding “[d]emand for wireless broadband services and the network capacity associated with those services is surging...[and] the number and type of devices being used by consumers to access content over wireless broadband networks has proliferated.”<sup>14</sup>

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<sup>10</sup> *RWA Petition*, p. 5.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*, pp. 6-7 (“It is important to note that to the extent the Commission relied on comments filed by the Competitive Carrier Association (“CCA”), whose membership includes Sprint and T-Mobile, to support adopting EAs, the CCA has since filed Reply Comments in response to the H Block Competitive Bidding Notice of Proposed Rulemaking, stating ‘...smaller carriers will not have the financial resources to participate in this auction, and others, absent use of smaller geographic license areas like CMAs’”).

<sup>14</sup> Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands, GN Docket No. 13-185, Notice of Proposed Rulemaking and Order on Reconsideration, FCC 13-102 (rel. Jul. 23, 2013), ¶ 4.

nTelos correctly states that the H Block will be the first wireless spectrum auctioned in five years.<sup>15</sup> NTCA joins RWA in urging the Commission to not allow this auction to pass without granting rural carriers the opportunity to keep up with the demand for wireless services amongst their consumers.

Finally, it should be noted that if the Commission licenses spectrum in the H-Block on the basis of CMAs, *providers of all sizes*—large and small—would have the opportunity to meaningfully participate; indeed, larger carriers interested in regional or nationwide footprints would be free to bid on and aggregate multiple CMAs. On the other hand, the secondary market for spectrum has not historically promoted access to spectrum for rural carriers. In short, CMA-based licenses offer the Commission “the best of both worlds” by enabling consumers, whether they are served by small rural carriers or larger carriers, the opportunity to participate in the wireless revolution enabled by this nation’s limited stock of spectrum.

Respectfully Submitted,



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<sup>15</sup> nTelos, pp. 3-5.