

WRITTEN STATEMENT BY
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ON BEHALF OF
RURAL CELLULAR ASSOCIATION

BEFORE THE
UNITED STATES SENATE COMMITTEE
ON
COMMERCE, SCIENCE AND TRANSPORTATION

WIRELESS ISSUES/SPECTRUM REFORM

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I. INTRODUCTION

I am Tom Walsh, General Manager of Illinois Valley Cellular. Our company has provided wireless service for over sixteen years to small rural towns in north central Illinois such as Ottawa and La Salle-Peru. I am also President of the Board of Rural Cellular Association (RCA), the trade association for approximately 100 of the nation's smallest rural wireless providers. RCA is pleased to offer the Committee its views on spectrum policy.

Rural Cellular Association represents the interests of nearly 100 small and rural wireless licensees providing wireless telecommunications services to approximately 14.6 million people in more than 135 rural and small metropolitan markets. RCA members historically have led the industry in making the investments required to offer wireless services in the most rural areas of the country.

RCA believes that high quality wireless service is the key to allowing customers in rural areas to gain full access to broadband and other advanced telecommunications services. To achieve that goal the Federal Communications Commission (FCC) must adopt auction plans that allow equitable participation in rural areas by the small businesses that serve rural Americans. Because RCA members live, work and play in the rural communities we serve, we know first hand that expanding options for rural carriers to purchase spectrum will increase rural access to advanced telecommunications services and accelerate the availability of competitive broadband services beyond metropolitan areas. Providing opportunities for small and rural carriers to compete for spectrum will also deliver increased economic development and improved 911 and E-911 emergency response services, especially in rural communities that lack those services today.

Policies that encourage rural carriers' participation in spectrum auctions open the door to rural consumers having the health, safety, and economic development opportunities that are critical to bridge the technology gap between urban and rural America.

RCA asks that Congress not lose sight of challenges faced by smaller entities that have a sincere desire to offer rural residents and businesses the same services and choices that are available to the public in metropolitan areas. Those challenges are:

- (1) Inability of small entities to compete effectively for licenses auctioned for geographic areas larger than MSA/RSA;
- (2) FCC policies that allow inefficient use of spectrum. We are disappointed to see “wasted” spectrum where licensees of large areas do not construct facilities to serve all of their market areas; and
- (3) FCC procedures that would hide the identity of bidders during spectrum auctions and in some auctions provide for “closed” bidding on certain licenses.

II. Smaller License Areas Would Open Opportunities to Small Businesses and Expedite Competitive Wireless Broadband Services to Rural Areas

As to the first problem I identified, small carriers desiring to provide broadband and other wireless services in rural areas typically cannot afford to compete at auction for licenses that have service areas that combine rural and major metropolitan areas. For this reason, RCA believes the most effective means to foster the prompt availability of competitive wireless services to rural markets is to make available more licenses in any spectrum auction with service

areas no larger than Cellular Market Areas (CMAs) which are the Rural Service Areas (RSAs) and Metropolitan Service Areas (MSAs) that were used by the FCC for licensing cellular systems. Unfortunately, when rural counties are grouped in license areas with metropolitan areas, as is the case with Basic Trading Areas (BTAs), Economic Areas (EAs) or the largest geographic license areas known as Economic Area Groupings (EAGs), the auction prices for licenses can be expected to soar beyond the means of most small entities, at least those that are not owned in part by large companies. Large-companies have a built-in advantage in the auction system because their purchasing clout can edge out smaller entities attempting to acquire spectrum. Furthermore, wireless service history shows that large entities that acquire licenses for large geographic areas do not make a priority of bringing the benefits of the latest wireless technologies to the rural portions of their license areas. In sharp contrast, RCA members historically have built and continue to build out their license areas even in the most rural of areas. In fact the small rural carrier is often the sole provider of wireless services in rural towns away from major highways. Partitioning, disaggregation and spectrum leasing do not provide the best solutions because specifications for service are typically dictated by the large company license holder. The effect of excessively large or inefficiently sized geographic license areas is a lost opportunity to allow spectrum to reach an entity that would make best use of it.

However by separating the rural counties from metropolitan license areas, by the use of CMAs with RSA/MSA boundaries, entities of all sizes can participate in the auctions and each participant can focus attention on the licenses that best conform to their individual service plans. Use of RSAs and MSAs as license areas is the proper balance in market size and allows all bidders to mix and match rural and urban areas according to their individual business plans and financial capabilities. The availability of RSA licenses, which by definition encompass only

counties that are outside of all MSAs, is especially important to small wireless carriers, and it does not disadvantage the large carriers because they can make an independent choice of whether to pursue licenses for rural markets in addition to metropolitan markets.

III. Improving Access To and Use of Spectrum in Rural Areas

The second problem I wish to bring to your attention involves “wasted” license rights as the result of unused spectrum in rural areas. The FCC’s current policies allow inefficient use of spectrum. Rural consumers are best served by the creation of small license areas that encourage more efficient use of spectrum. Spectrum reform should not allow licensees to retain rights to spectrum in areas where facilities are not constructed after a reasonable period of time. The FCC recognized this problem years ago in the context of cellular service and required all licensees, five years after obtaining a license, to file maps that showed where service was provided and where markets were unserved. This allowed interested companies to file applications for unserved area of a minimum size announced by the FCC. If multiple applications are received the FCC can conduct an auction of the available area, and re-license the area to the highest bidder.

RCA supports adoption of a “substantial service” alternative construction requirement for all wireless services that are licensed on a geographic area basis. Geographic area and population-based criteria would be available to show “substantial service” to an area.

Rural markets are best served by spectrum policies that require carriers to “use it or lose it,” thereby providing an incentive for carriers to build out the rural areas for the present and potential customers and revenues they offer. Spectrum reform policy should not impose a

draconian license forfeiture penalty where a market is not totally constructed, rather only the portion of the market not constructed should be subject to the unserved area re-licensing process.

IV. Spectrum Policies that Promote Construction in Rural Areas Lead to Enhanced Public Safety and to Rural Area Economic Development

Spectrum policies that promote participation in auctions by small and rural carriers will lead to improved 911 and E-911 emergency response services as facilities are constructed in the rural areas. Many rural communities lack E-911 services today. To allow more emergency calls to be completed and to help first responders locate and assist persons in distress, Congress should take into consideration the special needs of rural carriers as they prepare for upcoming spectrum auctions.

Small and rural carriers are also a significant contributor to economic development in rural areas. They employ people in rural areas but perhaps more importantly, the availability of advanced wireless services in rural areas encourages business expansion in rural areas. There is no better way to add to the economic base of a rural market than to have infrastructure in place that allows businesses to move to the rural market and have essentially the same wireless communications available as exist in metropolitan areas.

Encouraging small carrier participation in auctions is largely within the control of Congress and the FCC. In addition to small geographic license areas the auction procedures should be designed so as not to favor large entities over small entities. RCA is concerned about a proposal by the FCC to alter auction procedures for the upcoming auction of Advanced Wireless Services spectrum. That proposal would shield the identity of bidders from other bidders during the

course of the auction. A “blind bidding” process would deter participation by RCA members who want to know, round by round in the bidding, what other entities are bidding for the same licenses, and for licenses in the region that surrounds a market of interest. This is a problem because small wireless carriers depend upon roaming agreements with larger carriers in order to allow customers to continue to have wireless service available when they travel beyond the rural carriers’ markets. In a blind bidding scenario RCA members would not know if they should bid on licenses because they would lack confidence that their networks would be compatible with the networks of bidders for surrounding markets in the region.

Lastly, RCA urges Congress to avoid policies that create “set asides” or closed auctions as a way to encourage small carrier participation in auctions. Because of the realities of the telecommunications market place, set asides discourage participation in auctions and lower auction revenues by disqualifying a meaningful number of rural carriers because their own gross revenues exceed a threshold stipulated by the FCC. The FCC rule stipulates that a spectrum purchaser must not exceed revenues of \$125 million in each of the last two years. The FCC’s attribution rules cause the gross revenues of owners of applicants to be counted, often disqualifying them from eligibility. To circumvent that rule there has been extensive use of “shell companies” by large wireless carriers to avoid attribution of large carriers’ gross revenues to the applicant. The FCC is working now to end that tactic, and RCA encourages the FCC in that regard. But if licenses are no longer set aside for closed bidding there would also be less incentive for large companies to find ways around the rules. Bid credits remain a useful tool to promote small business participation in auctions, and RCA asks that any legislation in this area require the FCC be to continue to make use of bid credits in future auctions.

V. Conclusion

In conclusion, technology and innovation have created an exciting new world in telecommunications where no one could imagine that the demand for such services in rural areas of the country would be as compelling as it is today. A fresh review of how spectrum should be auctioned, in terms of market size and auction procedures, is much needed. To ensure greater availability and the expansion of quality telecommunications services in rural areas, Congress should:

- 1) Ensure that spectrum made available by the FCC through auctions is offered according to geographic license areas, specifically Cellular Market Areas comprised of MSAs and RSAs, which are small enough to encourage participation by small businesses. MSA/RSA licensing plans will encourage expansion of wireless facilities in rural areas which will accelerate rural broadband deployment which, in turn, will promote public safety, educational opportunities and economic development in rural areas;
- 2) Require the FCC, to extend the “unserved area licensing” process to PCS and other radio services to allow entities willing to use spectrum where current licensees have not constructed facilities to apply for and obtain licenses for unserved areas; and
- 3) Promote spectrum auction procedures that encourage small and rural carrier participation in auctions. The FCC’s proposed use of “blind bidding” in auctions should not be permitted to occur, nor should licenses in future auctions be set aside for small entities because that practice encourages circumvention of rules by large companies.