

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

In the Matter of)
)
Partitioning, Disaggregation, and) WT Docket No. 19-38
Leasing of Spectrum)

To: The Commission

**COMMENTS OF
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**

The National Rural Electric Cooperative Association (“NRECA”) hereby submits its Comments in response to the Commission’s Notice of Proposed Rulemaking exploring potential changes to its partitioning, disaggregation, and leasing rules to increase spectrum access by small and rural carriers.¹ NRECA appreciates the Commission’s focus on the availability of advanced telecommunications capabilities in rural areas and believes that certain changes to the Commission’s rules will promote rural services deployment as explained herein.

I. BACKGROUND

NRECA is the national service organization for more than 900 not-for-profit rural electric cooperatives that provide electric energy to approximately 42 million people in 47 states -- approximately 12 percent of all U.S. electric customers. Rural electric cooperatives serve 88% of U.S. counties, including 327 of the Nation's 353 "persistent poverty counties.

Rural electric cooperatives were formed to provide safe, reliable electric service to their member-owners at the lowest reasonable cost. Rural electric cooperatives are dedicated to improving the communities in which they serve; management and staff of rural electric

¹ Partitioning, Disaggregation, and Leasing of Spectrum, *Notice of Proposed Rulemaking*, WT Docket No. 19-38, FCC 19-22 (Rel. Mar. 15, 2019).

cooperatives are active in rural economic development efforts. Electric cooperatives are private, not-for-profit entities that are owned and governed by the members to whom they deliver electricity. Electric cooperatives are democratically governed and operate according to the seven Cooperative Principles.²

NRECA and its members are intensely interested in the deployment of advanced telecommunications capabilities within the rural communities and areas in which electric cooperatives provide electric service.³ In many of our members' communities, incumbent service providers do not offer fixed broadband service that meets the current fixed broadband benchmark of 25 Mbps download/3 Mbps upload (25/3 Mbps), prompting many electric cooperatives to undertake the investments and commit the resources to deploy fixed broadband services within these communities. Over 100 NRECA members provide fixed broadband service today, deploying fiber-based, fixed wireless or combination fiber and fixed wireless networks. Forty-two rural electric cooperatives participated in the Commission's recent Connect America Phase II auction ("CAF II Auction"),⁴ securing over \$254,000,000 in support over ten years.⁵

In addition to deploying wireless communications networks to serve their members, electric cooperatives make use of a wide variety of wireless communications services to meet the private, internal requirements of operating the electric grid. NRECA member companies are authorized by the Commission to operate facilities in the Part 90 Private Land Mobile Radio ("PLMR") service, Part 101 Private Operational-Fixed Microwave Service ("POFS"), and Part

² The seven Cooperative Principles are: Voluntary and Open Membership, Democratic Member Control, Members' Economic Participation, Autonomy and Independence, Education, Training and Information, Cooperation Among Cooperatives, and Concern for Community.

³ NRECA and its members are focused on fixed broadband service.

⁴ See *Connect America Fund Phase II Auction Closes*, WC Docket No. 10-90, Public Notice, FCC 18-887, Attachment A (rel. Aug. 28, 2018) (*Auction 903 Results*).

⁵ *Id.*

27 Wireless Communications Service, among others. NRECA’s members have increasingly sought to acquire auctioned spectrum, particularly through the secondary market. This spectrum is used for supervisory control and data acquisition systems (“SCADA”) to remotely monitor and control substation and field devices, teleprotection to guard against potentially hazardous faults, distribution automation to intelligently route power through the grid, metering, mobile radio, video, security, and other applications. Wireless communications are critical to the safe, reliable, and effective electric services NRECA’s members provide to rural America.

II. COMMENTS

NRECA supports the Commission’s efforts “to facilitate the deployment of advanced telecommunications services in rural areas.”⁶ Countless communities served by electric cooperatives remain on the unserved/underserved side of the digital divide. The deployment of wireless broadband service in rural communities would increase incomes, improve education, and provide better access to healthcare services. The absence of robust fixed broadband services in rural communities imposes a high economic cost on rural communities. A recent nationwide study performed by NRECA staff concluded that the lack of fixed broadband in 6.3 million electric co-op households translates to more than \$68 billion in lost economic value measured over 20 years.⁷ These findings were echoed in a 2018 Purdue University study of the rural communities served by seven electric cooperatives in the State of Indiana.⁸ The report calculates an aggregate benefit of \$12.0 billion measured over twenty-years from broadband deployment in

⁶ NPRM at 6.

⁷ NRECA, Business & Technology Report, *Unlocking the Value of Broadband for Electric Cooperative Consumer-Members*, at 3 (Sept. 2018) available at http://www.electric.coop/wp-content/uploads/2018/09/Unlocking-the-Value-of-Broadband-for-Co-op-Consumer-Members_Sept_2018.pdf (NRECA Broadband Report).

⁸ Purdue University, *Research & Policy Insights: Estimation of the Net Benefits of Indiana Statewide Adoption of Rural Broadband* (Aug. 2018), available at <https://www.pcrd.purdue.edu/files/media/006-RPINsights-Indiana-Broadband-Study.pdf> (Purdue Broadband Study).

these communities. These benefits are attributed to expanded telemedicine and education opportunities, consumer savings; increased farm income; general economic development; and increased state sales and income tax revenues. Taken as a whole, these benefits provide a 4:1 return on broadband infrastructure investment.⁹ This data strongly supports the development of rules to promote deployment of advanced telecommunications in rural areas. Such rules will also support the Commission's statutory objectives to disseminate licenses among a wide variety of applicants, ensure that rural companies have an opportunity to participate in the provision of spectrum-based services, and promote the availability of innovative services to rural America.¹⁰

NRECA makes the following recommendations:

A. Primary Markets

As a threshold matter, although the Commission is focused on the secondary markets of partitioning, disaggregation and leasing, NRECA suggests that two changes to the manner in which spectrum is assigned through the primary market -- spectrum auctions -- could have a greater impact on promoting rural services.

Auction Bidding Credits - In the recent auction of 600 MHz Band licenses, the Commission offered, for the first time, a rural service provider ("RSP") bidding credit to counter the fact that rural service providers have often faced "challenges in their efforts to obtain financing because the rural areas they seek to serve are not as profitable as more densely-populated markets."¹¹ The RSP bidding credit provides a 15 percent bidding credit to eligible entities that predominantly serve rural areas and have fewer than 250,000 combined wireless,

⁹ *Purdue Broadband Study* at 12-15.

¹⁰ See 47 U.S.C. § 309(j)(3)(A), (B), and (D).

¹¹ Competitive Bidding Update Report and Order, 30 FCC Rcd at 7532, para. 91.

wireline, broadband and cable subscribers.¹² Based on its experience with the 600 MHz auction, the Commission also adopted the RSP for the upcoming auction of Citizens Broadband Radio Service Priority Access Licenses. NRECA strongly supports the continued use of the RSP to encourage auction participation for rural markets.

Likewise, NRECA supports the continued use of the Commission's standardized Part I small business bidding credits.¹³ This program provides tiered bidding credits for entities with average gross revenues not exceeding \$55 million over the preceding three years. Like the RSP, these bidding credits help ensure a diverse group of entities have the ability to participate in the Commission's auction process.

Auction License Sizes - NRECA strongly believes that larger geographic areas for auctioned licenses such as MEAs and PEAs result in lower levels of service in rural areas. This is reflected in the results of deployment under many current spectrum bands. Licensees of larger geographic areas focus deployment in the more densely-populated centers of such areas, leaving less densely-populated areas underserved. Offering licenses by large geographic areas risks a result in which large swaths of rural America are licensed, but not served, by carriers looking to provide service in urban cores. In addition, rural entities will be at a disadvantage in trying to compete at auction when they only seek to purchase less populated areas that are included in larger licenses. NRECA is encouraged that the FCC has recently explored smaller license sizes, such as counties and census tracts, for auctioned licenses. NRECA encourages the Commission to adopt similar smaller license sizes in future auctions.

¹² 47 CFR § 1.2110(f)(4)

¹³ 47 CFR § 1.2110(f)(2)-(4)

B. Secondary Markets

With respect to the secondary markets, NRECA supports efforts to encourage licensees to partition, disaggregate, and/or lease spectrum to rural providers. NRECA believes that adjusted performance requirements could be used to incentivize licensees to sell or lease unused spectrum to smaller, rural providers. For the incentives to be effective, the benefit should be applied to the partitioning/disaggregating licensee. For example, an entity seeking an extension of its construction deadline could receive a presumption that grant of the extension is in the public interest if the licensee partitions or disaggregates a certain percentage of rural spectrum from its licenses. Similarly, the Commission could consider partition or disaggregation of rural spectrum as a factor towards supporting a determination that a licensee has met performance requirements.

NRECA also recommends the FCC formally codify its rural safe harbors for substantial service into its rules and make certain clarifications to those safe harbors. In 2004, the Commission adopted two safe harbors whereby licensees in all wireless services licensed on a geographic basis could meet performance requirements by demonstrating substantial service through coverage of a certain percentage of geography in a percentage of rural areas within a licensed area.¹⁴ Specifically, for mobile wireless services a licensee may demonstrate it has met its performance requirements by providing coverage to, “at least 75 percent of the geographic area of at least 20 percent of the rural areas within the licensed area.”¹⁵ For fixed services licensees must demonstrate deployment of permanent fixed end points in at least 20% of the rural counties in a licensee’s authorized area.¹⁶ Although these safe harbors exist in Commission

¹⁴ See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services et al.*, WT Docket No. 02-382 et al., *Report and Order and Further Notice of Proposed Rule Making*, 19 FCC Rcd 19078, 19123-24 paras. 79-80 (2004) (Rural R&O).

¹⁵ *Id.*

¹⁶ *Id.*

precedent they were never added to the rules, which causes some confusion among prospective partitionees/disaggregates regarding their applicability to any particular service. Further, the Commission should clarify the use of “area” in the rural safe harbors. In practice, the Commission has interpreted “area” to be synonymous with “county”. However, license partitions often include partial counties and it is unclear how these are considered under the rural safe harbors. Excluding *de minimis* portions of partial counties from the rural safe harbor calculation would encourage rural licensees to acquire partitioned spectrum.

NRECA shares the Commission’s concern that while reduced buildout requirements may increase the number of licensees willing to lease, partition, or disaggregate spectrum, it may also decrease deployment of advanced wireless services in rural areas if the reduced performance requirements are applied to the receiving, rural licensee. Likewise allowing reaggregation of spectrum into a larger license may disincentivize rural deployment in some instances. For that reason, NRECA does not support a blanket relaxation or extension of performance requirements for rural areas. However, NRECA recommends the Commission consider the rural nature of a licensed area as a factor in determining whether performance requirements have been met or whether to grant an extension of performance requirements when a licensee has made good faith efforts to cover rural areas. For example, rural cooperatives may cover a large geographic area, but a relatively low population. Such licensees should not be penalized for deployments that do not meet population coverage thresholds more applicable to urban areas.

C. **Private Internal Users** - The MOBILE NOW Act directs the Commission to focus on spectrum availability for “covered small carriers,” which encompasses only common carriers. The Commission should also apply any rule revisions to the use of spectrum to provide advanced telecommunications on a non-common carrier basis and for use of spectrum for

private, internal purposes. As explained above, NRECA's electric cooperative members rely on communications technologies to support their provision of electric service to rural Americans. Applications and devices are continuously evolving to enhance the safety, reliability, and efficiency of the electric grid. This is commonly referred to as the "Smart Grid" and includes advancements in metering, sensing, and grid management that benefit the public. These capabilities are provided through a combination of wired (typically fiber) and wireless communications. Although NRECA's members do use carrier-based services, private, internally provided communications are required for certain mission critical applications. The use of private, internal communications provides the ability to control reliability and restoration, which are critical to electric utilities. In addition, commercial carrier services often do not adequately cover the rural and remote areas served by electric coops or are intended to cover population centers and not utility infrastructure such as substations and transmission and distribution lines. The Commission should include private, internal services in any rule revisions to promote the availability of spectrum in rural areas for advanced telecommunications.

III. CONCLUSION

There are tangible social, educational and economic benefits to promoting advanced telecommunications services in rural America. NRECA supports that the Commission continues to make meaningful strides in supporting rural deployments. NRECA believes that further incentivizing rural spectrum deployment, both for common carrier as well as private, internal services, should be explored. NRECA looks forward to working further with the Commission on this matter.

Respectfully submitted,
National Rural Electric Cooperative Association

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