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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: Service Rules for Advanced Wireless Services, WT Dockets 04-356 & 07-195

Dear Secretary Dortch:

The Wisconsin State Telecommunications Association (“WSTA”) files this letter as its Reply Comments in the above-referenced dockets. This letter is filed pursuant to the *Further Notice of Proposed Rulemaking* (“FNPRM”) issued on June 20, 2008.¹ WSTA is a non-profit trade association representing a variety of Wisconsin’s telecommunications providers, including a number of Incumbent Local Exchange Carriers (“ILECs”), wireless providers and Internet Service Providers (“ISPs”).

Like many other parties in this docket, WSTA is troubled by the rules proposed in the *FNPRM*.² Specifically, WSTA believes that the proposed rules go against market-based ideals that have proven incredibly successful in the wireless

¹ *In the Matter of Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band*, WT Docket 07-195; *In the Matter of Service Rules for Advanced Wireless Services in the 1915-1920 MHz Band, 1995-2000 MHz Band, 2020-2025 MHz Band and 2175-2180 MHz Band*, WT Docket 04-356. The Federal Communications Commission (“FCC” or “Commission”) extended the filing deadlines by way of a July 8, 2008 *Order*.

² See e.g., *Comments of AT&T, Inc.*, WT Docket 04-356 at 37-39 (July 25, 2008) (identifying that the FCC “without explanation or rational cause” is departing from a proven model of spectrum management that has spurred innovation and competition); *Comments of T-Mobile USA, Inc.*, WT Docket 04-356 at 40-56 (July 25, 2008) (arguing that the proposed auction rules are unnecessary as a practical matter and violate federal law and are inconsistent with prior Commission actions); *Comments of CTIA- The Wireless Association*, WT Docket 04-356 at 1-17 (July 25, 2008) (identifying a variety of concerns with the proposed rules, including the fact that earlier “free” broadband proposals have suffered unenviable fates); *Comments of the United States Chamber of Commerce*, WT Docket 07-195 at 2 (July 9, 2008) (noting that the *FNPRM* appears to reverse Commission policy of deregulation and market-based approaches to spectrum management and broadband deployment).

marketplace.³ In fact, the proposed rules will likely have a negative effect on the marketplace for broadband and advanced services because the “free” broadband requirements will stifle private investment.⁴ If a return on investment is difficult or impossible to obtain as consumers turn to free broadband to fulfill their online needs, it will be increasingly difficult for private companies to justify additional expenditures.⁵

As an example of WSTA’s concern, several Wisconsin ILECs have already or are in the process of upgrading their physical infrastructure to a fiber-to-the-premises (“FTTP”) network. These upgrades are occurring in both urban and rural markets, and involve multi-million dollar investments. If broadband becomes available for “free” in these markets, many customers will forego the paid service for the free broadband, forcing fewer and fewer customers to absorb the cost of these network upgrades that bring state-of-the-art services to all parts of Wisconsin.

Aside from concerns about the effect this proposal could have on the marketplace, WSTA shares a significant concern that these auction rules are designed around a specific business model.⁶ The similarity between the rules in the *FNPRM* and an earlier proposal (one which the FCC rejected) appears to be more than mere coincidence.⁷ Developing auction rules to fit a specific business plan or a specific policy objective will not lead to a true “auction,” as evidenced by the limited bidding on the D block spectrum in the 700 MHz auction earlier this year. Further, adopting auction rules designed around a specific business plan will set a bad precedent for future Commission action.⁸

³ See e.g., *Comments of CTIA- The Wireless Association*, WT Docket 04-356 at 2-4 (July 25, 2008) (providing a variety of statistics showing the success of past FCC spectrum policies).

⁴ See e.g., *National Telecommunications Cooperative Association Initial Comments*, WT Docket 04-356 at 5-6 (July 25, 2008) (addressing concerns that a “free” broadband competitor will “hamper rural broadband deployment.”)

⁵ *Id.* at 6 (“The Commission’s proposal would make it difficult for small and rural companies to obtain financing, or to justify expending their own resources to deploy broadband services.”)

⁶ See e.g., *Comment of United States Cellular*, WT Docket 04-356 at 2 (July 25, 2008).

⁷ See *id.* at 10-11; *Comments of T-Mobile USA, Inc.*, WT Docket 04-356 at 44-46 (July 25, 2008) (identifying reasons behind the FCC’s recent rejection of a plan that is virtually identical to the one proposed in the *FNPRM*).

⁸ See e.g., *Comment of United States Cellular*, WT Docket 04-356 at 2 (July 25, 2008) (arguing that action here will only encourage an “endless proliferation of self interested spectrum proposals in the future).



Given the concerns identified by a variety of parties, the FCC should reconsider its auction rules for this spectrum and go back to the drawing board.⁹ There are a variety of ways to aid in the development of additional broadband alternatives without abandoning market principles.¹⁰ The FCC should pursue market-based strategies before imposing the rules proposed in the *FNPRM*.

Please contact me at (608) 256-8866 ext. 23 or by email at brybarik@wsta.info if you have any questions or problems with this filing.

Sincerely,

WISCONSIN STATE TELECOMMUNICATIONS ASSOCIATION

/s/ Brian J. Rybarik
Brian J. Rybarik
Legal Counsel and
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⁹ See *Reply Comments of CTIA- The Wireless Association*, WT Docket 04-356 at 1, n. 3 (August 11, 2008) (citing the wide-ranging interests that have raised legitimate concerns with different aspects of the proposed rules).

¹⁰ For example, as part of its June 12, 2008 Report on broadband availability, the FCC is in the process of modifying its data collection policies relating to the availability and speeds of broadband in the U.S. Concurrently, a number of states are engaging in mapping of broadband availability. To the extent these new data collection efforts identify areas where the market is failing to bring broadband and advanced services to customers, those specified areas might benefit from proposals like those in the *FNPRM*. However, in areas where broadband is already available, the proposal will immediately sink significant investments made by telecommunications providers and ISPs.