

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

In the Matter of)
)
Auction Alternatives for Accessing) WT Docket No. 24-72
Unassigned Auction Inventory Spectrum)

To: Chief, Wireless Telecommunications Bureau

**REPLY COMMENTS
OF THE
NATIONAL WIRELESS COMMUNICATIONS COUNCIL**

The National Wireless Communications Council (“NWCC”) respectfully submits its Reply Comments in response to the Public Notice of the Wireless Telecommunications Bureau (“WTB”) of the Federal Communications Commission (“FCC”) regarding the FCC’s expired auction authority.¹ In the absence of Congressional action to reinstate that authority, the WTB has requested comments on how available regulatory tools such as dynamic spectrum sharing, non-exclusive site-based licensing, spectrum leasing, and special temporary authorizations (“STAs”) could be used to make inventory spectrum held by the FCC available to eligible entities while avoiding the submission of mutually exclusive applications.

The NWCC is a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land

¹ *Wireless Telecommunications Bureau Seeks Comment on Ways to Facilitate Access to Currently Unassigned Auction Inventory Spectrum for Wireless Radio Services in Light of the Ongoing Lapse of Auction Authority*, Public Notice, WT Docket No. 24-72, DA 24-215 (rel. Mar. 7, 2024) (“Public Notice”).

mobile radio equipment. These include all FCC-certified Frequency Advisory Committees (“FACs”).²

The users represented by NWCC members have particular interest in narrowband and wideband spectrum allocations such as Part 22 VHF/UHF paging, Part 90 220 MHz and 800 MHz SMR, Part 80 AMTS, and Part 95 218-219 MHz. The auctioned spectrum in these bands is used in systems around the country that provide essential communications capabilities for public safety, critical infrastructure, industrial, and commercial dispatch services – the private land mobile radio (“PLMR”) services. Because of their limited bandwidths, the licenses in these bands have not generated significant auction revenue by comparison with broadband allocations used to provide commercial service to the consumer marketplace. However, they can be an important component in wireless systems that serve other publicly vital uses. Some licenses in these services, like those in certain broadband allocations, were not acquired at auction or have been recovered by the FCC and thereby constitute “inventory spectrum.” The NWCC supports the recommendations of commenters in this proceeding that have proposed auction alternatives that would enable PLMR entities to put this spectrum into productive use without creating situations of mutual exclusivity.

EWA recommended that certified FACs could assume their traditional role of coordinating applications prior to submission to the FCC, thereby avoiding instances of mutual exclusivity. EWA recommended this approach in the bands referenced above, as well as other narrowband/wideband spectrum that might be identified by the FCC. It suggested

² American Automobile Association (“AAA”); American Petroleum Institute (“API”); American Association of State Highway and Transportation Officials (“AASHTO”); Association of American Railroads (“AAR”); Association of Public-Safety Communications Officials, International (“APCO”); Enterprise Wireless Alliance (“EWA”); Forest Industries Telecommunications (“FIT”); Forestry Conservation Communications Association (“FCCA”); International Association of Fire Chiefs (“IAFC”); International Municipal Signal Association (“IMSA”); MRFAC, Inc. (“MRFAC”); The Monitoring Association (“TMA”); Utilities Technology Council (“UTC”); and Wireless Infrastructure Association (“WIA”).

that exclusive licenses be granted on a county basis rather than the larger geographic areas for which spectrum in those bands was auctioned although, as discussed below, both county and exclusive site-based licenses could be accommodated in the proposed approach. While the Public Notice identified non-exclusive site-based licenses as an option, the NWCC questions whether the historical party-line, shared channel regulatory approach would attract meaningful interest from the PLMR community or any prospective licensees. Current technology is based primarily on exclusive rights to spectrum within a geographic area, including when defined as Part 90 FB8 protected contours. Coordinating the use of spectrum by monitoring before transmitting or other mechanisms that limit access to a licensee's own channels has an adverse impact on spectrum utilization and has little utility in today's digital PLMR systems.

The NWCC recognizes that exclusivity rights inherently create the potential for mutual exclusivity, particularly when there is a date certain when applications can be submitted to the FCC. The Part 90 FACs have addressed this situation successfully in multiple instances through the queueing process described in EWA's Comments. Entities submit their applications to FACs who review them to ensure completeness and compliance with FCC requirements. On a date and time certain, FACs send the applications to a third party that creates a time-stamped receipt queue that determines in what order the applications can be assigned channels by their FACs who then share that information so all FACs know what channels are available for subsequent applications. This approach has been tested and has allowed the licensing of exclusive site-based systems in multiple Part 90 bands with no

mutually exclusive applications submitted to the FCC.³ It would work equally effectively in the other narrowband/wideband allocations where licenses previously were awarded by auction.⁴

EWA proposed that licenses be issued on a county-by-county basis. While that approach has the advantage of simplicity, NWCC recommends that licenses be available on a county and/or site-specific basis. The Comments filed by the Blooston Rural Carriers (“BRC”) recommended contour-protected, site-based licensing managed by third-party coordinators, using the Part 90 FACs as an example.⁵ The NWCC recognizes that site-based licenses may fit the requirements of certain applicants and could result in issuance of a larger number of licenses. The third-party queuing process described above can handle both types of applications, since FACs are capable of reviewing the proposed parameters of both types of systems and coordinating channels on an exclusive site-based and/or county basis and ensuring no contour overlap between and among them.

The NWCC strongly endorses EWA’s recommendation that the FAC coordination process described herein for the identified narrowband/wideband allocations be used to assign inventory spectrum in those bands even after the FCC’s auction authority has been reinstated. The FCC already has a backlog of broadband spectrum for auctioning. That backlog, including broadband inventory spectrum, likely will have increased by the time it can begin conducting auctions. It is uncertain when, if ever, the FCC will have an opportunity to auction inventory spectrum in the bands needed by NWCC members. It has been more than a

³ The FACs worked collaboratively to establish limits on the number of channels that could be requested in a single application and the number of applications an entity could file in a geographic area. These agreed upon parameters promoted a broader distribution of spectrum and discouraged speculative applications.

⁴ Each of these bands was available for site-based licensing before the FCC was granted auction authority. Overlay auction licenses are required to protect incumbent site-based systems.

⁵ The BRC Comments do not specify particular bands in which they recommend the use of this approach so presumably the recommendation covers all auctioned spectrum, including broadband allocations.

decade since it has done so, and the demand for broadband spectrum continues to escalate. The FCC's auction authority is expressly not tied to revenue generation but, even if it were, the revenue that would be generated by auctioning this narrowband/wideband spectrum is sufficiently nominal to be of no concern. The public will be better served by allowing spectrum that has remained unused for well over a decade to be placed into productive operation pursuant to the licensing approach proposed herein. If the FCC nonetheless determines it must revert to spectrum auctions once it has authority to conduct them, the NWCC endorses the BRC position. Site- or county-based licenses issued in the interim must receive protection from overlay auction licenses, and such incumbents should be awarded bidding credits toward purchasing those overlay licenses.

Respectfully submitted,

NATIONAL WIRELESS
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