

May 9, 2018

*Via Electronic Filing*

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: *Ex Parte* Letter: *Promoting Investment in the 3550-3700 MHz Band* –  
GN Docket No. 17-258

Dear Ms. Dortch:

The associations, organizations, and companies signing this letter (together, the “CBRS Coalition”) hereby propose a compromise framework for the licensing of Priority Access Licenses (“PALs”) in the Commission’s pending proceeding on the 3.5 GHz Citizens Broadband Radio Service (“CBRS”) band.<sup>1</sup> The Commission has strongly encouraged interested parties to seek agreement on a multi-party, cross-industry compromise approach that will enable the largest possible group of stakeholders to derive value from the CBRS band, thus maximizing this band’s power as a catalyst for U.S. technology and innovation leadership (including 5G), U.S. economic and job growth, and modernizing the nation’s infrastructure. As described below, the CBRS Coalition proposes a geographic-area licensing approach for PALs that will enable a wide array of parties with a multitude of planned use cases to gain access to CBRS protected spectrum and take part in the emerging 3.5 GHz marketplace.

In this proceeding, the Commission should seek a genuine compromise solution that allows all parties a meaningful opportunity to obtain access to resources within the band. With the formation of the CBRS Coalition, an extraordinarily wide-ranging group of stakeholders with different spectrum use cases has come together in support of a straightforward, balanced compromise framework that achieves this goal.<sup>2</sup> The diverse members of the CBRS Coalition have devoted significant time and resources to the CBRS compromise effort over the past three months. In the spirit of compromise, these parties have now collectively accommodated differing concerns and have agreed to accept and endorse a balanced licensing approach that

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<sup>1</sup> See *Promoting Investment in the 3550-3700 MHz Band*, Notice of Proposed Rulemaking and Order Terminating Petitions, 32 FCC Rcd 8071 (2017) (“*NPRM*”).

<sup>2</sup> The CBRS Coalition includes parties from virtually every category of stakeholder in this proceeding, including industry and manufacturing, critical infrastructure, rural broadband and wireless, regional and rural mobile wireless carriers, cable, technology and equipment development, and enterprise solutions.

accomplishes the Commission's overriding goal of maximizing the number of stakeholders that benefit and participate in the marketplace without picking winners and losers.<sup>3</sup>

Accordingly, to ensure that *all* stakeholders have a reasonable opportunity to obtain PALs at auction, the CBRS Coalition urges the Commission to adopt a CBRS licensing framework that includes the following elements:

- In every U.S. county, there will be five (5) county-based CBRS PALs available at auction.
- In every census tract in every U.S. county, there will be two (2) census-tract-based CBRS PALs available at auction.
- The license term for all PALs will be seven (7) years.
- PALs will be renewable based on performance criteria.

With its mix of large-area and small-area licensing, the CBRS Coalition's proposed compromise framework will accommodate the needs of all stakeholders in the 3.5 GHz band.<sup>4</sup> The availability of five county-based licenses in every U.S. county will meet the business and operational requirements of commercial mobile wireless carriers, cable companies, and other broadband providers serving rural areas that desire larger license areas. The availability of two census-tract licenses nationwide, meanwhile, is essential to meeting the minimum spectrum needs for a wide variety of industrial and critical-infrastructure entities, broadband operators serving rural areas, enterprise solution providers, commercial real estate interests, and other parties with geographically-targeted CBRS deployment plans. By adopting this proposal and cultivating a broad-based, heterogeneous CBRS ecosystem that includes a diversity of new innovators and existing operators, technology vendors, and spectrum users, the Commission can

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<sup>3</sup> See Ajit Pai, FCC Chairman, *Remarks on Restoring Internet Freedom* (Nov. 28, 2017) ("We have no business picking winners and losers in the marketplace."); see also Reply Comments of California Internet, L.P. dba GeoLinks at 1, 7-8 (Jan. 29, 2018); Comments of Cloud Alliance LLC at 2 (Dec. 28, 2017); Comments of Southern Linc at 8 (Dec. 28, 2017) ("Southern Linc Comments"); Comments of the General Electric Company at 11 (Dec. 28, 2017) ("GE Comments"); Comments of Eastern Oregon Net, Inc. at 2 (Dec. 28, 2017); Comments of Next Century Cities at 3 (Dec. 28, 2017). (Unless otherwise indicated, all comments and *ex parte* filings cited herein were filed in GN Docket No. 17-258.)

<sup>4</sup> This mix of counties and census tracts was proposed in the initial comment phase of this proceeding. See, e.g., Comments of NTCA – The Rural Broadband Association at 7-9 (Dec. 28, 2017); Joint Comments of the National Rural Telecommunications Cooperative and the National Rural Electric Cooperative Association at 1, 5-6 (Dec. 28, 2017); Comments of the Blooston Rural Carriers at 5-7 (Dec. 28, 2017).

maximize the vast economic and social benefits of the 3.5 GHz innovation band and promote U.S. leadership in 5G deployment.

The CBRS Coalition's proposed compromise approach is a significant departure from the Commission's existing census-tract licensing framework. It also stands in contrast to the approach submitted recently by the Competitive Carriers Association ("CCA") and CTIA, which involves a combination of Metropolitan Statistical Area-based and county-based PAL licensing.<sup>5</sup> The mix of geographic areas under the CBRS Coalition's approach strikes a balance by allowing entities with business plans involving geographically limited facilities and customer bases a meaningful opportunity to compete for PALs at auction,<sup>6</sup> while also limiting the burden of aggregating census tracts for mid-to-large carriers that seek to cover wider areas. While some may argue that smaller and non-traditional spectrum users can rely on spectrum leasing and secondary market mechanisms to gain access to CBRS spectrum, numerous commenters have pointed out that such secondary market options have over time typically been unavailable to these other stakeholders.<sup>7</sup>

Furthermore, from a public policy perspective, large license areas do not promote the provision of spectrum-based services to rural consumers. When spectrum is auctioned off in large blocks, prevailing bidders understandably tend to focus their build out on the more profitable densely populated portions of license areas, rather than sparsely populated rural areas.<sup>8</sup>

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<sup>5</sup> Letter to Marlene H. Dortch, FCC Secretary, from Rebecca Murphy Thompson, CCA, and Scott K. Bergmann, CTIA (Apr. 20, 2018).

<sup>6</sup> See, e.g., Southern Linc Comments at 13-17; Comments of Union Pacific at 8-10 (Dec. 28, 2017); Comments of Microsoft Corporation at 4-6 (Dec. 28, 2017); Reply Comments of Google LLC at 5-16 (Jan. 29, 2018) (citing numerous other commenters supporting smaller, census-tract license areas at 6-7 n.13); Reply Comments of Dynamic Spectrum Alliance at 10-12 (Jan. 29, 2018); see also, e.g., Letter to Marlene H. Dortch, FCC Secretary, from Stephen E. Coran, Counsel to the Wireless Internet Service Providers Association (Feb. 22, 2018); Letter to Marlene H. Dortch, FCC Secretary, from Frank Korinek, Motorola Solutions, Inc. (Apr. 16, 2018).

<sup>7</sup> See, e.g., GE Comments at 23-25; Southern Linc Comments at 16-17; Comments of Google LLC at 18-21; see also Mobile Future, *FCC Spectrum Auctions and Secondary Markets Policies: An Assessment of the Distribution of Spectrum Resources Under the Spectrum Screen*, at 18-19, attached to Letter from Jonathan Spalter, Mobile Future, to Marlene H. Dortch, FCC Secretary, GN Docket No. 12-268 (Nov. 13, 2013); Comments of Comcast Corporation at 14-15 (Dec. 28, 2017) (citing Richard Marsden, Chantale LaCasse, and Jonathan Pike, *Local and Regional Licensing for the U.S. 600 MHz Band (Incentive Auction): A NERA Report* (Jan. 2014), [http://www.nera.com/content/dam/nera/publications/archive2/PUB\\_NCTA\\_0114.pdf](http://www.nera.com/content/dam/nera/publications/archive2/PUB_NCTA_0114.pdf)).

<sup>8</sup> When prescribing regulations for awarding licenses for new services through competitive bidding, the Commission cannot ignore or sidestep the Congressional mandates articulated in Section 309(j) of the Communications Act of 1934, as amended (the "Act"). 47 U.S.C. § 309(j)

Nor do large license areas advance the interests of the industrial, manufacturing, and critical-infrastructure sectors, whose companies plan to use their own licensed CBRS spectrum to “self-provision” broadband and Industrial Internet of Things (“IIoT”) connectivity over geographically-targeted private wireless networks. Under a more balanced, inclusive licensing scheme, the CBRS band will be an ideal spectrum platform for private broadband and the IIoT, catalyzing U.S. economic growth, manufacturing efficiency, and Big Data solutions that improve safety, cybersecurity, and operational efficiency in these sectors.

The CBRS Coalition proposal thus ensures that priority access tier CBRS spectrum is available to the widest possible group of service providers and end users, while also not favoring any single use case to the exclusion of others. The CBRS Coalition’s licensing approach would allow *all* categories of stakeholder to obtain PAL spectrum, not just the members of this coalition. In particular, the larger wireless carriers would be able to make robust use of PAL spectrum under the CBRS Coalition’s proposal by aggregating county-based PALs or, in some cases, census tract-sized PALs as spectrum “building blocks.”

The CBRS Coalition is aware that some concerns have been expressed regarding “hybrid” licensing frameworks in which large-area and small-area PALs are both available within the same geographic area.<sup>9</sup> Some parties have claimed that a hybrid licensing approach will result in excessive auction complexity and difficult inter-border interference issues. For several reasons, these are not obstacles to adoption of the Coalition’s proposal.

First, with respect to auctions, two economists, including a Verizon economist, have previously indicated that there should be no technical reason why it would be infeasible for the Commission to conduct auctions involving thousands of census-tract licenses.<sup>10</sup> From a technical perspective, the Commission has the requisite expertise and experience to efficiently and successfully conduct an auction involving different-size PALs in the same area. In the event new auction software were required for hybrid PAL licensing, the Commission should take the time necessary to complete that developmental process. The Commission should not forego the

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compels the Commission to adopt safeguards to protect the public interest in the use of the spectrum and to promote the purposes of the Act – which include making radio communication service available “to *all* the people of the United States” and “disseminating licenses among a *wide variety* of applicants.” (Emphasis added.) The CBRS Coalition proposal will better accomplish these statutory directives.

<sup>9</sup> See *NPRM* ¶ 25.

<sup>10</sup> Daniel R. Vincent, *Secondary Markets, License Terms and Priority Access Licenses*, at 3, 6 (Dec. 29, 2017) (prepared for Verizon Communications); Letter to Marlene H. Dortch, FCC Secretary, from Paul Milgrom, Auctionomics, Docket No. 12-354, ¶¶ 5-7 (Aug. 7, 2017). The CBRS Coalition notes that the adoption of its compromise proposal (featuring five county-based and two census-tract PALs nationwide) would reduce the overall number of PALs to be auctioned by more than 75%.

adoption of sound and equitable spectrum policy – one that will have generational impacts and allow the largest number of key U.S. sectors and stakeholders to realize the benefits of CBRS – in order to avoid some level of complexity and auction innovation.

Nor should inter-border interference issues deter the Commission from adopting the CBRS Coalition’s proposed framework. The CBRS Coalition understands that the large mobile wireless carriers have expressed interference concerns with census tract licensing based on specific operational scenarios that are not representative of real-world deployments, and those arguments have been rebutted repeatedly in the record of this proceeding, including most recently in several *ex parte* filings specifically addressing these technical issues.<sup>11</sup> In any event, these inter-border concerns should be rendered moot by the availability of five county-based licenses in every U.S. county. In addition, licensees will be able to aggregate census-tract PALs from the remaining two channel blocks for more targeted deployments.

Finally, the Coalition’s proposal for a seven-year, renewable license term will increase the value of PALs, promote longer-term, stable access to spectrum and network investment certainty, and avoid the need for the Commission to spend scarce administrative resources on recurring future auctions. Accordingly, the CBRS Coalition proposes a longer, renewable PAL license term.

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The CBRS Coalition urges the Commission to adopt its proposed PAL licensing framework – featuring five county-based PALs and two census-tract PALs nationwide – as part of its upcoming order revising its CBRS rules. This compromise solution, forged from months of discussions among stakeholders with wide-ranging business interests, will advance the full range of spectrum uses, business models, and innovative spirit that the CBRS rules were intended to support. By promoting a diverse CBRS ecosystem, the Commission can ensure the success of the 3.5 GHz innovation band and galvanize the deployment of 5G networks and a multitude of other wireless services in the United States.

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<sup>11</sup> See, e.g., Letter to Marlene H. Dortch, FCC Secretary, from Stephen E. Coran, Counsel to Wireless Internet Service Providers Association, GN Docket No. 17-258 (May 2, 2018); Letter to Marlene Dortch, FCC Secretary, from The American Petroleum Institute, Edison Electric Institute, Enterprise Wireless Alliance, Exelon Corporation, General Electric Company, Google LLC, Hospitality Technology Next Generation, Motorola Solutions, Inc., pdvWireless, Inc., Port of Los Angeles, Southern Linc, Union Pacific, and Utilities Technology Council at 2-3 (Apr. 25, 2018); Letter to Marlene H. Dortch, FCC Secretary, from Stephen E. Coran, Counsel to the Wireless Internet Service Providers Association, at 2 (Apr. 23, 2018).

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