

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: Service Rules for the 698-746, 747-762 and 777-792 MHz Bands; Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones (WT Docket Nos. 06-150, 01-309, and CC Docket No. 94-102).

With this Notice, the Commission rightly seeks comment on possible changes to the service rules governing licenses in the 700 MHz band. Over four years have passed since the service rules and band plans were first adopted for this spectrum. Since then, the rapidly evolving mobile wireless industry has experienced tremendous subscriber growth, the emergence of new and exciting product offerings, and increased consolidation. In addition to these dynamic changes, the enactment of the Digital Television and Public Safety Act of 2005, with its specific benchmarks, is a significant milestone that further prompts the opportunity for the Commission to consider whether or how to revise our regulatory approach to both the Upper and Lower 700 MHz Bands. I fully support the timing of this Notice, as I have regularly commented how exceedingly important it is that we do what we can to keep the Commission on the leading edge of spectrum-based technology and policy.

The Notice we adopt today sets up an important discussion to ensure that the 700 MHz band is quickly and efficiently put to use and that parts of the spectrum do not remain an untapped well for the thirsty. I have long had a strong interest in promoting active spectrum use, and am very pleased that our item seeks comment on whether we should revise performance requirements for licensees in the 700 MHz Band. We ask important questions on whether the country would be better served by alternate performance requirements such as more specific construction benchmarks or a "keep what you use" re-licensing mechanism.

I am particularly interested in reactions to the suggestion of a "triggered keep what you use" rule, in which the Commission, rather than reclaiming unused spectrum after a period of time, would reclaim spectrum only in the event a party other than the licensee is interested in securing access to the spectrum in an unserved portion of the license area. My hope is that this discussion will lead to the Commission moving to more of a "carrot and stick" approach to performance requirements – an approach that I have long advocated – in the future by which the Commission promotes flexibility and innovation, yet expects more specific results as well.

The dialogue generated by this Notice should enable the Commission to better serve communities, particularly those in rural and other unserved areas, where licensees do not plan to use or lease the spectrum they acquired. For example, I just returned from our Indian Telecommunications Initiative workshop and roundtable in San Diego and access to spectrum was one of the big issues I heard from Tribal leaders attending the conference. I want to thank my colleagues for agreeing to add questions to this item addressing the unique challenges of wireless service on Tribal lands. The economic and social prosperity of Native American communities depends on access to state-of-the-art communications technologies, so it is important that we seek comment on flexible licensing approaches that may make it easier for community-based providers, like Tribes, to get access to wireless broadband opportunities on a more localized basis.

I also am particularly pleased that the Notice asks whether the Commission should take another look at the "substantial service" standard in the renewal of licenses in the event we

continue with that approach. In our recently completed BRS/EBS reconsideration item, I emphasized the importance of adopting “safe harbors” that are meaningful. By meeting safe harbors, operators are provided with the security that they absolutely have complied with the Commission’s substantial service requirements. It is my belief that if we are to provide such a security option and allow the flexibility of a substantial service construction standard, we should make safe harbors that are meaningful and worthwhile – so I am pleased that we continue that discussion here.

In addition to seeking comment on how we can put the 700 MHz spectrum to its most active use, the Notice seeks comment on the size of the current service areas and the size of the current spectrum blocks. If we want to see better and more advanced wireless service in the future, we need to make spectrum more easily accessible. I fully support this discussion on whether we should reconfigure or sub-divide the existing spectrum blocks in the 700 MHz Band in order to fulfill this goal. As many of you know, in the Advanced Wireless Services proceeding, I was very involved in our bandplan decision, which ultimately was well received by small and large entities alike, and I look forward to reviewing the record in this proceeding as well since I was not at the Commission for our initial bandplan determination.

I am very pleased that the item we adopt today builds on a number of the questions raised in the Further Notice of Proposed Rule Making in our rural wireless proceeding, an item that I strongly supported. With recent consolidation in the communications industry, it becomes even more critical that we make vibrant, spectrum-based communications opportunities available to all consumers and companies. The 700 MHz band should be a real opportunity for new and incumbent carriers to expand existing networks and develop new and exciting wireless broadband services for all communities. I am pleased that we are giving the 700 MHz band the attention it deserves by evaluating our policies to make sure we provide what is best for American consumers and do not undercut the ability of wireless innovators to get access to new or unused spectrum.

I would like to commend the staff of the Wireless Telecommunications Bureau for providing us with a very comprehensive and well drafted Notice. With the digital transition on the horizon, this Notice comes at a crucial time and asks critical questions regarding spectrum use that will impact the 700 MHz band and wireless services to come. Initiating dialogue on these matters can only serve American consumers well. I look forward to working with my colleagues and the Bureau in tackling these important issues in the upcoming months.