

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

Auction of Priority Access Licenses for the 3550-3650 Band; Comment Sought on Competitive Bidding Procedures for Auction 105 ) AU Docket No. 19-244 )

To: The Commission

## COMMENTS OF VERIZON<sup>1</sup>

The Commission took an important step with its recent announcement that the auction of Citizens Broadband Radio Service Priority Access Licenses (“PALs”) in the 3.5 GHz band (Auction 105) is scheduled to begin on June 25, 2020.<sup>2</sup> The 3.5 GHz band is critical to the launch of U.S. 5G deployments in mid-band spectrum. Toward that end, Verizon largely supports the auction design elements and bidding procedures proposed in the Commission’s recent *Public Notice*.<sup>3</sup> We offer these comments to highlight certain, targeted aspects of the proposed Auction 105 procedures that warrant a changed course:

- Cellular Market Area-level bidding is not package bidding, is unlikely to be used, and could do more harm than good.
- Allowing bidders to bid well above their eligibility levels is unnecessarily complex and could harm the auction process.
- The proposed dollar cap on clock price increments does not serve any useful purpose and should not be adopted.

<sup>1</sup> The Verizon companies (“Verizon”) participating in this filing include the regulated, wholly-owned affiliates of Verizon Communications Inc.

<sup>2</sup> See FCC Chairman Ajit Pai Blog Post, *Storming Back Stronger*, <https://www.fcc.gov/news-events/blog/2019/09/04/storming-back-stronger>; see also FCC Office of Economics and Analytics, *Estimate of Systems of Competitive Bidding for Fiscal Year 2020*, DA 19-977 (rel. Sep. 30, 2019) at 2.

<sup>3</sup> See *Auction of Priority Access Licenses for the 3550-3650 Band; Comment Sought on Competitive Bidding Procedures for Auction 105*, Public Notice, FCC 19-96 (rel. Sep. 27, 2019) (“*Auction 105 Procedures Comment PN*”).

We also encourage the Commission to move Auction 105 along to a conclusion as quickly as possible, and we support the proposal to impose stiff default payments to deter insincere bidding.

**I. The Commission Should Not Adopt the Proposal for CMA-level Bidding.**

Verizon has long supported incorporating package bidding in FCC auctions, allowing a bidder to assemble and bid on licenses comprising a geographic service area while reducing the risk of exposure.<sup>4</sup> The Commission has recognized that package bidding can reduce the risk of a bidder acquiring only a subset of the licenses necessary for its business plans.<sup>5</sup> But the proposal for Cellular Market Area (“CMA”)-level bidding is not package bidding, as the *Auction 105 Procedures Comment PN* acknowledges.<sup>6</sup> The Commission should not take that approach.

This proposal would allow Auction 105 bidders, prior to the start of bidding, to elect to bid at the CMA level for blocks in all counties within certain large CMAs – in other words, the proposed rule is a “select all” function for counties in certain CMAs. Once a bidder elects CMA-level bidding, it would be allowed to bid only at the CMA-level in that market and would be prohibited from switching to bidding at the county-level in that area. While this may seem benign on its face, the CMA-level bidding approach would reduce bidder flexibility, add unnecessary

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<sup>4</sup> See, e.g., Comments of Verizon, GN Docket No. 14-177 (filed Jan. 28, 2016) at 12-13 (supporting package bidding for millimeter wave band licenses); Verizon Comments, GN Docket No. 12-354 (filed July 14, 2014) at 18 (supporting package bidding for 3.5 GHz PALs); Comments of Verizon Wireless, AU Docket No. 14-78 (filed June 9, 2014) at 8-10 (supporting package bidding for AWS-3 licenses).

<sup>5</sup> See, e.g., *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, et al.*, Second Report and Order, 22 FCC Rcd 15289, 15405 ¶ 290 (2007).

<sup>6</sup> The Commission recognized the differences between its CMA-level bidding proposal and “most package bidding implementations,” and thus does not refer to it as “package bidding.” See *Auction 105 Procedures Comment PN* at n. 63.

complexity to an already-complex auction, and have unintended consequences including the potential for inviting mischief.

First, the proposal reduces bidder flexibility. True package bidding allows bidders a simple and elegant option to place an “all-or-nothing” or “most-or-nothing”<sup>7</sup> bid on a package of licenses in order to minimize the risk inherent in bidding on individual licenses that could result in winning some but not all of the desired licenses. In contrast, the proposed CMA-level bidding procedure would require a bidder to make an election for CMA-level bids well before the auction begins and would lock that bidder in to CMA-level bids throughout the auction. This restriction reduces that bidder’s flexibility to react to competing bids for an individual product and may very well force it to choose between either accepting price increases across an entire CMA (because of excess demand in a single county in that CMA) or abandoning its demand across the CMA altogether. The first choice runs counter to a bedrock principle of clock auctions – that bidders should not have to pay more than they wish for a license.<sup>8</sup> The second choice could cause blocks of PALs to go unsold even where demand had once existed for them. Neither of these choices serves the public interest.

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<sup>7</sup> For example, in the CAF II auction, the FCC’s package-bidding structure had a percent completion threshold. See *Connect America Fund Phase II Auction Scheduled for July 24, 2018; Notice and Filing Requirements and Other Procedures for Auction 903*, Public Notice, 33 FCC Rcd 1428, 1501-1503 ¶¶ 233-243 (2018).

<sup>8</sup> The Commission chose the more efficient simultaneous multiple-round (SMR) auction design in first implementing spectrum auction authority in part because bidders would not have to guess about license values. See *Implementation of Section 309(j) of the Communications Act*, Second Report and Order, 9 FCC Rcd 2348, 2363-2364 ¶¶ 89-94 (1994). When the Commission instituted clock auctions, it built in intra-round bidding and the ability to reduce demand to protect bidders from overpaying for licenses. See *Procedures for Competitive Bidding in Auction 1000*, Public Notice, 30 FCC Rcd 8975, 9072 ¶¶ 195-196 (2015) (“*Incentive Auction Bidding Procedures PN*”) (“[I]ntra-round bidding will allow the auction system to use relatively large clock increments, thereby speeding the forward auction, without running the risk that a jump in the clock price will overshoot the market clearing price – the point at which demand for blocks equals the available supply.”).

Second, the Commission’s CMA-level bidding proposal includes a unique clock pricing method and an unusual exception to the standard “no excess supply” rule common to clock auctions, which together would introduce unnecessary complexity to an already complex auction – for both county-level bidders *and* CMA-level bidders. The Commission proposes to set clock price increments for counties subject to CMA-level bidding through use of an algorithm that “attempts to equalize demand across the counties in the CMA, thereby discouraging excess supply that can occur with CMA-level bids.”<sup>9</sup> When there is significant variation in demand among counties that are subject to CMA-level bidding, the clock price increment percentage will be greater in counties with greater aggregate demand (for both CMA-level bidders and county-level bidders). This method for determining clock price increments would differ from the simple percentage method proposed for counties not subject to CMA-level bidding, causing unpredictable bid increment changes from round to round in certain products. This would increase uncertainty (and therefore the difficulty of between-round auction analysis), especially for smaller bidders who are likely to prefer county-sized bids.

Furthermore, the Commission’s proposed exception for CMA-level bidders to its standard rule of “no excess supply” in processing requests for demand reduction raises the prospect of sudden and unexpected excess supply conditions in specific counties, which may result in blocks going unsold. And this proposed exception would affect the proposal’s algorithm for clock price increments, causing artificially high prices for licenses that *are* sold in these counties because of price increments driven by an assessed demand that does not actually exist. In short, the Commission’s proposal would create a complex and uncertain environment that both CMA-level

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<sup>9</sup> See *Auction 105 Procedures Comment PN* at ¶¶ 59-62.

and county-level bidders may find difficult to navigate as they assess clock price increments and the competition they may encounter from each other.

All bidders benefit when the Commission creates a predictable mechanism for clock price increments. The Commission's CMA-level bidding proposal for Auction 105, however, compromises this predictability by layering complexity on its standard "no excess supply" rule and clock price increment procedure. This proposal does not offer sufficient benefit to offset the reality that county-level bidders will need to understand the clock price increment algorithm, devise strategies to compete in counties subject to CMA-level bidding, and react if demand suddenly drops below supply.

Because of its inherent drawbacks, the Commission's proposed CMA-level bidding procedures will be of little value to sincere bidders. In fact, those who select CMA-level bidding might very well be concerned about falling prey to mischievous behavior on the part of certain county-level bidders who could seek to foreclose them by arbitrarily bidding up a single county within a particular CMA, forcing them to reduce demand across the market. This insincere bidding would skew results away from efficient outcomes, harming bidders engaged in sincere behavior.<sup>10</sup>

As a result, the Commission should refrain from adopting CMA-level bidding and the associated increment algorithms and rule exceptions in Auction 105, and instead employ its normal clock price increment and excess supply procedures. If, however, the Commission adopts its CMA-level bidding proposal, at a minimum it should give CMA-level bidders the ability – on a one-time, one-direction basis – to switch to county-level bidding in a given CMA during the

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<sup>10</sup> If it applies to participate in Auction 105, Verizon does not expect to elect CMA-level bidding if this option is ultimately offered as proposed. If a CMA-level bidding proposal is not attractive to a nationwide provider and experienced auction participant, it is difficult to imagine that any other sincere bidder would regard it as beneficial.

auction. That is, a bidder could elect county-level bidding at any point during the auction, but it could not subsequently return to CMA-level bidding. Also, if the Commission adopts the proposed CMA-level bidding procedure, its goal of discouraging excess supply in counties subject to CMA-level bids would be better achieved using the clock price increment standards recently suggested by AT&T.<sup>11</sup>

**II. The Commission Should Refrain from Adopting a New “Activity Upper Limit” to Address Bidder Eligibility Concerns and Instead Apply the Proven “All-or-Nothing” Bid Approach.**

The Commission’s proposed “upper activity limit” is unnecessarily complex and should not be adopted. It proposes a new approach to activity rules after Round 1 of Auction 105, an “activity upper limit” that would allow a bidder to submit bids representing up to 140 percent of its current bidding eligibility, to address the specific concern that a bidder could suffer a reduction in eligibility even though it submitted bids with activity that exceeds its required activity for that bidding round. As the Commission notes, this could occur in a clock auction if a bidder’s request to reduce demand in one market can be only partially processed, freeing up insufficient eligibility for that bidder to bid on other licenses.<sup>12</sup> This dilemma is especially problematic for smaller

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<sup>11</sup> See Letter from Michael P. Goggin, AT&T Services, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-258; AU Docket No. 19-244 (filed Sep. 16, 2019) (suggesting that the pricing algorithm might be more equitable and less prone to potential arbitrage if: (i) each block of CMA demand were treated as one block of county demand for each county in the CMA; (ii) county price increments were set based on the standard algorithm used for non-CMA counties; and (iii) the CMA price increment were merely the sum of the individual price increments in the counties comprising the CMA).

<sup>12</sup> See *Auction 105 Procedures Comment PN* at ¶¶ 44-47. The concern that the proposal is intended to address can be illustrated as follows: a bidder wishes to reduce demand by two or more blocks (each representing 500 bidding units) in Market A so as to free up bidding eligibility it would use to increase demand by one block (representing 750 bidding units) in another, larger market, Market B. If the request to reduce demand in Market A is only partially fulfilled (i.e., only 500 bidding units of eligibility are freed up), the bid to increase demand in Market B cannot be made at all and the bidder may lose the eligibility associated with the reduction in Market A demand.

bidders, whose “cushion” between their required activity and their current eligibility tends to be smaller.

We support efforts to address this concern, but the “activity upper limit” is unnecessarily complex and could invite mischievous behavior for no apparent gain. With such a large artificial eligibility cushion, certain auction participants could engage freely in insincere bidding across counties without regard for their processed demand or level of eligibility. This risk increases towards the end of the auction, when a bidder might artificially prolong the auction by continuing to submit bids above its eligibility.

A simpler solution is available. The Commission should use the “All-or-Nothing” bidding option as it was implemented in Auction 1002.<sup>13</sup> With this option, an all-or-nothing bid requesting a reduction in demand will be applied only if there is sufficient excess demand at that price point to apply the full reduction. This would prevent the partial reduction contemplated in the example above and would prevent any unintended loss of eligibility if a request for reduction in demand cannot be fully processed. Nonetheless, if the Commission wishes to proceed with the activity upper limit concept, it should reduce the upper bound to no more than 110 percent of a bidder’s current bidding eligibility to ensure the solution is tailored to fix the identified problem and nothing more.

### **III. The Commission Should Use a Percentage Increment in the Clock Price at the Start of Each Round, But There Is No Need to Impose a Dollar Cap on Clock Price Increments.**

We support the proposal to set clock prices for each round after the opening round by adding a percentage increment – within a range of 5 percent to 20 percent – to the start-of-round

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<sup>13</sup> See *Incentive Auction Bidding Procedures PN*, 30 FCC Rcd at 9075 ¶¶ 204-206.

price, but a \$10 million limit on the clock price increment for any county in any round is unnecessary.<sup>14</sup>

Auction 105 bidders will have the ability to place intra-round bids at amounts below the clock price, and this should be sufficient to allow all types of bidders to manage demand regardless of the clock price percentage increment. No bidder that is paying attention ever will need to overpay for a license. In contrast, a \$10 million cap will disrupt the orderly flow of the clock price upward in some markets and will serve only to prolong the auction. The Commission should abandon the idea of a dollar cap on clock price increments.

#### **IV. The Commission Should Accelerate the Pace of Auction 105 At the Start.**

We encourage the Commission to employ a quick and efficient bidding schedule for Auction 105, as experience has shown there is no need for the Commission to start clock auctions off slowly, scheduling only a few rounds per day for some period. A more rigorous approach is more efficient, will reduce the time that auction applicants are subject to the constraints of the Commission's rule against prohibited communications, and will help expedite the Commission's aggressive auction schedule in 2020.

Clock auctions that involve generic blocks of spectrum are easier for bidders to manage than simultaneous multiple-round (SMR) auctions, because bidders need only determine the number of blocks they desire at a particular price. In the early rounds of clock auctions, bidders often find themselves simply confirming their initial bids in the same markets during what amounts to a price discovery phase.

The Commission has now used the clock auction format in two major spectrum auctions: the forward auction of the broadcast incentive auction (Auction 1002) and the 24 GHz band auction

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<sup>14</sup> See *Auction 105 Procedures Comment PN* at ¶ 56.



(Auction 102), and Verizon is not aware of any bidder complaints that the pace of these auctions was too quick. Absent evidence of such complaints,<sup>15</sup> the Commission should dispense with the usual “ramp-up” phase at the start of Auction 105 and instead proceed on a more rigorous pace for the auction from the first round of bidding.

Conducting Auction 105 at a faster pace from the outset will result in a far more efficient auction process. For example, in Auction 102 the clock phase limped along at a three-rounds-per-day pace from the second day of the auction, March 15, 2019, through April 3, 2019, and then moved to only five rounds per day through April 16, 2019. The clock phase of Auction 102 concluded on April 17, 2019, the first day that eight rounds of bidding were conducted. In total, the 91 clock rounds of Auction 102 took over a month to complete. If the Commission had conducted seven rounds per day from the beginning of Auction 102, the clock phase could have been completed in 13 bidding days, saving more than two weeks. A minimum of six rounds per day from the auction outset provides adequate processing and analysis time for bidders of all sizes.

The Commission of course would retain the ability to moderate the pace of the auction if circumstances warrant, such as at key inflection points like activity rule changes or in the case of certain bidding anomalies, to ensure that all bidders have adequate time between rounds. But the Commission’s general bias should be toward completing Auction 105 as quickly as possible so that the Commission and the industry can move on to other pressing spectrum matters.

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<sup>15</sup> Communications between bidders and the FCC auction staff during auctions are not publicly available.

**V. The 20 Percent Additional Default Payment for County-Level Bids Is Reasonable.**

The Commission's auction program was founded on, and continues to rely on, the notion that auction bids will be sincere and that bidders will not game the auction process or engage in preclusive conduct. The imposition of default payments – in addition to a deficiency payment representing the difference between the amount of a defaulted bid and the amount of the winning bid in a subsequent auction – is a critical tool for protecting the integrity of FCC auctions. For winning county-level bids in Auction 105, the Commission has proposed to impose an additional payment of 20 percent of the applicable defaulted bid, the maximum allowable under Section 1.2104(g)(2)(ii) of the Commission's rules.<sup>16</sup> Insincere bidding and abuse of the auction process distort the competitive dynamics of the auction and harm other bidders and the public interest. Vigorous imposition of default payments, therefore, is necessary to discourage such misbehavior, and we support the proposed 20 percent additional default payment for defaults on winning county-level bids.

**VI. Conclusion.**

The Commission should adjust its Auction 105 bidding procedures as outlined above to ensure that the auction awards PALs to the bidders who value them most highly.

William H. Johnson  
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Respectfully submitted,

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<sup>16</sup> See 47 C.F.R. § 1.2104(g)(2)(ii).