

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Incentive Auction of Upper Microwave	)	AU Docket No. 19-59
Flexible Use Service Licenses in the Upper 37	)	
GHz, 39 GHz, and 47 GHz Bands for Next-	)	
Generation Wireless Services	)	
	)	
Comment Sought on Competitive Bidding	)	
Procedures for Auction 103	)	

To: Federal Communications Commission

**COMMENTS OF VERIZON**

With this proceeding, the Federal Communication Commission (“FCC”) aggressively moves toward unleashing spectrum for 5G and other advanced wireless services. The FCC is poised to add additional millimeter wave, high-band spectrum to the marketplace in Auction 103, the auction of the Upper 37 GHz (37.6–38.6 GHz), 39 GHz (38.6–40 GHz), and 47 GHz (47.2–48.2 GHz) bands expected to occur on December 10. A critical step in making this additional spectrum available is to establish reasonable and fair auction procedures that will encourage a robust and competitive auction.

The Commission’s *Auction Procedures PN* should help implement the directives of the *Spectrum Frontiers Fourth R&O* so that the 37 GHz, reconfigured 39 GHz, and 47 GHz spectrum is put to its highest and best use.<sup>1</sup> But the auction procedures proposal should be

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<sup>1</sup> *Incentive Auction Of Upper Microwave Flexible Use Service Licenses In The Upper 37 GHz, 39 GHz, And 47 GHz Bands For Next-Generation Wireless Services Comment Sought On*

amended in a few, important ways. Specifically, the Commission should lower its proposed upfront payments, while retaining the proposed minimum opening bids. The Commission also should conduct an assignment round even if revenues from the clock phase do not exceed the net revenue requirement. Finally, the Commission should modify the proposed category name for the 37/39 GHz band.

With these targeted modifications, Auction 103 should prove fair and reasonable, ultimately maximizing opportunities for competitive access to wide swathes of spectrum for 5G services.

**I. THE COMMISSION SHOULD MODIFY THE PROPOSED UPFRONT PAYMENTS WHILE MAINTAINING THE PROPOSED MINIMUM OPENING BIDS.**

The Commission proposes upfront payments for a generic block in a PEA based on \$0.001 per weighted MHz-pop for PEAs 1-50, \$0.0002 per weighted MHz-pop for PEAs 51-100, and \$0.0001 per weighted MHz-pop in other PEAs.<sup>2</sup> This approach sets upfront payments at a relatively high price, particularly for incumbents who will contribute licenses to the auction as well. The Commission should modify these payments to a quarter of the proposed amount, thereby encouraging both more bidders to participate in the auction overall and more robust bidding in individual markets. At a minimum, even if the Commission does not lower the upfront payments for all applicants, it should set a lower upfront payment amount for incumbent 39 GHz licensees who have already significantly invested in the 39 GHz band and demonstrated their commitment to the future of this band.

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*Competitive Bidding Procedures For Auction 103*, Public Notice, AU Docket No. 19-59, FCC 19-35 (adopted Apr. 12, 2019) (“*Auction Procedures PN*”); *Use of Spectrum Bands above 24 GHz for Mobile Radio Services*, Fourth Report and Order, FCC 18-180 (rel. Dec. 12, 2018) (“*Spectrum Frontiers Fourth R&O*”).

<sup>2</sup> *Auction Procedures PN* ¶ 53.

First, the proposed upfront payments match those used for Auction 102 but there is no reason or obligation to do so. These are very different auctions, and the complexities associated with this one (described below) warrant a much different upfront payment level.

Second, the Commission has offered no reason to base upfront payments on weighted MHz-POPs values. Weighted MHz-POPs values are valuable for purposes of reconfiguring existing 39 GHz licenses and the “Round Zero” portion of the Initial Commitment Phase because it allows different markets with different values to be compared. But that purpose does not exist for Auction 103. To the contrary, the Commission is auctioning specific licenses and applicants will know exactly which licenses they are planning to bid on in the auction. Bidding will ultimately determine which markets are more valuable for these bands and there is no need to work that differentiation into the upfront payments. The Commission thus should use a standard 100 MHz/block times 2010 POPs metric across all markets.

Third, the proposed rates will disproportionately harm incumbent 39 GHz licensees and could impact their ability to fully participate in the auction. Incumbent licensees that choose to participate in the auction will surrender their holdings to the Commission, handing over spectrum potentially worth millions of dollars. If the Commission does not modify its upfront payment levels, incumbent licensees could be required to pay millions of dollars in upfront payments as well just to retain the same amount of spectrum that they currently hold. While the Commission generally requires upfront payments from prospective auction bidders “[t]o ensure that only serious, qualified bidders participate,”<sup>3</sup> here an incumbent 39 GHz licensee that offers to relinquish spectrum usage rights necessarily already has demonstrated its seriousness and

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<sup>3</sup> See *Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, Second Report and Order, 9 FCC Rcd 2348, 2377 ¶ 169 (1994).

commitment to the band. Extensive additional commitments could require incumbent licensees to divert resources from other initiatives, such as infrastructure deployments and 5G service rollouts. And, if an incumbent licensee cannot—or does not want to—divert those resources to the Commission for it to hold during the pendency of the auction until that money is returned to the licensee post-auction, that licensee may need to limit its participation in the auction further than it otherwise would, ultimately inhibiting a fully competitive and robust auction.

Finally, the Commission’s concerns in the Public Notice about whether a lower upfront payment for incumbent licensees will provide it with sufficient funds from which to collect default payments and insincere bidding by incumbents are unfounded.<sup>4</sup> With respect to payment defaults in this auction, an incumbent licensee who seeks merely to exchange vouchers for newly-reconfigured licenses would simply use vouchers to purchase those licenses in the auction and an incumbent licensee who seeks only to turn in those licenses and receive an incentive payment would have no payment obligations. With respect to other defaults, the Commission will still have the spectrum that the relevant incumbent licensee surrendered to the Commission during the Initial Commitment Phase with no means of reacquiring it if the licensee defaults, a significant loss to any incumbent even without the loss of an upfront payment. Any attempt to increase prices in the auction would require the licensee to also increase their demand for licenses, ultimately risking acquiring more licenses than desired. Insincere bidding thus would serve no purpose and could backfire on incumbents.

For these reasons, the Commission should lower the upfront payments for all applicants or, at a minimum, lower the upfront payments for incumbent 39 GHz licensees. If the Commission chooses the latter, it should lower the upfront payments only for the equivalent

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<sup>4</sup> *Auction Procedures PN ¶ 56.*

amount of bidding eligibility to which the incumbent holds existing licenses. Of course, if the Commission adopts a lower upfront payment for incumbents and an incumbent wishes to be eligible to bid on more spectrum than it current holds, that incumbent should make a cash upfront payment to obtain bidding eligibility for additional licenses that is equivalent to what a non-incumbent would pay for the same amount of eligibility.

The Commission need not similarly modify the proposed minimum opening bids. Nothing requires minimum opening bids to be double the amount of upfront payments. And, unlike the proposed upfront payments, the proposed minimum opening bids will not disproportionately harm particular applicants. The Commission thus should adopt the proposed minimum opening bids.

## **II. THE COMMISSION SHOULD CONDUCT AN ASSIGNMENT ROUND EVEN IF THE AUCTION FAILS TO MEET THE NET REVENUE REQUIREMENT.**

The Commission should hold an assignment round even if the clock phase revenues do not meet the net revenue requirement.<sup>5</sup> While the assignment phase payments will likely be small compared to those from the clock phase, the clock phase could fall short of the net revenue requirement by only a small amount. Assignment round payments thus could push net revenues over the requirement, resulting in a successful auction. The additional time required by an assignment round pales in comparison to the time that would be spent on subsequent proceedings to reconfigure the 39 GHz band. Even if the assignment round does not meet the net revenues requirement, the Commission could reconfigure the 39 GHz band based on the assignment round. Specifically, incumbent licensees that participate in the auction could be granted modified licenses based on their assignment round bids (and payments). And other incumbent

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<sup>5</sup> *Auction Procedures PN ¶¶ 44-48.*

39 GHz licensees could then be granted modified licenses surrounding those incumbent licensees that make assignment round payments. Non-incumbent spectrum that failed to be auctioned could be made contiguous and aligned next to the reconfigured incumbent licenses.

### **III. THE COMMISSION SHOULD MODIFY THE CATEGORY NAME FOR THE 37/39 GHZ BAND.**

The Commission proposes to designate the first category of available spectrum blocks between 37.6 and 40 GHz as Category M/N.<sup>6</sup> For purposes of this auction, however, the 37 and 39 GHz blocks are fungible. A single category designation, for example Category M, would be significantly easier for applicants to implement. For applicants using existing clock software to aid in their bidding, in particular, the proposed Category name could cause complications, ultimately requiring software upgrades. The Commission thus should modify the Category name for the 37/39 GHz band to be a single letter, rather than two letters and a character.

### **IV. CONCLUSION.**

Through this auction, the Commission will make a significant amount of millimeter wave spectrum available for 5G. And with the few tweaks proposed here, the Commission will set the stage for a fair, successful, and competitive auction.

Respectfully submitted,

/s/

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<sup>6</sup> *Id.* ¶ 34.