

In the Matter of)
)
 Auction of Priority Access Licenses For) AU Docket No. 19-244
 The 3550-3650 MHz Band)

 To: The Commission

The Enterprise Wireless Alliance (“EWA” or “Alliance”), in accordance with Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) rules, submits its reply comments in this proceeding.¹ Many Alliance members have a keen interest in Priority Access Licenses (“PALs”) in the 3550-3650 MHz band that will be auctioned in June 2020 (Auction 105). While there are uses that will be served by the unlicensed devices to be deployed in the band, there also are critical applications requiring licensed broadband spectrum that justify investment in infrastructure to address those needs. The seven PAL licenses the FCC intends to auction are well-suited for certain of those purposes.

¹ *Auction of Priority Access Licenses for the 3550-3650 MHz Band, Comment Sought on Competitive Bidding Procedures for Auction 105*, Public Notice, AU Docket No. 19-244, FCC 19-96 (Rel. Sept. 27, 2019) (“Public Notice”).

range of interested parties, by settling on licensing PALs on a county-by-county basis.² Having reached that carefully crafted compromise, a term used more than once in the CBRS Order, the FCC nonetheless indicated that the auction bidding rules also would seek comment on package bidding to allow proponents of larger geographic areas to aggregate bids up to a Metropolitan Statistical Area (“MSA”) level.³

In fact, the Public Notice proposes to adopt Cellular Market Area (“CMA”)-level bidding for the 172 CMAs classified as MSAs that include more than a single county. Those CMAs cover much of the nation’s population. This proposal not only goes well beyond what was suggested in the CBRS Order, but adds a bewildering level of complexity to the auction process that, by itself, eliminates any realistic possibility of auction success for smaller commercial and business enterprise entities. If adopted, it would undo the very compromise that the Commission achieved in this proceeding.

The PAL geographic license area, by far, was the most contentious issue in the CBRS proceeding. The CBRS Order devoted 20 pages and 43 paragraphs to the subject. After weighing all the arguments and analyses, the FCC chose county-based licensing, stating that “we find that using counties nationwide will support licensee diversity and increased investment.”⁴ It rejected hybrid geographic approaches:

We also find that using the same license area in both rural and urban areas, as opposed to a hybrid approach licensing different sized PALs in urban and rural areas, will minimize complexities in a band that has a unique tiered access structure with dynamic spectrum sharing,⁵

² *Promoting Investment in the 3550-3700 MHz Band*, GN Docket No. 17-258, Report and Order, 33 FCC Rcd 10598 (2018) (“CBRS Order”).

³ CBRS Order at ¶ 40.

⁴ CBRS Order at ¶ 41.

⁵ *Id.*

Yet virtually all parties have concluded that the CMA-level bidding option proposed in the Public Notice would introduce a degree of complexity beyond even the rejected hybrid license area approach.

The FCC has made substantial improvements in simplifying the actual bidding process to avoid “fat finger” bids and other errors since the early days of competitive bidding. At the same time, the introduction of clock phase bidding and other provisions require a sophistication that in practical terms dictate engagement of bidding strategy experts. It makes successful participation in auctions a significant investment that often is beyond the reach of all but the largest carriers with expectations of returns to justify the expense.

The Auction 105 Technical Guide, which purports to clarify the bidding process for this auction, may be only 22 pages, but those pages are a bewildering set of instructions for all but the most auction-savvy. They assume a knowledge of clock price auction design and then superimpose on that process exceptions and deviations that would make successful bidding an almost impossible effort, even without the additional complexity of CMA-level bidding.

The Comments of Southern Communications Service, Inc. d/b/a Southern Linc (“Southern Linc”) offer a clear-eyed critique of the problems with the proposed bidding rules for Auction 105. It states:

These rules are so impenetrable, especially by comparison with earlier relatively straightforward package bidding rules, that there can be little doubt the rules alone will be sufficient to disincite new entrants and smaller bidders from competing in CMRs where CMR-level bidding is allowed.⁶

⁶ Southern Linc Comments at 5; *see, e.g.*, Comments of Competitive Carriers Association, NCTA – The Internet and Television Association, National Rural Electric Cooperative Association, Southern California Edison, and American Petroleum Institute.

Its Comments and those of other parties conclude that CMA-level bidding “would operate to moot county-level bidding in those CMAs.”⁷

It should give the Commission pause that Verizon Communications, Inc. (“Verizon”) has stated that CMA-level bidding is not package bidding, a concept generally embraced by major carriers, and should not be adopted. Verizon has concluded that CMA-level bidding will limit rather than enhance bidder flexibility and that the unique clock pricing method proposed and the exception to the typical “no excess supply” rule “would introduce unnecessary complexity to an already complex auction – for both county-level bidders and CMA-level bidders.”⁸ AT&T Services, Inc. (“AT&T”) has cautioned that certain of the proposed bidding provisions “might distort competitive outcomes.”⁹

When Verizon says that, “[CMA]-level bidding is not package bidding, is unlikely to be used, and could do more harm than good,”¹⁰ it should give the FCC pause. When the nation’s two largest commercial carriers with proven track records for auction success raise concerns about an auction proposal, one seemingly intended to facilitate spectrum aggregation in support of their mobile broadband operations, the Commission should take a large step back and re-examine its proposed approach.

EWA’s members include parties that have followed this proceeding closely because they are prepared to invest in the “innovative use cases for urban, suburban, and rural deployments, including IoT deployments and those by new entrants.”¹¹ As the FCC explained, “Licensing PALs by county will help foster flexible and innovative use of the 3.5 GHz band in all areas by providing a consistent, relatively small license size appropriate for a

⁷ *Id.*

⁸ Verizon Comments at 4.

⁹ AT&T Comments at 2.

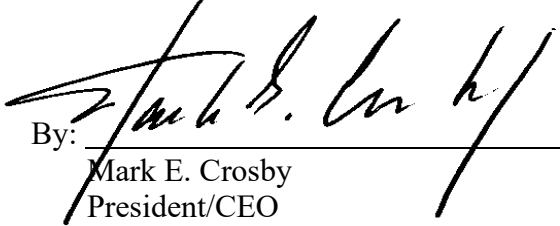
¹⁰ Verizon Comments at 1.

¹¹ CBRS Order at ¶ 27.

wide range of possible network deployments.”¹² EWA joins virtually all parties that have commented on the CMA-level bidding proposal in urging the Commission not to adopt that element of its Auction 105 auction design. Instead, the FCC should preserve the compromise it adopted in the CBRS Order and retain county license areas for all PALs.

Respectfully submitted,

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¹² *Id.* at ¶ 28.