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JUN 2 2 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 22, 1994

William Caton, Acting Secretary
Federal Communications Commission
Washington, D.C. 20054

Re: In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding
PP Docket No. 93-253

Dear Mr. Caton:

Transmitted herewith on behalf of Tri-State Radio Co. is an original and four (4) copies of its "Petition For Reconsideration" with respect to the above-referenced proceeding.

Should any questions arise with respect to this matter, please communicate directly with this office.

Respectfully submitted,

Richard Becker

Richard S. Becker
Attorney for Tri-State Radio Co.

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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

In the Matter of	)	
	)	
Implementation of Section 309(j)	)	PP Docket No. 93-253
of the Communications Act -	)	
Competitive Bidding	)	

To: The Commission

PETITION FOR RECONSIDERATION

Respectfully submitted,

TRI-STATE RADIO CO.

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Its Attorneys

Date: June 22, 1994

TABLE OF CONTENTS

Table of Contents i

Summary ii

I. The Interest Of Tri-State 2

II. The Commission Must Reconsider Single Round Sealed Bidding For Auction Of Paging Response Channels 4

III. Requested Relief 12

SUMMARY

Tri-State Radio Co. ("Tri-State") hereby seeks reconsideration of the Third Report and Order ("Third R&O") in the above-captioned proceeding in which the Commission adopted service-specific rules for competitive bidding on licenses to be awarded for Personal Communications Services in the 900 MHz frequency band ("narrowband PCS"). Tri-State's instant Petition seeks reconsideration only of that portion of the Third R&O that adopted single round sealed bid auction procedures for assignment of the 204 12.5 kHz unpaired paging response channel licenses to be assigned on a Major Trading Area ("MTA") basis and the 1,968 12.5 kHz unpaired paging response channel licenses to be assigned on a Basic Trading Area ("BTA") basis.

Tri-State is a communications company primarily engaged in the provision of one-way paging services. Tri-State provides one-way paging service pursuant to authorizations granted under Part 22 of the Commission's Rules and pursuant to authorizations granted under Part 90 of the Commission's Rules. As a multi-state, wide-area paging operator, Tri-State is eligible for and interested in the MTA and BTA paging response channels to be assigned pursuant to the competitive bidding procedures specified in the Third R&O.

Tri-State's request for reconsideration of the Third R&O is based on Tri-State's belief that in order to make maximum efficient use of the available paging response channels in connection with operation of Tri-State's multi-state wide-area paging systems, Tri-State must obtain: (1) the same paging response channel in multiple MTA's in which Tri-State's one-way paging systems operate; and/or (2) the same paging response channel in multiple BTA's in which Tri-State's one-way paging systems operate. In the Third R&O, the Commission failed to recognize the extraordinary degree of value interdependency between paging response licenses that arises from this important technical consideration.

Moreover, the justifications enunciated by the Commission for adoption of single round sealed bidding for paging response licenses (instead of simultaneous multiple round bidding for all other narrowband PCS channels) are highly questionable and do not outweigh the value interdependency discussed in the preceding paragraph. The Commission's assumption that the value of paging response licenses will be less than other narrowband PCS licenses may not be accurate. Further, the Commission's assertion that single round sealed bidding may help to reduce collusion is also questionable. In addition, prior auctions of other narrowband PCS licenses will not necessarily provide adequate information on the value of paging response channels and the Commission's decision to allow paging response bidders to bid on more channels than they are eligible to be awarded, by itself, also fails to address Tri-State's concerns. Finally, Tri-State believes that existing rules

mandating single round sealed bidding for paging response licenses are deficient from an auction design perspective. These deficiencies can be readily demonstrated by example.

In place of single round sealed bidding, Tri-State believes that the Commission should adopt revised paging response channel auction procedures that: (1) are market-specific (not market- and frequency-specific); (2) provide a clearly defined order in which MTA and BTA winning bidders can select the frequencies to be assigned to their systems; and (3) protect the ability of minority- and female-owned business and small business "designated entities" to seek common paging response channels. These new procedures will maximize the ability of paging response bidders to obtain, where necessary, a common paging response channel across MTA and BTA boundaries.

In this Petition, Tri-State provides the Commission with a blueprint for adoption of these revised auction procedures and Tri-State supports its proposal with a specific example of how the proposal will work.

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In the Matter of	)	
	)	
Implementation of Section 309(j) of the Communications Act - Competitive Bidding	)	PP Docket No. 93-253

To: The Commission

PETITION FOR RECONSIDERATION

Tri-State Radio Co. ("Tri-State"), by its attorneys and pursuant to 47 C.F.R. §1.429, hereby seeks reconsideration of the Third Report and Order[1] in the above-captioned proceeding in which the Commission adopted service-specific rules for competitive bidding on licenses to be awarded for Personal Communications Services in the 900 MHz frequency band ("narrowband PCS"). Tri-State's instant Petition seeks reconsideration only of that portion of the Third R&O that adopted single round sealed bid auction procedures for assignment of the 204 12.5 kHz unpaired paging response channel licenses to be assigned on a Major Trading Area ("MTA") basis and the 1,968 12.5 kHz unpaired paging response channel licenses to be assigned on a Basic Trading Area ("BTA")

[1] Third Report and Order, PP Docket No. 93-253, 59 Fed. Reg. 26741 (May 24, 1994) (hereinafter "Third R&O").

basis.[2] In support of this Petition, the following is respectfully shown.

I. The Interest of Tri-State

1. Tri-State is a communications company primarily engaged in the provision of one-way paging services. Tri-State and its affiliates provide wide-area, one-way paging service in numerous states, including New York, Connecticut, New Jersey, Pennsylvania, Massachusetts, Arizona, Nevada and California. Tri-State provides one-way paging service pursuant to authorizations granted under Part 22 of the Commission's Rules and pursuant to authorizations granted under Part 90 of the Commission's Rules. As a multi-state, wide-area paging operator, Tri-State is interested in the MTA and BTA paging response channels to be assigned pursuant to the competitive bidding procedures specified in the Third R&O.[3]

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[2]In its Memorandum Opinion and Order, GEN Docket No. 90-314, ET Docket No. 92-100, 9 FCC Rcd 1309 (1994) (hereinafter "MO&O"), the Commission reconsidered its original allocation of paging response channels [as adopted in the First Report and Order in that proceeding, 8 FCC Rcd 7162 (1993)] to: (1) assign four (4) 12.5 kHz unpaired narrowband PCS channels as paging response channels on an MTA basis (901.9000-901.9125 MHz; 901.9125-901.9250 MHz; 901.9250-901.9375 MHz; and 901.9375-901.9500 MHz); and (2) assign four (4) 12.5 kHz unpaired narrowband PCS channels as paging response channels on a BTA basis (901.9500-901.6250 MHz; 901.9625-901.9750 MHz; 901.9750-901.9875 MHz; and 901.9875-902.0000 MHz). See also 47 C.F.R. §§24.130(b) and (c). In the Third R&O, the Commission adopted a single round sealed bid auction procedure for assignment of MTA and BTA paging response channels. Third R&O at ¶29.

[3]Many of Tri-State's Part 22 and Part 90 one-way paging systems were authorized as of June 24, 1993. Moreover, Tri-State currently operates one-way paging base stations in multiple MTA's and BTA's. Accordingly, pursuant to 47 C.F.R. §24.130(a), Tri-State is eligible to apply and bid for paging response channels in multiple MTA's and BTA's. See also MO&O, 9 FCC Rcd at 1313.

2. Tri-State believes, however, that in order to make maximum efficient use of the available paging response channels in connection with operation of Tri-State's multi-state wide-area paging systems, Tri-State must obtain: (1) the same paging response channel in multiple MTA's in which Tri-State's one-way paging systems operate; and/or (2) the same paging response channel in multiple BTA's in which Tri-State's one-way paging systems operate.[4] In the Third R&O, the Commission failed to recognize the extraordinary degree of value interdependency between paging response licenses that arises from this important technical consideration.

3. Accordingly, Tri-State hereby requests reconsideration of the Commission's decision to assign MTA and BTA paging response licenses by single round sealed bidding. As demonstrated below, Tri-State believes that the Commission should adopt revised paging response channel auction procedures that: (1) are market-specific (not market- and frequency-specific); (2) provide a clearly defined order in which MTA and BTA winning bidders can select the frequencies to be assigned to their systems; and (3) protect the ability of minority- and female-owned business and small business "designated entities"[5] to seek common paging response channels.

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[4]Of course, Tri-State recognizes that it may only hold licenses for a maximum of two (2) paging response channels in any geographic area. 47 C.F.R. §24.130(a).

[5]In the Third R&O, the Commission adopted the following preferences for minority- and female-owned business [as defined by 47 C.F.R. §1.2110(b)(2)] and small business [as defined by 47 C.F.R. §1.2110(b)(1)] designated entities: (1) a twenty-five percent (25%) bidding credit to minority- and female-owned

These new procedures will maximize the ability of paging response bidders to obtain, where necessary, a common paging response channel across MTA and BTA boundaries.

II. The Commission Must Reconsider Single Round Sealed Bidding For Auction Of Paging Response Channels

4. In the Third R&O, the Commission adopted a single round sealed bid auction for both MTA and BTA paging response licenses.[6] This procedure is different than the procedure adopted for all other narrowband PCS licenses, which will be assigned by the Commission using simultaneous multiple round auctions.[7] In discussing single round sealed bid auctions generally, the Commission recognized that:

> [B]ecause single round sealed bidding provides less information and flexibility to bidders than either simultaneous or sequential auctions, we will generally use this method only where there is less interdependence among individual licenses or groups of licenses and the expected value of the licenses to be auctioned is low relative to the cost of conducting a more complex auction.
>
> Third R&O at ¶22.

In spite of its recognition of the limitations of single round sealed bidding, the Commission justified its decision to use this method to assign MTA and BTA paging response licenses by claiming that:

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businesses on certain narrowband PCS licenses; (2) tax certificates to minority- and female-owned businesses; and (3) installment payments available to small businesses. Third R&O at ¶¶66-85. The Commission did not provide narrowband PCS preferences for rural telephone companies. Id. at ¶71.

[6] Third R&O at ¶29.

[7] E.g., id. at ¶18.

> [T]heir value is low relative to the cost of conducting other more complex auctions. Moreover, because only incumbent paging licensees are eligible to bid on those licenses, sealed bid auctions may help to reduce the chances of collusion among the limited number of bidders. In addition, the loss in efficiency from using single round bidding will be mitigated by the fact that bidders on these licenses will have access to information about license values from the simultaneous multiple round auctions that will precede the sealed bid auction.

Id. at ¶29.

5. In an apparent attempt to address the deficiencies of a single round sealed bid auction, the Commission did permit paging response license bidders to, "bid on more licenses than they are eligible to be awarded under existing aggregation limits, provided they specify in advance the order in which they wish to be awarded such licenses in the event that they are the high bidder on more licenses than they are permitted to hold."[8] In addition, although not clearly applied to auction of paging response licenses, the Commission left open the possibility that combinatorial bidding could be used for paging response licenses because those licenses are not being assigned in simultaneous multiple round bidding.[9]

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[8]Third R&O at ¶29. The Commission also noted that:

> The Commission ... will not designate a bidder the winning bidder on more licenses than it is eligible to hold. Under these circumstances, a high bidder will not be subject to the bid withdrawal penalty ... for those additional licenses for which it is not designated the winning bidder.

Id. at n.8.

[9]In combinatorial bidding, if a bid for a group of licenses exceeds the sum of the highest bids for the individual licenses that comprise the package, then the package bid would win. Third R&O at n.5. The Commission rejected use of combinatorial bidding

It should also be noted that in the Third R&O, the Commission did not clearly state whether it will auction paging response licenses on a market- and frequency-specific basis, or whether it will auction paging response licenses only on a market-specific basis.[10]

6. Tri-State respectfully submits, however, that the procedures adopted in the Third R&O with respect to auction of paging response licenses fail to take into account one critical fact -- there is an extremely high degree of value interdependency between paging response licenses. This is due to technical considerations involved in the operation of wide-area paging systems. Specifically, a one-way paging company operating a wide-area paging system that crosses MTA or BTA boundaries must have a single, common paging response channel to be able to operate its system efficiently. Just as most paging carriers operate wide-area paging systems by using multiple co-channel transmitters linked together (via wireline, radio, satellite or other means) to transmit paging signals over a broad geographic area, so, too, must a paging carrier obtain a single, common paging response channel to use in connection with its cross-MTA or cross-BTA wide-area paging system. Only in this way can the wide-area paging carrier ensure

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where simultaneous multiple round bidding is used (as will be the case with all narrowband PCS licenses except paging response licenses). Id. at ¶24. The Commission went on to state, however, that, "in circumstances where we do not use simultaneous multiple round bidding, we may permit combinatorial bidding." Id.

[10]In other words, it is not clear whether the Commission will hold one auction for paging response channel A in MTA No. 1, a separate auction for paging response channel B in MTA No. 1 and so forth, or whether the Commission will hold one single auction for all four (4) paging response channels in MTA No. 1 and so forth.

maximum efficient operation of its upgraded paging system and optimum utilization of the spectrum now allocated by the Commission for paging response purposes.[11] This vital technical consideration makes clear that existing wide-area paging carriers whose systems cross MTA and/or BTA boundaries have a critical interest in ensuring that they obtain a single, common paging response channel for their system in all MTA's or BTA's where the underlying paging system operates. As a result, paging response channels are not fungible across MTA or BTA boundaries and there is a high degree of value interdependency between licenses for those channels.

7. Moreover, the justifications enunciated by the Commission for adoption of single round sealed bidding for paging response licenses are highly questionable and in no event outweigh the value interdependency discussed in the preceding paragraph. Tri-State recognizes that simultaneous multiple round auctions may be more costly and more difficult to administer. Tri-State respectfully submits, however, that the Commission's assumption that the value of paging response licenses will be less than other narrowband PCS licenses may not be accurate.[12] Furthermore, the Commission's

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[11]Nationwide (and to a lesser degree regional) narrowband PCS licensees are not confronted with this obstacle of having to aggregate a common frequency in numerous geographic areas. As demonstrated more completely at paragraph 17, infra, grant of reconsideration as requested herein will minimize this inequity and level the playing field for paging response licensees and other narrowband PCS licensees.

[12]Specifically, although it is true that the amount of spectrum allocated to each paging response license will be less than the amount of spectrum allocated to the other types of narrowband PCS licenses, the existing paging licensees that are eligible to apply for paging response channels have already established and are

assertion that single round sealed bidding "may help to reduce the chances of collusion among the limited number of [eligible paging licensee] bidders," is also questionable.[13]

8. In addition, the factors that the Commission believes will mitigate the difficulties of a single round sealed bid auction do not adequately address the concerns specified by Tri-State herein. First, although prior auctions of other narrowband PCS licenses may be interesting, they will not necessarily provide

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currently operating paging systems to which the paging response channel capability must only be added. On the other hand, successful bidders for all other narrowband PCS licenses face the daunting and expensive task of constructing a completely new system that will probably be used to provide a new type of service for which there is no proven consumer demand. These risks are particularly great for bidders on the two (2) paired narrowband PCS channels allocated on a BTA basis.

[13]In any given MTA or BTA, there may be numerous paging licensees licensed prior to June 24, 1993, and operating at least one base station within that market. As the Commission is aware, the growth in the one-way paging industry over the past 15 years has been astonishing and paging is an extremely competitive segment of the mobile communications industry. See EMCI -- The State of the U.S. Paging Industry -- Subscriber Growth, End-User and Carrier Trends: 1990. There are more than 150 frequencies allocated pursuant to Parts 22 and 90 of the Commission's Rules that can be used to provide one-way paging services. [These include Part 22 lowband, VHF, UHF and 900 MHz frequencies and Part 90 VHF, UHF and 900 MHz frequencies.] In addition, there are additional 900 MHz nationwide paging channels and paging can also be provided on FM subcarrier channels. In point of fact, on average, a paging carrier faces five (5) other paging carriers competing with it in a given market, while some paging carriers face as many as nineteen (19) competitors. See R. Ridley, 1993 Survey of Mobile Radio Paging Operators, Communications, Sept. 1993, p.20. With this number of potential bidders, Tri-State respectfully submits that the potential for collusion among paging response bidders will be no greater than the potential for collusion among bidders for other narrowband PCS licenses. In any event, Tri-State must also point out that the Commission has adopted specific provisions to prevent collusion in bidding and collusion may also constitute violation of federal antitrust laws. See generally Third R&O at ¶¶64-65.

information on the value of a paging response channel to an existing paging company in a given market. Moreover, this information has no bearing whatsoever on the value interdependency that arises between paging response licenses as a result of the need of wide-area paging system operators to obtain a single, common paging response channel across MTA or BTA boundaries. The Commission's decision to allow paging response bidders to bid on more channels than they are eligible to be awarded, by itself, also fails to address Tri-State's concerns.

9. Tri-State must also emphasize that existing rules mandating single round sealed bidding for paging response licenses are deficient from an auction design perspective. First, as set forth above, the existing procedures are poorly structured to allow bidders to obtain a common frequency across regions. Bidders cannot know how to prioritize their bids and only in the extreme case where a bidder wins all of its first priority bids is it possible for that bidder to coordinate frequency selection in multiple MTA or BTA markets. Second, the existing paging response channel bidding procedures require exceedingly complicated bidding strategies. Even a bidder who only wants to win one license in a market should bid on all four licenses in that market and order the priority of bids from low to high. If a bidder wishes to obtain a common paging response channel in multiple MTA or BTA markets, establishing effective bidding strategies becomes almost impossible and bidders will be unwilling to pay a premium for obtaining a common channel. Third, the existing rules do not contain a clear

default rule and reallocation mechanism for defaulted licenses that is necessary because the existing rules effectively require bidders to bid on more licenses than they either desire or are allowed to purchase. In other words, the Commission has not determined how to reallocate paging response channel licenses that are turned down by bidders who have won more licenses than they desire. The Commission has also not specified what will happen if there is a paging response license with no bidders left given their strategic prioritizations.

10. This deficiency in the existing auction procedures can perhaps best be demonstrated by a simple example. Bidders A, B and C are each interested in only one paging response license in MTA 1. The bidders adopt a minimize bid cost strategy and therefore rank licenses in the reverse order of bids as follows:

	License		
Bidder	1	2	3
A	10	15	16
B	12	9	11
C	7	No bid	No bid

Under existing paging response auction procedures adopted in the Third R&O, Bidder A would be the high bidder of Licenses 2 and 3 and would turn back License 3 (the more expensive authorization). B would be the high bidder for License 1, but once License 3 is turned back by Bidder A, License 3 would be offered to Bidder B as the next highest bidder and Bidder B would choose License 3 over License 1 because License 3 is less expensive for Bidder B. Having

made this determination, Bidder B would then turn back License 1, which in turn would be offered to Bidder A as the next highest bidder. Bidder A, faced with a choice between License 2 and the now available License 1 would choose License 1 and turn back License 2 because License 1 is less expensive to Bidder A than License 2. Once License 2 is turned back, License 2 would then be awarded to Bidder B as the next highest bidder because License 2 is cheaper to Bidder B than License 3. As a result: (1) Bidder A would obtain License 1 for the lowest amount bid by Bidder A on either License 1, 2 or 3; (2) Bidder B would obtain License 2 for the lowest amount bid by Bidder B on either License 1, 2 or 3; (3) Bidder C would not receive any authorization whatsoever; and (4) License 3 would remain unallocated and it is unclear how that license would be assigned. These results demonstrate that existing auction procedures are extremely complicated, overly cumbersome, require an extraordinary amount of strategic consideration and do not result in an efficient allocation of paging response channels.

11. The insufficiency of the Commission's justifications, coupled with the failure by the Commission to recognize the extraordinary degree of value interdependency between paging response licenses and the flaws in existing paging response channel bidding procedures from an auction design perspective as demonstrated above, require that the Commission reconsider and reverse its decision to utilize single round sealed bid auction procedures to assign both MTA and BTA paging response licenses.

III. Requested Relief

12. Tri-State respectfully submits that in place of single round sealed bidding, the Commission should utilize revised paging response channel auction procedures that maximize the ability of paging response bidders to obtain, where necessary, a common paging response channel across MTA and BTA boundaries. Specifically, Tri-State believes that the Commission should specify that paging response channel auctions will be market-specific, not market-and frequency-specific. Bidders will place a sealed bid for any unpaired 12.5 kHz paging response license in a given MTA or BTA without specifying which of the four (4) frequencies available in that market the bidder is bidding on.[14] The Commission will open all bids in each market and determine which are the four (4) highest bids in that market. Those four (4) bids will be designated the winning bids in that market.

13. After determining the winning bids in each MTA and BTA, the Commission can then proceed to determine the order in which winning bidders can select the specific paging response channel(s) to be assigned pursuant to their winning bids. In MTA's, Tri-State respectfully submits that the Commission should rank MTA winning bidders for purposes of frequency selection based on which bidder has agreed to pay the most for the paging response channels specified in all of that bidder's MTA winning bids. The bidder

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[14]For example, a bidder would write, "I bid $100 for one of the four (as yet unspecified) New York MTA paging response channels." A bidder interested in obtaining two (2) licenses in the New York MTA could add, "I also bid $85 for one of the four (as yet unspecified) New York paging response channels."

whose winning bids for all MTA paging response channels total the greatest dollar amount[15] will have the first choice in selecting the paging frequency or frequencies to be assigned to it in those MTA's where it was the winning bidder. The bidder with the second highest MWBT will have second choice and must select from frequencies remaining after the first-ranked bidder has completed its frequency selections. The Commission can proceed accordingly until all paging response channels in each MTA are assigned either by bidder selection or, in the case of the fourth channel in each MTA, by remainder.

14. In BTA's the Commission can proceed in the same fashion, except that the Commission should rank winning BTA bidders for purposes of frequency selection based on which bidder has agreed to pay the most for the paging response channels specified in all of that bidder's BTA winning bids within a given MTA. The bidder whose winning bids for all BTA paging response channels within a given MTA total the greatest dollar amount[16] will have the first choice in selecting the paging frequency or frequencies to be

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[15]For ease of reference, the total dollar amount of a particular bidder's winning bids in all MTA's should be referred to as its "MTA Winning Bid Total" ("MWBT"). Upon designation of winning bids in all MTA's, the Commission can easily calculate each winning bidder's MWBT and publish a frequency selection ranking for MTA's based on MWBT's.

[16]For ease of reference, the total dollar amount of a particular bidder's winning bids in all BTA's within a given MTA should be referred to as its "BTA Winning Bid Total" ("BWBT"). Upon designation of winning bids in all BTA's, the Commission can easily calculate each winning bidder's BWBT within each MTA and publish a frequency selection ranking for BTA's within each MTA based on BWBT's.

assigned to it in those BTA's within the specified MTA where it was the winning bidder. The bidder with the second highest BWBT within the specified MTA will have second choice and must select from frequencies remaining after the first-ranked bidder has completed its frequency selections. The Commission can proceed accordingly until all BTA paging response channels in the first specified MTA are assigned either by bidder selection or, in the case of the fourth channel in each BTA, by remainder. The Commission can then move on to the second MTA, where winning BTA bidders will be ranked within that second MTA for frequency selection purposes based on their respective BWBT's for that MTA. The Commission can continue accordingly until frequencies are selected in all BTA's.

15. An example of how this proposed paging response channel auction procedure would work clearly demonstrates the advantages of Tri-State's proposal. Specifically, using market-specific bidding, assume the following scenario:[17]

	MTA			
Bidder	1	2	3	4
A	**10**	15	**19**	**25**
B	**14**	**20**	10	10
C	No bid	**30**	No bid	5
D	**18**	**16**	**20**	**18**
E	No bid	No bid	**18**	**19**
F	**17**	No bid	**17**	No bid
G	No bid	No bid	No bid	**20**
H	No bid	**17**	16	No bid

[17]The four (4) winning bids in each MTA are indicated in bold.

The following results would occur if winning bidders are allowed to select frequencies based on an MTA-by-MTA basis. This frequency selection mechanism is the one adopted in the Third R&O, except that to facilitate explanation, the best possible bid prioritizaton is assumed for each bidder in each MTA.

MTA 1: Bidder D gets first choice and chooses Channel Alpha; Bidder F gets second choice and chooses Channel Beta; Bidder B gets third choice and chooses Channel Gamma; and Bidder A gets fourth choice and is left with Channel Delta.

MTA 2: Bidder C gets first choice and chooses Channel Alpha; Bidder B gets second choice and chooses Channel Gamma; Bidder H gets third choice and chooses Channel Beta; and Bidder D gets fourth choice and is left with Channel Delta.

MTA 3: Bidder D gets first choice and chooses Channel Delta; Bidder A gets second choice and chooses Channel Alpha; Bidder E gets third choice and chooses Channel Beta; and Bidder F gets fourth choice and is left with Channel Gamma.

MTA 4: Bidder A gets first choice and chooses Channel Alpha; Bidder G gets second choice and chooses Channel Beta; Bidder E gets third choice and chooses Channel Gamma; and Bidder D gets fourth choice and is left with Channel Delta.

As a result, under existing procedures:

Bidder A is prevented from building a network because another bidder has Channel Delta when it comes to Bidder A's turn to select a frequency in MTA 3;

Bidder B succeeds in getting the same frequency in both MTA's in which Bidder B is a winning bidder;

Bidder C is irrelevant because it only won one license;

Bidder D has been able to obtain a common channel in 3 of the 4 MTA's in which Bidder D submitted a winning bid;

Bidder E is unable to obtain the same frequency in the 2 MTA's in which Bidder E is a winning bidder;

Bidder F is also unable to obtain the same frequency in

the 2 MTA's in which Bidder F is a winning bidder; and

Bidders G and H are irrelevant because they submitted winning bids in only one MTA each.

On the other hand, the following results would occur if Tri-State's alternate bidding procedures specified herein are adopted:

Bidder D gets first choice and chooses Channel Alpha for all 4 MTA's in which Bidder D submitted a winning bid;

Bidder A gets second choice and chooses Channel Beta for all 3 MTA's in which Bidder A submitted a winning bid;

Bidder E gets third choice and chooses Channel Gamma for the 2 MTA's in which Bidder E submitted a winning bid;

Bidder F gets fourth choice and chooses Channel Delta for the 2 MTA's in which Bidder F submitted a winning bid;

Bidder B gets fifth choice and chooses Channel Gamma for the 2 MTA's in which Bidder B submitted a winning bid;

Bidder C gets sixth choice and chooses Channel Beta for MTA 2 where Bidder C submitted a winning bid;

Bidder G gets sixth choice and chooses Channel Delta for MTA 4 where Bidder G submitted a winning bid; and

Bidder H gets sixth choice and chooses Channel Delta for MTA 2 where Bidder H submitted a winning bid.

As demonstrated in this example, using Tri-State's proposed auction procedures, each bidder with a winning bid in more than one MTA was able to obtain all of the licenses for which that bidder submitted a winning bid on the same frequency.

16. As depicted in the foregoing example, the primary advantage to this alternate auction method is that it maximizes the number of multiple-MTA/BTA bidders who can obtain a common paging response channel in all markets in which they bid. There is no guarantee that all bidders will succeed and it may even be mathematically impossible to do so. However, compared to the

procedures adopted in the Third R&O and other alternatives, Tri-State's proposed method will satisfy a larger number of bidders by allowing them to select a common paging response channel. Even those bidders that do not obtain a common paging response channel in all MTA's or BTA's in which they are interested will be able to minimize fragmentation between frequencies assigned in multiple markets.

17. Tri-State should also point out that Tri-State's proposed auction procedures for paging response channels will level the playing field between bidders for paging response channels and bidders for regional and nationwide narrowband PCS authorizations. Specifically, bidders for nationwide narrowband PCS channels (and to a lesser degree, bidders for regional narrowband PCS channels) are not confronted by the obstacle of having to aggregate a common frequency in all geographic areas where that bidder requires the proposed narrowband PCS channel. Nationwide narrowband PCS licensees obtain the same channel or channels across the country, and even regional narrowband PCS licensees are faced with only five (5) geographic regions. On the other hand, there are no nationwide or regional paging response channels. Paging response channels are only allocated on an MTA or BTA basis. By adopting Tri-State's proposed auction procedures, the Commission will make it easier for paging response channel bidders to maximize their chances of obtaining the extensive benefits associated with a common paging response channel. In this way, paging response bidders and licensees can compete on a more equitable basis with nationwide and

regional narrowband PCS licensees.

18. Tri-State also believes that its proposed frequency selection ranking based on MWBT's and BWBT's should be augmented by affording minority- and female-owned business and small business designated entities a twenty-five percent (25%) credit when calculating MWBT and BWBT for frequency selection ranking purposes.[18] This preference can be easily calculated and included by the Commission in publishing paging response winning bids and frequency selection rankings for MTA's and BTA's based on MWBT's and BWBT's, respectively. Like other preferences adopted by the Commission for minority- and female-owned business and small business designated entities,[19] Tri-State's proposed 25% credit in determining paging response frequency selection ranking will serve the Congressional mandates set forth at Sections 309(j)(4)(D), 309(j)(3)(B) and 309(j)(4)(A) of the Communications Act of 1934, as amended by the Omnibus Budget Reconciliation Act of 1993.[20] Moreover, this preference will help these designated entities compete in frequency selection ranking against large paging companies whose MWBT's and BWBT's might normally place them in the

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[18]For example, small business designated entity, XYZ Corporation ("XYZ"), bid in 5 MTA's and was determined to be a winning bidder in 3 of those MTA's. The dollar amount total of XYZ's winning bids in these 3 MTA's was $1,000. Applying the preference proposed by Tri-State herein, XYZ's MWBT would actually be $1,250 (the $1,000 bid sum plus a 25% credit of $250 for a total of $1,250). XYZ's MTA frequency selection ranking would be determined based on this MWBT of $1,250.

[19]See footnote 5, supra.

[20]47 U.S.C. §§309(j)(4)(D), 309(j)(3)(B), 309(j)(4)(A).

highest frequency selection rankings.

19. Tri-State must also emphasize that although Tri-State's proposed frequency selection process must be carried out after the auction, this process can be completed quickly and can perhaps best be accomplished in a one-day meeting among MTA and BTA auction winners following publication of winning MTA and BTA bids and the corresponding frequency selection rankings based on MWBT's and BWBT's.[21] In this regard, a winning bidder in only one MTA or one BTA could avoid having to attend the frequency selection meeting by merely delivering to the Commission a written specification of its order of frequency selection preference. When it came the turn of that licensee to select a frequency based on its MWBT or BWBT, the Commission could simply assign the frequency from those then available based on that bidder's written preference.

20. In addition, Tri-State must also note that if the Commission accepts Tri-State's alternate auction procedures for assignment of paging response licenses, the Commission may wish to

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[21]For example, this process can be completed at a specific location in Washington on a specified date. All MTA and BTA winning bidders (or their designated representatives) could attend this meeting that would be similar to the professional football draft procedure. The first-ranked MTA winning bidder would select its frequency or frequencies in all MTA's where it was winning bidder. Five (5) minutes later, the second ranked MTA winning bidder would select its frequency or frequencies from those remaining in all MTA's where it was winning bidder. Upon completion of MTA frequency assignments, the Commission would proceed in a similar fashion to assign BTA frequencies by MTA. This process would continue until all frequency assignments were completed. Any winning bidder that did not attend this frequency selection meeting would forfeit its turn in the priority ranking and would have frequencies assigned by the Commission based on what remains at the end of the frequency selection processes.

refine the proposal set forth herein by providing that winning bidders will pay the highest losing bid for a license (not including any of their own losing bids) instead of paying the actually winning bid amount.[22] As a result, a bidder that submits one winning bid in a market would pay the fifth highest bid (unless the fifth highest bid was its own losing bid for a second license, in which case the winning bidder would pay the sixth highest bid). This potential refinement is basically a Vickrey auction modified to allow for multiple purchases. The principal advantage to adopting this refinement is that it eliminates the need for strategy. With this payment mechanism, all bidders have an incentive to report their truthful valuations for paging response licenses. Tri-State must also note that even though this refinement may, at first blush, appear to result in a decrease in revenue from paging response channel auctions because bidders would be paying less than their bid, theoretical auction literature suggests that this is not the case. Bidders will no longer have to strategically shade their bids and the expected increase in bid amounts should exactly compensate for the change in payment rules. Accordingly, Tri-State respectfully submits that the Commission may wish to adopt this refinement to Tri-State's alternate auction procedures for paging response licenses if the Commission grants Tri-State's instant reconsideration request.

21. In any event, Tri-State respectfully submits that its

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[22]In the event that a bidder submits two winning bids in a given market, the bidder would pay the two highest losing bids.