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FEDERAL COMMUNICATIONS COMMISSION
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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	)	

PETITION FOR LIMITED RECONSIDERATION OF
FOURTH MEMORANDUM OPINION AND ORDER

BellSouth Corporation, BellSouth Telecommunications, Inc., BellSouth Cellular Corporation, and BellSouth Personal Communications, Inc. (collectively, "BellSouth"), by their attorneys, hereby petition the Commission for reconsideration of the *Fourth Memorandum Opinion and Order* in PP Docket 93-253, FCC 94-264 (Oct. 19, 1994), *summarized*, 59 Fed. Reg. 53364 (Oct. 24, 1994). BellSouth seeks reconsideration of only one narrow aspect of the *Fourth Memorandum Opinion and Order*: the Commission's statement in paragraph 14 that it may lower the required activity level for Stage III of the auctions, but in no case below 95% of the MHz-pops for which a bidder wishes to retain eligibility.

BellSouth agrees with the Commission that it would be beneficial to lower the activity level for Stage III below 100% of a bidder's eligible MHz-pops, thereby providing bidders with greater flexibility. The 95% limit, however, does not achieve this goal in the case of BTA auctions, because of the significant population differences among the BTAs. To ensure that bidders indeed have the flexibility that the Commission found to be beneficial, BellSouth urges the Commission to lower the minimum activity level required during Stage III to 80%, and make clear that this 80% rule will apply to all auctions, but especially the upcoming auction of Entrepreneur Block licenses.

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The flexibility that an 80% rule would give bidders will contribute to an efficient outcome. The FCC adopted simultaneous multiple round auctions for PCS so bidders can pursue alternatives during the auction. Licenses that are substitutable will be bid to a comparable level. The 95% activity rule deprives bidders the flexibility to bid on additional markets, undermining this objective. As a result, the final bid for some licenses may be lower than another active bidder would have bid. In Stage III, a bidder is unlikely to risk losing the licenses it wants most by diverting a bid to another market, but such a bidder may well be willing to bid for the other market in addition to those on which it is currently active. An 80% activity rule will provide bidders with a reasonable "reserve" bidding capacity beyond that needed to remain active on a bidder's most desired licenses.

Moreover, lowering the required Stage III activity level to 80% in BTA auctions will give bidders the flexibility to switch back and forth among various alternative licenses without losing eligibility due to population disparities. The populations of the 487 domestic BTAs vary significantly, with a large number of BTAs having relatively small populations. While the average BTA population is 510,698, the median population is only 189,731. The irregular distribution of populations is demonstrated by the fact that the standard deviation is 1,305,005. As a result, within any given geographic region there is likely to be a high disparity among the populations of the BTAs; it is very unlikely that different clusters of BTAs will have populations that are sufficiently similar to permit shifting among them depending on the progress in the bidding.

This means that a 95% activity level is unlikely to result in any real flexibility, because a bidder will not be able to substitute one BTA for another, thus locking the bidder into a single combination of BTAs (or a limited number of combinations of BTAs) as soon as Stage III begins. Many bidders can be expected to pursue a strategy of building a regional combination of BTAs from a few "core" BTAs, which are essential to the regional system, and a selection of the surrounding

secondary BTAs. A 95% activity rule will deprive the bidder of the flexibility to change from one combination of additional BTAs to another combination. Given the significant population differences among secondary BTAs, this will in many cases be as inflexible as a 100% activity rule.

A simplified example shows the significance of this lack of flexibility. For example, a bidder may be eligible, at the outset of Stage III, to bid on 20 million MHz-pops. To maintain that eligibility, the bidder must bid on 19 million MHz-pops (95% of 20 million). If there are "core" BTAs accounting for 12 million MHz-pops for which the bidder must bid, the bidder must select secondary BTAs accounting for at least 7 million MHz-pops in addition to the core markets, in order to maintain its eligibility level. If the only workable combinations of secondary BTAs cover 5 million MHz-pops and 7 million MHz-pops respectively, the bidder will have to bid on the 7 million MHz-pops combination to maximize its continued eligibility and to maintain the flexibility to bid on the alternative later on.

If the bidder were to bid on the secondary BTAs amounting to 5 million MHz-pops in addition to its core BTAs, its eligibility in the following round would be lowered to 17.89 million MHz-pops. This is less than the bidder would require, in a later round, to return to bidding on the 19 million MHz-pop combination of the core BTAs plus the secondary BTAs with 7 million MHz-pops. As a result of bidding on the lower-population combination, the bidder will be locked out of returning to bid on the other combination.

Thus, a 95% activity rule would give the bidder an artificial incentive to remain active on the 7 million MHz-pops secondary BTA combination, even if the 5 million MHz-pops combination were undervalued in the bidding, because there would be no return to the 7 million MHz-pops alternative. The bidder would move down to the 5 million MHz-pops combination only at the last possible moment, and would thereafter be unable to bid for the other combination, even if the other

becomes the better bargain. Even though the bidder sees the two BTA combinations as more or less substitutable for each other in the system as a whole, the activity rule renders the two nonfungible. This lack of substitutability will inevitably result in less than optimal prices emerging from the auction.

The only way for a bidder to maximize its flexibility under a 95% activity rule is to bid on the largest combination it could hope to win and shift to smaller combinations only when those combinations become prohibitively expensive. Thus, the 95% activity rule will artificially distort the bidding in Stage III, causing abrupt, irreversible shifts in bidding and raising the likelihood that auction prices will be suboptimal.

An activity rule requiring bidders to remain active on only 80% of their maximum MHz-pops would largely eliminate this problem, because disparities among the populations of the BTAs in a given region would not preclude substitutions. Thus, bidders would have the flexibility to move among BTAs with similar populations that might nevertheless differ by more than 5% or 10% of the total for the combination of BTAs bid upon.[1]

Lowering the required activity level to 80% is unlikely to have a negative effect on auction revenues: To the contrary, it would likely raise revenues. This is because the added flexibility given bidders would expose licenses still undervalued in the later stages of an auction to renewed bidding and minimize the likelihood that the final bid price would be suboptimal -- lower than another bidder would willingly have paid. Ultimately, all BTAs will bring a price more truly reflective of market

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[1] In the example above, the bidder would be required to remain active on only 16 million MHz-pops to retain its 20 million eligibility level, under an 80% rule. Thus, the bidder could bid on the core BTAs and either the 5 or 7 million MHz-pop secondary BTA combinations and remain eligible to switch between the two. As a result, the bidder would be likely to bid on the combination that is currently underpriced, relative to the other. In other words, the lower activity level tends to increase substitutability and drive bids to an optimal level, thereby making it unlikely that licenses will be undervalued in the auction.

value if bidders have the flexibility to make reasonable substitutions during the course of the bidding.

CONCLUSION

For the reasons stated above, BellSouth urges the Commission to reconsider the 95% activity rule for Stage III auctions and instead require bidders to remain active on 80% of their maximum MHz-pops.

Respectfully submitted,

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November 23, 1994

CERTIFICATE OF SERVICE

I, Phyllis F. Martin, hereby certify that on this 23rd day of November, 1994, copies of the foregoing "Petition for Limited Reconsideration of Fourth Memorandum Opinion and Order were hand delivered to the following:

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