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

APR 15 1996

In the Matter of	)	
	)	
Amendment of Part 20 and 24 of the Commission's Rules -- Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap	)	WT Docket No. 96-59
	)	
Amendment of the Commission's Cellular PCS Cross-Ownership Rule	)	GN Docket No. 90-314

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COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint") hereby submits comments in response to the above-captioned Notice of Proposed Rulemaking ("Notice") (FCC 96-119) released March 20, 1996. Sprint strongly supports the Commission's goal of ensuring that the remaining broadband PCS auctions are conducted efficiently and expeditiously, in order to speed delivery of these services to the public. Accordingly, we urge the Commission to adopt rules for the licensing of spectrum in the F block that generally conform to those governing the C block; to auction the F block licenses following the simultaneous auction of the D and E block licenses; and to maintain the existing spectrum caps. Additionally, while Sprint agrees that benefits for small business applicants in the C block should be extended to the F block, it does not believe they are warranted for the D and E blocks. Finally, Sprint shares the Commission's concerns regarding possible bidder default and supports increasing the

required down payment to twenty percent of the winning bid, as a safeguard against this possibility. Sprint further urges the Commission to craft rules for prompt reassignment of licenses for which the winning bidder defaults, to ensure that this valuable spectrum does not lie fallow.

I. THE F BLOCK LICENSING RULES SHOULD BE GENERALLY MODELED AFTER THE C BLOCK RULES.

Sprint supports the Commission's tentative conclusion that the present record is insufficient to support the respective scrutiny standards required for the current race-based and gender-based provisions of its F block rules. Sprint also believes that the process of accumulating sufficient supporting evidence could be lengthy, with no guarantee that any resulting preference-based rules would escape judicial review. This could result in significant delays in granting licenses in the F block and in bringing services to the public. In order to minimize unnecessary delays, Sprint urges the Commission to make its F block rules race- and gender-neutral and conform them to those adopted for the C block, the other "entrepreneurs'" block. Moreover, as the Commission acknowledges,

> of the 255 bidders that qualified to bid in the C block auction, 46 claimed minority-owned business status and 34 claimed women-owned business status. These statistics indicate that even without the women- and minority-owned business specific provisions in our C block rules, women- and minority-owned businesses were able to participate in the auction.[1]

1. Notice at 27.

Accordingly, in Sprint's view, the adoption of C block-like procedures for the F block, with certain notable exceptions as detailed below, will not only expedite the process but will also fulfill the Commission's statutory requirement to ensure participation by women and minorities.

In particular, Sprint urges the Commission to adopt provisions for the F block to:

- Allow both small businesses and entrepreneurs to utilize the 50.1/49.9 percent equity control group structure when forming applicant entities.
- Allow all small business applicants to exclude from attribution the assets of affiliates who would themselves qualify as entrepreneurs (gross revenues of less than $125 million in each of the previous two years and total assets of less than $500 million).
- Extend a single 25 percent bidding credit to all small businesses.
- Provide, for all F block applicants, discounted upfront payments and three installment payment plans, based on financial size as proposed, with the third, most favorable, available to all small businesses.

A. No Adjustment Should Be Made For The Lower Value Of 10 MHz Licenses.

The Notice seeks comment on whether the preferential allowances on bidding credits, installment, upfront and down payments should be adjusted for F block licenses to reflect the lower values of the 10 MHz license. While it is safe to assume

that the value of F block licenses will be lower than the 30 MHz C block licenses, it is also safe to assume that these licenses will generate correspondingly lower revenues. This counterbalancing assumption strongly supports Sprint's argument in favor of comparable terms for F block applicants to those applicable to their C block counterparts. Thus, Sprint reiterates its support for terms on bidding credits, upfront payments and installment payment plans commensurate with the corresponding C block terms.

B. Because Of Concerns About Possible Default, The Required Down Payment Should Be Increased To Twenty Percent. Further, Rules Should Be Adopted Providing For Prompt Reassignment Of Defaulted Licenses.

Sprint's support for favorable terms on upfront payments and installment payment plans does not extend to down payments, however. Sprint shares the Commission's concern that winning bidders have the necessary resources to pay for their licenses and construct their systems. Sprint believes that in order to guard against the possibility of bidder default, it is appropriate to require of F block winners a down payment equal to 20 percent of the winning bid, rather than the reduced 10 percent currently required of both C and F block winners. The higher requirement -- the same percent required of winners in the other blocks -- could serve as a valuable reality check, perhaps tempering the level of bidding in the F block. At the same time, maintaining the preferential terms on upfront payments and installment payment plans, as Sprint recommends, will mitigate the financial impact of the higher down payment requirement.

The Commission's rules provide for redistribution of licenses for which the winning bidders default on the down payment[2] or subsequent to the down payment (or first down payment, in the case of small business winning bidders)[3]. In the former case they may be offered to other bidders in the auction; in either case they may be re-auctioned. The high level of bidding in the C block auction relative to the A and B block auction leads Sprint to conclude that it is prudent to anticipate the possibility of default, and Sprint is encouraged by the Wireless Telecommunications Bureau's recent statement that it intends to re-auction those licenses that fall in the latter category as quickly as possible.[4] Sprint urges the Commission to act expeditiously to craft specific rules that will allow licenses in the C block or in any other block that are subject to default (at the down payment stage or later) to be promptly reassigned, to ensure that if and when defaults occur, valuable spectrum will not remain in limbo any longer than necessary. Additionally, the Commission should ensure that any C block licenses that default are reassigned in advance of the D, E and F block auctions.

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2. 47 CFR 1.2109(b)

3. 47 CFR 1.2109(c)

4. Wireless Telecommunications Bureau Will Strictly Enforce Default Payment Rules, Public Notice (DA 96-481), released April 4, 1996.

C. Ownership Disclosure Requirements For F Block Applicants Should Mirror C Block Requirements.

Sprint believes it makes sense to require the same type and level of information from F block applicants as the Commission required of C block applicants. We therefore support waiver, for the short form applications, of the requirements of Sections 24.813(a)(1), 24.813(a)(2) and 24.813(a)(4), to disclose five percent ownership interests and to provide a copy of a signed and dated partnership agreement. Consistent with practice in the C block, however, Sprint does not believe that this information should be deleted from the long form applications in the F block. While a good case can be made, for strategic reasons, for withholding this information at the short form stage, it is important that the Commission ultimately have adequate ownership information to validate entrepreneurs' block eligibility. Finally, Sprint supports allowing submission of financial information in conformance with actual practice in the C block.

D. Transfer Restrictions Should Not Be Relaxed.

Sprint does not believe that the current restrictions on the transfer of F block licenses are too restrictive. Moreover, keeping the rules consistent with the C block rules will avoid challenges from C block winners and consequent delays in the auction process. Accordingly, Sprint urges the Commission to maintain the requirement that F block licenses be held by

original licensees for the first three years, and, if transferred in the ensuing two years, they be transferred to a qualifying entrepreneur or small business.

E. C Block Winners Should Be Eligible To Participate In The F Block Auction.

The Notice asks whether a C block winner's financial eligibility status for the F block should be conditioned on the valuation of its C block license. In other words, if the value of the C block license, added to its other assets, brings the total to over $500 million, should it or should it not be allowed to bid in the F block auction? Sprint does not believe that C block winners should be penalized for participating successfully in the C block auction, but instead that if they otherwise meet all the qualifications, they should be allowed -- indeed encouraged -- to participate in the F block auction. The only other opportunity for such an entity to obtain a 10 MHz license would be in the D or E blocks, where the competition could be prohibitive.

II. THE BENEFITS OF THE C AND F BLOCKS SHOULD NOT BE EXTENDED TO THE D AND E BLOCKS

Sprint does not believe that it is in the public interest to extend the installment payment plan option -- or any of the other benefits offered in the C and/or F blocks -- to the D and E blocks. One-third of the broadband PCS spectrum has been set aside for licensing to "entrepreneurs" in the C and F blocks, with special provisions that address the particular financial

challenges faced both by small businesses and "entrepreneurs" in general. Sprint believes that the current scheme provides small businesses with ample opportunities to obtain broadband PCS licenses, and that the Commission should let the market decide the most efficient use of the remaining spectrum.

III THE F BLOCK LICENSES SHOULD BE AUCTIONED FOLLOWING THE CONCURRENT AUCTION OF THE D AND E BLOCK LICENSES.

Sprint believes that the most logical schedule for auctioning the three 10 MHz blocks would be concurrent auctions of the D and E blocks, followed by the F block auction. First, the additional time would be advantageous for F block bidders, who would thus have opportunities to form partnerships, with, among others, unsuccessful bidders in the D and E block auction. In addition, these bidders would have additional time to secure financing. For C block winners who may be interested in acquiring additional spectrum, the additional time will be useful not only to secure financing but also to develop a business strategy, after the C block auction concludes. Second, if the Commission ultimately adopts F block rules that contain race- and gender-based provisions, auction delays ensuing from possible legal challenges must be realistically considered. Such a scenario argues forcefully for scheduling the auction of the D and E blocks in advance of the F block. Third, there could be a decided disadvantage for D and E block bidders if the F block were auctioned simultaneously with the D and E blocks. All F block bidders would be eligible to bid in the D and E block

auctions but not vice versa. Accordingly, safeguards would be needed to prevent their bidding up the prices of licenses in the D and E blocks with the sole intention of raising competitors' costs, rather than of winning the bids. Needless to say, this tactic could not be reciprocated in the F block auction by D and E block bidders not meeting the F block qualifications. Finally, this schedule is consistent with the schedule of the 30 MHz auctions, in which auctions of the A and B blocks were held concurrently, followed by the C blocks.

IV. THE EXISTING SPECTRUM CAPS SHOULD BE MAINTAINED.

Sprint supports retention of the various existing spectrum caps that govern CMRS licensees' acquisition of additional spectrum. Not only has the Commission spent much time and care developing them; in addition, they have been in effect during the A, B and C block broadband PCS auctions. Liberalizing the rules at this stage not only could seriously disadvantage entities who made business decisions in those auctions based on the existing caps; it also would create an open invitation to legal challenge. Under the current rules, a cellular licensee is restricted to obtaining an additional 10 MHz of broadband PCS spectrum in its service area. If a single 45 MHz spectrum cap were adopted for all CMRS providers, a cellular carrier would be free to obtain 20 MHz of additional spectrum, and thus could conceivably acquire both D and E block licenses in the same BTA, thereby preempting competition from an additional broadband PCS

provider. This example is illustrative of the Pandora's box that would surely be opened with any revision to the existing spectrum caps.

V. CONCLUSION.

For all the foregoing reasons, Sprint believes it is in the public interest for the Commission to adopt F block rules that are race- and gender-neutral and that generally conform to its C block rules. We urge the Commission to act with haste to adopt such rules, with the above-recommended modifications; to proceed to license the D and E blocks simultaneously prior to the F block; to increase the down payment on F block licenses to twenty percent of the winning bid, to guard against the possibility of default; to adopt rules that provide for prompt reassignment of licenses subject to default in any of the spectrum blocks; and to maintain the existing spectrum caps.

Respectfully submitted,

SPRINT CORPORATION

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CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 15th day of April, 1996, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments" of Sprint Corporation in the Matter of Amendment of Part 20 and 24 of the Commission's Rules - Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT 96-59 and Amendment of the Commission's Cellular PCS Cross-Ownership Rules, GN Docket No. 90-314, filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.

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