

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Policies Regarding Mobile Spectrum)	WT Docket No. 12-269
Holdings)	
)	
Expanding the Economic and Innovation)	GN Docket No. 12-268
Opportunities of Spectrum Through Incentive)	
Auctions)	

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation (“Sprint”), by its attorneys, respectfully submits these reply comments in response to oppositions to T-Mobile USA, Inc.’s (“T-Mobile’s”) Petition for Reconsideration of the *Order* the Federal Communications Commission (“FCC” or “Commission”) issued in the above-referenced proceeding.¹ As explained below, Sprint supports T-Mobile’s request that the Commission reconsider the *Report and Order* and promote competition in the marketplace for broadband wireless service by (1) expanding the amount of spectrum reserved for use by competitive carriers in the 600 MHz Incentive Auction; and (2) ensuring that any reserve trigger price is set low enough that it will not deter potential bidders from participating in the auction.

I. INTRODUCTION AND SUMMARY

Sprint supports T-Mobile’s Petition for Reconsideration of the *Report and Order*.² Like T-Mobile, Sprint appreciates the Commission’s decision to establish a market-based spectrum

¹ *Policies Regarding Mobile Spectrum Holdings; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 29 FCC Rcd 6133 (2014) (“*Report and Order*” or “*Order*”). Sprint is filing a separate reply regarding the oppositions to Sprint’s Petition for Reconsideration regarding the aspects of the *Order* addressing the spectrum screen and spectrum weightings.

² Petition for Reconsideration of T-Mobile USA, Inc., WT Docket No. 12-269 (Aug. 11, 2014) (“T-Mobile Petition”).

reserve in each license area in the 600 MHz Incentive Auction for carriers and entities that do not currently hold a significant amount of below-1-GHz spectrum.³ It is important, however, that the Commission establish a spectrum reserve that is sufficient to achieve its goals of promoting robust wireless broadband competition. The Commission, therefore, should increase the maximum amount of reserved spectrum. As T-Mobile explained in its Petition, if the FCC does not increase the spectrum reserve, then AT&T and Verizon will be able to use their formidable resources to significantly limit competitive carriers' ability to obtain the low-band spectrum those carriers need to deploy competitive LTE networks.⁴ Similarly, the FCC should not undermine its decision to establish a spectrum reserve by imposing a reserve trigger (*i.e.*, a minimum price per MHz-POP) that will materially reduce competitive carriers' incentive or ability to bid on the reserved spectrum.

The arguments raised by AT&T, Verizon and Mobile Future in opposition to T-Mobile's Petition are meritless and ignore the reality that AT&T and Verizon already hold the vast majority of low-band spectrum and have the financial resources to outbid all other carriers for any 600 MHz spectrum that is not reserved to promote competition.⁵ The Commission should reject these oppositions and grant T-Mobile's Petition for Reconsideration. Increasing the spectrum available in the reserve and eliminating (or limiting) the price per MHz-POP component of the final stage rule will allow the Commission to fulfill its statutory mandate to

³ See Order ¶ 153.

⁴ As the Commission has explained, the 600 MHz Incentive auction is "a once-in-a-generation opportunity to auction significant amounts of greenfield low-band spectrum." *Id.* ¶ 2; *id.* ¶ 3 (noting that this low-band spectrum has "distinct propagation advantages" over higher-band spectrum above 1 GHz).

⁵ Opposition of AT&T to T-Mobile's Petition for Reconsideration, WT Docket No. 12-269 (Sept. 24, 2014); Opposition of Verizon to Petitions for Reconsideration, WT Docket No. 12-269 (Sept. 24, 2014); Opposition of Mobile Future to Petitions for Reconsideration, WT Docket No. 12-269 (Sept. 24, 2014).

advance competition for wireless broadband services by “avoiding excessive concentration of licenses.”⁶

II. THE COMMISSION SHOULD PROMOTE WIRELESS BROADBAND COMPETITION BY EXPANDING THE SPECTRUM RESERVE AND LIMITING THE RESERVE TRIGGER

A. The Commission Should Increase the Market-Based Spectrum Reserve

The Commission has repeatedly discussed the importance of “ensuring that multiple providers are able to access a sufficient amount of low-band spectrum” in order to extend and improve service throughout the country.⁷ As the Commission has explained, “ensuring that sufficient spectrum is available for multiple existing mobile service providers as well as potential entrants is crucial to promoting consumer choice and competition throughout the country . . . and . . . to fostering innovation.”⁸ Despite this emphasis on promoting competition by multiple providers in each geographic market, AT&T and Verizon currently hold over 70% of all low-band spectrum – spectrum that the FCC has correctly identified as being vital to wireless broadband deployment and competition.⁹ With their vast resources and dominant position in the marketplace, the Twin Bells could easily corner the market on the 600 MHz spectrum in the auction, adding to their already abundant low-band holdings at the expense of smaller carriers that hold significantly less low-band spectrum.¹⁰ Such an outcome would be detrimental to competition in the wireless marketplace and, ultimately, harmful to consumers. Moreover, such a result would also undermine key objectives that Congress directed the Commission to fulfill in designing a competitive bidding system, including promoting competition and avoiding

⁶ 47 U.S.C. § 309(j)(3)(B).

⁷ *Order* ¶ 3; *see also, e.g., id.* ¶ 171.

⁸ *Id.* ¶ 17.

⁹ *See id.* ¶ 153.

¹⁰ *See, e.g., id.* ¶ 41 (discussing the possibility that “the largest providers” in the wireless marketplace would be willing to “overinvest in spectrum” in order to foreclose competition).

excessive concentration of licenses.¹¹

As Sprint has previously explained, an efficient wireless network requires a mix of low- mid- and high-band spectrum.¹² Indeed, the Commission has noted that there are “important complementarities that come with holding spectrum assets in different bands”¹³ and that consumers benefit when wireless carriers hold a mix of high- and low-band spectrum.¹⁴ Consistent with these findings, the Commission should adopt auction rules that prevent carriers from stifling competition by acquiring large amounts of bandwidth in the relatively scarce low-band, sub-1-GHz spectrum, particularly given the superior propagation characteristics of such low-band spectrum.¹⁵

One way for the FCC to facilitate competitive carriers’ access to an efficient mix of spectrum is by including spectrum weightings as part of its spectrum screen.¹⁶ As Sprint has explained in its Petition for Reconsideration and other filings in this proceeding, a weighting mechanism would make proper allowances for the significant differences in the competitive utility of various spectrum bands for mobile broadband networks and help to ensure multiple

¹¹ 47 U.S.C. § 309(j)(3)(B).

¹² See, e.g., Reply Comments of Sprint Nextel Corporation, WT Docket No. 12-269, at 15-16 (Jan. 7, 2013).

¹³ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Fifteenth Report, 26 FCC Rcd 9664, ¶ 297 (2011) (“*Fifteenth Report*”).

¹⁴ *Order* ¶ 59 (explaining that a mix of spectrum bands provides wireless carriers greater flexibility and allows them to better optimize their networks, thus promoting efficient use of spectrum); see also *Fifteenth Report* ¶ 307 (“holding a mix of frequency ranges may be optimal from the perspective of providing the greatest service quality at low cost”).

¹⁵ *Order* ¶ 3; see also Petition for Reconsideration of Sprint Corporation, WT Docket No. 12-269, at 17 (Aug. 11, 2014) (“Sprint Petition”) (explaining that propagation characteristics are the “primary determinant of a spectrum band’s deployment costs and the competitive utility of that spectrum”).

¹⁶ See, e.g., Sprint Petition (explaining that spectrum weightings would promote competition and avoid the problems caused by the existing spectrum screen).

carriers have access to a mix of spectrum bands, including low-band spectrum.¹⁷ An additional way to achieve this important goal is by reserving low-band spectrum for use by carriers that compete against the two most dominant wireless carriers.

Recognizing the competitive importance of preserving at least some of the available low-band spectrum for use by smaller carriers, the FCC reserved some of the 600 MHz spectrum for carriers other than AT&T and Verizon.¹⁸ This decision is consistent with Congress's mandate and with the Commission's goals of promoting competition and encouraging increased deployment of broadband services. Indeed, an effective spectrum reserve will be essential in providing an opportunity for multiple smaller carriers and new entrants to acquire critical low-band spectrum. This, in turn, will both help improve broadband service to consumers and stimulate greater competition against AT&T and Verizon.

Despite the Commission's clear desire for multiple carriers capable of providing meaningful competition throughout the country,¹⁹ it adopted an auction framework that does not reserve enough 600 MHz spectrum for competitive carriers, particularly given that those carriers need a minimum of 20 MHz (10 MHz x10 MHz uplink and downlink, respectively) to deploy LTE services economically and efficiently.²⁰ This need is particularly acute for carriers that lack

¹⁷ See Sprint Petition at 14; *see also* Comments of the Competitive Carriers Association, WT Docket No. 12-269, n.33 (Nov. 28, 2012) (discussing the "disparate technical and economic characteristics of different spectrum bands").

¹⁸ See, e.g., *Order* ¶ 153 (adopting a market-based spectrum reserve for entities that do not currently hold a significant amount of below-1-GHz spectrum).

¹⁹ See, e.g., *id.* ¶¶ 17, 171.

²⁰ See T-Mobile Petition at 8 (explaining that "twenty-megahertz (10+10 MHz) blocks of spectrum are the foundation of an economical low-band deployment, especially for carriers without meaningful access to low-band spectrum . . . because they have greater capacity to balance demand across unused spectrum resources"); Letter from Peter D. Keisler, Counsel for AT&T, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-269, at 2 (May 7, 2014) (asserting the need for a minimum block of 10 x 10 MHz of spectrum in order to take full advantage of LTE); Letter from Kathleen Grillo, Verizon, to Marlene H. Dortch, Secretary, FCC,

low-band holdings capable of supporting a minimum of 10 MHz LTE channels. By reserving only 30 MHz of spectrum, at most, the FCC's plan allows no more than one competitive carrier to obtain 20 MHz of reserved spectrum in a geographic market. Yet the FCC's plan allows AT&T and Verizon to expand their dominance of low-band spectrum by leaving 40 MHz of unreserved spectrum in almost every market, despite the fact that each already has substantial low-band holdings that could enable deployment of *two* 10x10 MHz LTE channels. The FCC's plan will allow AT&T and Verizon each to acquire 20 MHz of unreserved spectrum without having to compete directly with each other, despite already holding significant blocks of low-band spectrum in most of these markets.²¹ And the disparity between the reserved and unreserved spectrum may be even more acute, depending on how much spectrum is cleared in a given market.²² The unintended consequence of such a plan is to allow the "rich to get richer,"²³ while leaving competitive carriers unable to make up much, if any, ground on the two largest wireless carriers by acquiring critical low-band spectrum needed to foster greater competition.

WT No. 12-269, at 2 (March 21, 2014) (discussing how LTE equipment is optimized for wider channels, such as 10 x 10 MHz and higher, which enables licensees to provide greater throughput to more customers); *Report and Order* ¶¶ 162, 190 (noting evidence that "20 megahertz of contiguous spectrum is particularly valuable for the deployment of next-generation networks"); Dan Meyer, *FCC Lays Out 600 MHz Auction Rules, Unleashes AWS-3*, RCR Wireless News (May 15, 2014), <http://www.rcrwireless.com/20140515/policy/fcc-lays-600-mhz-auction-rules-unleashes-aws-3> (noting that 10 x 10 MHz options are "touted as being most beneficial to current LTE deployment plans").

²¹ AT&T and Verizon are eligible to bid on reserved licenses in any partial economic area ("PEA") in which they have less than 45 MHz of below-1-GHz spectrum that is "suitable and available for the provision of mobile telephony/mobile broadband services in that PEA." *Order* ¶ 175; *see also* T-Mobile Petition at 9.

²² *See* T-Mobile Petition at 9; *see also Order* ¶ 184. The unreserved spectrum will total at least 60 MHz in markets where more than 90 MHz is cleared. *Id.* If less than 60 MHz is cleared, the reserved spectrum will not even amount to the 20 MHz minimum required to obtain a 10x10 block. And, regardless of the amount of spectrum cleared, the minimum amount of unreserved spectrum *always* exceeds the maximum amount of reserved spectrum available in any market. *See Id.*

²³ As the Commission has noted, "AT&T and Verizon Wireless hold approximately 73 percent of all suitable and available below-1-GHz spectrum." *Order* ¶ 153.

For all of the reasons explained above, the FCC should expand the reserve and ensure that the reserved spectrum in each market is greater than the unreserved spectrum in that market. The Commission should also adopt T-Mobile's proposal to ensure that there are an odd number of licenses in the unreserved spectrum so as to encourage competitive bidding between the two carriers with the greatest resources.

B. The Commission Should Adopt a Reserve Trigger That Will Not Deter Bidding

Sprint shares T-Mobile's concerns with the Commission's decision to adopt a reserve trigger based on a MHz-POP threshold.²⁴ If the Commission sets a reserve trigger beyond what is needed to compensate participating broadcasters, relocate stations and fund FirstNet, it should be careful not to set the reserve price too high.²⁵ As explained below, if the reserve trigger is set too high it will have at least two negative consequences: (1) reducing auction revenue; and (2) harming competition by limiting bids from smaller and rural carriers.²⁶

CCA has demonstrated that a high reserve price is likely to result in lower auction revenues. In fact, CCA's research reveals that "some of the most successful auctions . . . had some of the lowest mandatory minimum prices per MHz-POP."²⁷ Conversely, auctions with high mandatory prices "achieved little, if anything, beyond the requisite minimum price per

²⁴ T-Mobile Petition at 12-17; *Order* ¶ 151.

²⁵ As the Commission has explained, the Spectrum Act requires the auction to generate sufficient proceeds to pay winning bidders in the reverse auction, as well as certain other costs. *Order* n.442 (citing the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, § 6403(c)(2) (2012)); *but see* 47 U.S.C. § 309(j)(4)(F) (providing the Commission discretion to determine that a reserve price or minimum bid is not in the public interest).

²⁶ *See Pricing in the 600 MHz Incentive Auction*, attached to Letter from Steven K. Berry, Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-269, at 6 (Sept. 15, 2014) ("CCA White Paper").

²⁷ *Id.* at 7.

MHz-POP.”²⁸ As CCA has explained, raising revenue requirements beyond what is needed to recover “baseline” expenses “perversely threatens to generate less – not more – revenue for the U.S. Treasury.”²⁹

Moreover, if the trigger is set too high, it will deter competitive carriers from bidding on the reserved spectrum.³⁰ Thus, a high reserve trigger would favor AT&T and Verizon over smaller carriers, such as Sprint and T-Mobile, as the Twin Bells have the resources to meet any reserve trigger, even if the trigger is set above a competitively reasonable level.³¹ This result would contravene the FCC’s statutory mandate to promote competition and innovation.³²

Sprint, therefore, joins T-Mobile in urging the FCC to reconsider its reserve trigger. If the Commission retains the reserve trigger, it should limit it to an amount sufficient to allow recovery of a portion of the value of the auctioned spectrum.³³ At a minimum, the Commission should ensure that any trigger based on a MHz-POP threshold is low enough to encourage numerous carriers to bid on the reserved spectrum. After all, the Commission’s fundamental policy goal (aside from the Congressionally-mandated minimum funding), is to promote competition by making broadband-enhancing low band spectrum readily available to both existing and potential new wireless broadband competitors.

²⁸

Id.

²⁹

Id. at 2.

³⁰

See id. at 6 (noting that setting mandatory minimum payments too high “will serve as a barrier to entry to smaller and rural carriers and will discourage them from participating in the forward auction”).

³¹

See, e.g., Order n.140 (explaining that “the value of spectrum to a particular provider includes not only revenue from the use of the spectrum (‘use value’), but also value from foreclosing rivals’ access to the spectrum”).

³²

47 U.S.C. § 309(j)(3)(B).

³³

47 USC 309(j)(3)(C).

III. CONCLUSION

For the reasons stated above, the Commission should reject the oppositions filed by AT&T, Verizon, and Mobile Future and grant T-Mobile's Petition for Reconsideration.

Respectfully submitted,

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October 6, 2014

Certificate of Service

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