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February 27, 2015

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Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Updating Part 1 Competitive Bidding Rules, WT Docket No. 14-170

Dear Ms. Dortch:

At the request of FCC staff, on February 25, 2015, Verizon representatives met with the staff regarding the bidding patterns of DISH and its affiliated designated entities (“DEs”) during the recent AWS-3 auction. The representatives for Verizon were Kathleen Grillo, John Scott, Robert Griffen, and Tamara Preiss. The staff representatives included Roger Sherman, Chief of the Wireless Telecommunications Bureau (WTB); Jean Kiddoo, Deputy Chief, WTB; Sue McNeil, Special Counsel, WTB; Johanna Thomas, Legal Advisor, WTB; Margaret Wiener, Chief, and Craig Bomberger, Deputy Chief, Auctions & Spectrum Access Division, WTB.

During the course of the discussion, we noted that Verizon observed the same bidding patterns reflected in the recent filings by T-Mobile and AT&T concerning the activities of DISH and its DEs, Northstar Wireless (“Northstar”) and SNR Wireless (“SNR”).¹ We also noted additional observations about the bidding patterns drawn from the FCC’s round-by-round auction data that bear on any investigation.

The bidding data suggest that DISH and its DEs engaged in concerted conduct that went beyond the activity that occurs during typical bidding agreements or bidding consortia, in which two or more small bidders pool their money and form a single entity to buy spectrum. Instead, the auction data show that DISH and its DEs frequently submitted two or three bids for the same amount on the same licenses in the same round. This pattern of double and triple bidding is

¹ Letter from Joan Marsh, AT&T, to Marlene H. Dortch, FCC, *Expanding the Economic and Innovation Opportunities through Incentive Auctions*, GN Docket No. 12-268, *Updating Part 1 Competitive Bidding Rules*, WT Docket No. 14-170 (filed Feb. 20, 2015); *Updating Part 1 Competitive Bidding Rules*, WT Docket No. 14-170, Comments of T-Mobile USA, Inc. (filed Feb. 20, 2015), at 6-10.

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unlikely to have occurred by chance (if, for example, DISH and each DE were bidding independently). The data also reveal that the pattern of coordinated bidding allowed DISH to exit the auction abruptly once bidding reached a certain level and be replaced by its DEs, which now claim a 25 percent discount. These same data raise questions as to whether the small business owners of Northstar and SNR exercised requisite *de facto* control or whether, instead, the bidding was centrally coordinated and controlled by DISH.

The bidding data suggest that the activities of DISH and its DEs may have deterred competition and reduced the diversity of winning bidders in a number of instances. The double and triple bidding by DISH and its DEs may have created the false impression that there was more competition for certain licenses than was actually the case, and may have caused small bidders to exit the auction. By jointly bidding on the same licenses, DISH and its DEs also were able to park their eligibility without incurring the risk of being the winning bidder on a larger number of licenses, which provided an inherent advantage over other bidders. And the bidding data suggest the DEs later used that eligibility to allocate their bidding between different geographic markets.

This letter is being filed pursuant to Section 1.1206 of the Commission's rules. Should you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jonathan Stein".

cc: (via e-mail)

Roger Sherman

Jean Kiddoo

Sue McNeil

Johanna Thomas

Margaret Wiener

Craig Bomberger