

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

In the Matter of)	
)	
Broadcast Incentive Auction Comment Public Notice)	
Auction 1000, Including Auctions 1001 and 1002)	AU Docket No. 14-252
)	
Expanding the Economic and Innovation)	
Opportunities of Spectrum Through Incentive)	GN Docket No. 12-268
Auctions)	

REPLY COMMENTS

An Anonymous Broadcaster¹ respectfully submits these Reply Comments to the *Public Notice*, FCC 14-191, released December 17, 2014,² to urge the Commission to adopt higher minimum opening bid prices for the reverse auction and to abandon its proposal to use Dynamic Reserve Pricing.

I. Description of Anonymous Broadcaster

The Anonymous Broadcaster owns a full power network-affiliated commercial television station in a small market above the 150th Designated Market Area (“DMA”). That station apparently will have a preclusive effect on re-packing stations in larger adjacent markets.

Anonymous Broadcaster also has financial interests in other commercial licensees, one of which owns two independent full power television stations and one independent Class A television

¹ Pursuant to the Public Notice issued on December 18, 2012 (DA 12-2040), the undersigned submits these Reply Comments on behalf of a broadcast client who, for the purpose of business continuity, desires to remain anonymous at this time. As provided for in Section 1.419 of the Commission’s rules, these Reply Comments are signed by a named party. *See* 47 C.F.R. § 1.419.

² “Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auctions 1001 and 1002,” 29 FCC Rcd. 15750 (2014) (“Comments Public Notice”).

station in a non-DMA market, and the other owns a network-affiliated full power television station in a DMA between markets 50 and 100.

Anonymous Broadcaster is evaluating whether it will participate in the Incentive Auction. Its decision will be significantly impacted by the pricing policies that the Commission adopts for the reverse auction.

II. The FCC Should Adopt Higher Minimum Opening Bid Amounts in the Reverse Auction in Light of the Values Received in the AWS-3 Auction.

Anonymous Broadcaster encourages the Commission to adopt a higher starting threshold for minimum opening bids in the reverse auction than what was presented in the Greenhill Report released in February 2015.³ The success or failure of the Incentive Auction will be determined by the FCC's ability to attract robust participation by broadcasters of all types. Whether a broadcaster is commercial or noncommercial, located in a large market or a small market, or a network affiliate or an independent, money will be the most important motivator for a broadcaster to participate. Broadcasters understand, however, that the reverse auction is designed for prices to fall – there is no additional upside for broadcasters if the forward auction attracts even more revenues than expected as occurred with the AWS-3 auction.⁴ Thus, the Commission must start from prices that are as high as possible and allow competition

³ “Incentive Auction Opportunities for Broadcasters,” prepared for the Federal Communications Commission by Greenhill & Co., LLC, dated February 2015.

⁴ Statement of FCC Commissioner Mignon L. Clyburn on Auction 97 (Jan. 29, 2015), available at <http://www.fcc.gov/document/statement-commissioner-clyburn-aw-3-auction-results> (last visited March 13, 2015) (“If you had conducted a poll of analysts before the start of the AWS-3 auction, the highest prediction given for its yield would not have exceeded \$18 billion. Seventy-seven days and a record setting \$44.89 billion later, Auction 97 has shown that demand for this spectrum was phenomenal.”).

among broadcasters participating in the auction to establish the market price for broadcast spectrum.

Anonymous Broadcaster supports the proposal submitted in the Comments of Expanding Opportunities for Broadcasters Coalition (“EOBC”),⁵ which would weight interference higher than population coverage in the formula for calculating opening bids (the “EOBC Compromise Proposal”). Anonymous Broadcaster believes that the EOBC Compromise Proposal serves the FCC’s goal of attracting widespread broadcaster participation. The EOBC Compromise Proposal preserves the core structure of the Commission’s proposed pricing formula, but modifies the exponent of the population component from 0.5 to 0.25, producing the following formula:

$$\text{Station Volume} = (\text{Interference})^{0.5} * (\text{Population})^{0.25}$$

Most importantly, the EOBC Compromise Proposal results in higher opening prices for every television broadcaster in the country.⁶ The higher prices yielded by the EOBC Compromise Formula would increase the likelihood that Anonymous Broadcaster and other similarly situated broadcasters will participate in the auction. This will increase the prospects for a successful auction at a high clearing target that achieves all of the Commission’s policy goals for the Incentive Auction.

⁵ Comments of Expanding Opportunities for Broadcasters Coalition, GN Docket No. 12-268, AU Docket No. 14-252 at 23-26 (Feb. 19, 2015) (“EOBC Comments”).

⁶ See Expanding Opportunities for Broadcasters Coalition, *FCC Proposed Formula vs. EOBC Formula*, Attachment to Letter from Preston Padden to Marlene H. Dortch (Mar. 4, 2015), available at <http://apps.fcc.gov/ecfs/comment/view?id=60001025612> (last visited March 13, 2015).

Given the unprecedented results of the recent AWS-3 auction, adopting a formula that increases opening prices for every broadcaster should be obvious. As Chairman Wheeler observed, the results of the AWS-3 auction “confirm the strong market demand for more spectrum.”⁷ Adopting a pricing policy, such as the Commission’s proposal, that does not account for this indisputable evidence of spectrum demand will unnecessarily deter broadcaster participation in the auction and prevent the Commission from realizing the full potential of the Incentive Auction. In contrast, higher minimum opening bids will attract greater broadcaster participation which, in turn, will increase the prospects for a successful auction.

III. The FCC Should Abandon Dynamic Reserve Pricing.

An important factor in attracting broadcaster participation as well as engendering trust in the auction process is rejection of the proposed use of Dynamic Reserve Pricing (“DRP”) during the early rounds of the reverse auction.⁸ Use of DRP means that the minimum opening bid is, in fact, not a minimum opening bid at all, as the FCC will not honor that bid if the station is “frozen” without a feasible channel to which it could be repacked in the remaining TV band. Instead, it is a form of “bait and switch.” A broadcaster refusing to accept a lower bid amount will be marooned in the 600 MHz band. A station marooned in the 600 MHz band will be unable, in perpetuity, to improve its signal coverage. It will endure interference complaints from wireless operators and users around the periphery of its coverage area. Such a station would be worse off in that situation than if it had decided not to participate in the auction in the first place, since its place in the repacked TV band would be assured if it does not participate in the auction.

⁷ Statement of FCC Chairman Tom Wheeler on Auction 97 (Jan. 29, 2015), *available at* <http://www.fcc.gov/document/chairman-wheeler-statement-auction-97> (last visited March 13, 2015).

⁸ *See* Comments Public Notice, 29 FCC Rcd. 15750, 15787-89 (paras. 106 – 110)(2014).

Consequently, Anonymous Broadcaster concurs in the Comments of Sinclair Broadcast Group, Inc.,⁹ which explain in more detail the adverse consequences of relying on DRP.

As proposed, broadcasters nationwide would be subject to DRP and be bidding against themselves, even though their particular markets do not have stations whose channels are frozen in the opening rounds. The problem the Commission identifies that DRP will solve is that it makes it easier for the Commission to satisfy the final stage rule if it does not have to pay as much to broadcasters because broadcasters might be willing to accept lower prices than the price at which their channels become necessary to meet the feasibility for being repacked in post-auction TV band.¹⁰ The Commission, however, already has a mechanism for dealing with this issue in the final stage rule. If the proceeds are not sufficient, the reverse auction will be re-started with a lower spectrum clearing target. Thus, the use of DRP is excessively broad for addressing the problem, particularly given the success of the AWS-3 auction cited above.

Stranding TV stations who refuse to bid against themselves in the 600 MHz band would be detrimental to wireless carriers who bid on spectrum blocks that have TV stations allotted in their spectrum blocks. Additional impairments created through the use of DRP will reduce the amount of money forward auction participants will pay, and reduce the aggregate amount of proceeds from the auction. Arbitrary reduction of prices paid to broadcasters through implementation of DRP will discourage broadcaster participation and make the spectrum bands

⁹ Comments of Sinclair Broadcast Group, Inc., GN Docket No. 12-268, AU Docket No. 14-252 at 5-9 (Feb. 20, 2015).

¹⁰ Comments Public Notice, 29 FCC Rcd. at 15787 (para. 106). The final stage rule is met if the proceeds from the forward auction cover the costs of the reverse auction payments, the administrative costs to the FCC in conducting the auction, and the repacking costs for TV stations relocated to different channels. *See* 47 U.S.C. § 309(j)(8)(G).

