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May 12, 2015

EX PARTE VIA ECFS

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

Re: Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions, GN Docket No. 12-268; Reforming the DE Program, WT Docket No. 14-170

Dear Ms. Dortch:

On May 8, 2015, Dee Herman and Greg Whiteaker of Herman and Whiteaker, LLC and the undersigned, of AT&T, talked by phone with Roger Sherman, Sue McNeil, Jean Kiddoo, Margaret Wiener and Kelly Quinn of the Wireless Telecommunications Bureau. The purpose of the call was to preview a proposal for reforming the FCC's DE Program, which proposal was filed in the above-referenced proceedings on May 11, 2015.

We explained that reform was essential, and that we believed a new approach should be considered -- one that would assure policymakers and taxpayers alike that auction subsidies will be directed to true small communications businesses and rural telephone companies. We also explained that while any new program should support new entrants, such support must be sufficiently defined so as to not invite big business dollars and deep pocketed investors to stand behind newly formed LLCs in a play for unmerited financial advantage. Finally, we explained that new spectrum allocations supported by bidding credits should go only to licensees that intend to deploy those licenses to offer wireless services to U.S. consumers.

We therefore proposed the following new Designated Entity framework:

Small Business/Rural Telco Bidding Credit: Eligible auction applicants would be permitted to claim a Small Business/Rural Telco bidding credit of 25%. To be eligible, an applicant must be in the business of providing commercial communications services to a

customer base of less than 250,000 combined wireless/wireline customers. Any Small Business/Rural Telco bidding credit would be capped at \$10M per bidding entity.

Small Business/New Entrant Bidding Credit: Eligible auction applicants would be permitted to claim a Small Business/New Entrant bidding credit of 25%. To be eligible, an applicant must have average annual gross revenues for the last three completed fiscal years of \$55M or less. Any Small Business/New Entrant Bidding Credit would be capped at \$10M per bidding entity.

We explained that both bidding credits would come with limitations. Bidding credits would not be cumulative and any individual or business would be eligible to claim only one bidding credit, either directly or indirectly through any relationship with or investment in an eligible bidding entity. In this way, no individual or entity would be entitled to benefit either directly or indirectly from more than one bidding credit. In furtherance of rural deployment, however, we would support an exception to that rule for members of long-standing rural partnerships (and rural telephone companies partly owned by other rural telephone companies) and their individual partners, each bidding in their own service areas, as long as they do not bid against each other in the same PEA, EA or CMA.

All bidding credits would be capped as outlined above to protect against potential abuses of the program. Indeed our support of this framework is directly contingent on the proposed caps as we believe that rigorously defined caps provide the greatest assurances to policymakers and auction participants alike that the program will not be exploited for unfair advantage.

No applicant claiming a bidding credit would be permitted to join a joint bidding arrangement or consortium (to the extent such arrangements continue to be permitted by the FCC) with an applicant that is not separately eligible for a bidding credit. And any applicant who obtains a bidding credit would be required to meet any and all FCC mandated interim performance requirements, without exception, before sale of the relevant spectrum license. Failure to meet this requirement for any individual license would result in the full forfeiture of any bidding credit associated with that license.

Finally, to ensure the availability of financing, we explained that commercial banking entities should be entitled under any new framework to provide arms-length commercial loans to bidding entities without undue restrictions.

* * * * *

We argued that this framework would provide for and support robust participation in the incentive auction by true small businesses and new entrants. The framework as proposed would provide a full 25% bidding credit to any entity with a capital budget for auction of up to \$40M --- a significant spend for any small business on spectrum, and which doesn't even include capital expenditures for wireless build-out. We explained that this amount would cover the full auction spend of 22 of the 31 winning bidders in the

AWS3 auction; and that such limits would also decisively close the “loopholes” that allowed entities backed by big business dollars to seek eligibility for billions of dollars of bidding credits in the AWS3 auction.

In accordance with the Commission’s rules, this letter is being filed electronically with the Secretary for inclusion in the public record.

Sincerely,

A handwritten signature in black ink, appearing to be 'JM', with a long horizontal line extending to the right.

Joan Marsh

cc: Roger Sherman
Sue McNeil
Jean Kiddoo
Margaret Wiener
Kelly Quinn