

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

In the Matter of)	
)	
Updating Part 1 Competitive Bidding Rules)	WT Docket No. 14-170
)	
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions)	GN Docket No. 12-268
)	
Petition of DIRECTV Group, Inc. and EchoStar LLC for Expedited Rulemaking to Amend Section 1.2105(a)(2)(xi) and 1.2106(a) of the Commission's Rules and/or for Interim Conditional Waiver)	RM-11395
)	
Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures)	WT Docket No. 05-211
)	

REPLY COMMENTS OF STEVEN R. BRADLEY, FORMER PRESIDENT/CEO OF INTEGRATED COMMUNICATIONS GROUP, LLC; ANITA S. GRAHAM, FORMER MANAGING PARTNER OF OPPORTUNITY CAPITAL PARTNERS; STANLEY CAMPBELL, CHAIRMAN AND CEO OF EAGLEFORCE ASSOCIATES; GILBERT H. SCOTT, SR., PRESIDENT AND CEO OF HURSELL ASSOCIATES; LATINOS IN INFORMATION SCIENCES AND TECHNOLOGY ASSOCIATION (LISTA); LEAGUE OF UNITED LATIN AMERICAN CITIZENS (LULAC); ARTHUR MOBLEY, BROADCAST OWNER/OPERATOR AND ENDOWMENT BOARD MEMBER, WALTER CRONKITE SCHOOL OF JOURNALISM, ASU; MUTICULTURAL MEDIA, TELECOM AND INTERNET COUNCIL (MMTC); NATIONAL ASSOCIATION OF BLACK OWNED BROADCASTERS (NABOB); NATIONAL ASSOCIATION OF MULTICULTURAL DIGITAL ENTREPRENEURS (NAMDE); RAINBOW PUSH COALITION; AND THE U.S. BLACK CHAMBERS, INC.¹

¹ MMTC respectfully requests relief from the Commission to accept these Reply Comments late due to technical problems of the FCC's ECFS system on March 9, 2015. MMTC attempted to file the attached document three times on this day and received technical error messages that are currently being investigated and resolved by the agency. A copy of these Reply Comments were filed with FCC Secretary Marlene Dortch before the FCC filing deadline.

The DE Opportunity Coalition (“Coalition”)² reiterates its position that numerous public interest benefits flow from meaningful Designated Entity (DE) participation in spectrum auctions. The Commission should, therefore, continue to improve and expand the congressionally mandated DE program to foster competition and diversity in the ownership of commercial wireless spectrum among small businesses, minority- and women-owned business enterprises (“MWBEs”), and rural telephone companies.³

A viable DE program fulfills statutory obligations and achieves important policy priorities, including the wide dissemination of licenses and the avoidance of excessive concentration of licenses. Moreover, there are different types of DEs with different capital needs and business objectives, which requires maximum flexibility in the DE rules.

As perhaps the only viable government program available for facilitating ownership opportunities for new entrants and small businesses in telecommunications, especially those created and led by MWBEs, the Coalition urges the Commission to preserve the program and

² Signers for this letter are several members of the DE Opportunity Coalition that include: Steven R. Bradley, Former President/CEO of Integrated Communications Group, LLC – Mr. Bradley is the former President and CEO of Integrated Communications Group, LLC, a broadband PCS licensee, and is currently an investor and entrepreneur in various telecommunications and other industries; Anita S. Graham, Former Managing Partner of Opportunity Capital Partners - Ms. Graham is a former Managing Partner of Opportunity Capital Partners, a minority-owned venture capital fund (and an investor in various wireless transactions), former Chairman of the National Association of Investment Companies, and a member of the FCC Advisory Committee on Diversity for Communications in a Digital Age; Stanley Campbell, Chairman and CEO of EagleForce Associates, *see infra* n.69; Gilbert H. Scott, Sr., President and CEO of Hurshell Associates, *see infra* n.87; Latinos in Information Sciences and Technology Association (LISTA); League of United Latin American Citizens (LULAC); Arthur Mobley, Broadcast Owner/Operator and Endowment Board Member, Walter Cronkite School of Journalism, ASU; the Multicultural Media, Telecom and Internet Council (MMTC); National Association of Black Owned Broadcasters (NABOB); National Association of Multicultural Digital Entrepreneurs (NAMDE); The Rainbow PUSH Coalition; and the U.S. Black Chambers, Inc. *See also* Comments of the DE Opportunity Coalition, WT Docket No. 12-268 (Feb. 20, 2015) (“Initial Comments of the DE Opportunity Coalition”).

³ *See* 47 U.S.C. §309(j)(3)(B). *See also* *Updating Part 1 Competitive Bidding Rules, et al., Statement of Commissioner Mignon L. Clyburn*, WT Docket No. 14-170 (Oct. 10, 2014), available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-14-146A2.pdf (last visited Mar. 5, 2015); Roger C. Sherman, Empowering Small Businesses, FCC Blog (Aug. 1, 2014), available at <http://www.fcc.gov/blog/empowering-small-businesses> (last visited Mar. 5, 2015).

address any concerns about the potential for fraud, waste and abuse on a case-by-case basis in stringently enforcing the Commission’s existing DE reporting requirements and taking strong enforcement action against any parties that violate the DE rules.⁴ As illustrated in the Coalition’s Initial Comments, DEs provide many public interest benefits, but cannot compete effectively in a marketplace where they cannot gain access to capital or have the opportunity to create flexible and viable business plans that cultivate new entry and allow them to scale.⁵

The Coalition reiterates its request that the Commission eliminate the Attributable Material Relationship (“AMR”) Rule, and maintain the existing five-year unjust enrichment repayment schedule. Changes in the marketplace and the capital-intensive nature of the wireless business require that the Commission refrain from limiting the business plans and options available to DEs to gain a foothold in the wireless sector.⁶ The spectrum leasing, reselling and network wholesaling arrangements currently restricted by the AMR Rule also operate as barriers to market entry and are overbroad given the different attributes of potential DE business arrangements.⁷ Further, as stated in our previous filing, we believe that extending the five-year

⁴ The DE Coalition expressly rejects any Comments seeking to end the DE Program or gut its effectiveness. See e.g., Comments of Americans for Tax Reform et al (Feb. 20, 2015) at 9-11; Comments of Thomas A. Schatz, President, Citizens Against Government Waste (Feb. 20, 2015), at 3; Comments of T-Mobile USA, Inc. (Feb. 20, 2015) at 10-17; and Comments of AT&T (Feb. 20, 2015) at 15-17. Proposals that restrict leasing, cap bidding credits, and create minimum equity requirements represent a backwards shift that has already proven unproductive and counter to the public interest in disseminating licenses broadly. Promoting minority and women-owned businesses of various shapes and sizes is the cornerstone of the DE Program. We are ready to work on ways to strengthen the program so that it can better serve the public interest.

⁵ See *generally* Initial Comments of the DE Opportunity Coalition.

⁶ See Initial Comments of the DE Opportunity Coalition at 16.

⁷ See Initial Comments of the DE Opportunity Coalition at 16-18; *see also* Comments of the Auction Reform Coalition (Feb. 20, 2015), at 17-19 (“Auction Reform Coalition”); Comments of Competitive Carriers Association (Feb. 20, 2015), at 9 (“CCA”); Comments of NTCA-The Rural Broadband Association (Feb. 20, 2015), at 5-6 (“NTCA”); and Comments of The Wireless Internet Service Providers Association (Feb. 20, 2015), at 10-11 (“WISPA”). The AMR Rule does not just apply to leasing. Nonetheless, contrary to some allegations, standard relationships such as leasing can have many public interest benefits. See S. Jenell Trigg and Jeneba Jalloh Ghatt, *Digital Déjà Vu: A Road Map for*

repayment schedule would have similar negative consequences, as already illustrated by the dismal outcomes of Auctions 66 and 73.⁸

As a reasonable safeguard, the Coalition also requests that the Commission retain existing DE reporting requirements to maintain an effective system of checks and balances, despite claims of redundancy or other reasons.⁹ The Coalition, however, encourages the Commission to consider streamlining the reporting requirement to make it less burdensome.

The FCC's classification of all DEs as small businesses was an expedient and race-neutral means to implement Section 309(j)'s enumerated classification of DEs that includes rural telephone companies, small businesses, and businesses owned by minorities and women.¹⁰ DEs, especially new entrants, by their very nature, will be considered as small businesses because they have no established revenue under the Commission's longstanding rules. The Coalition urges the Commission to adopt rules that foster innovation and flexibility so that new entrants in particular can gain greater access to capital. Further, the Coalition recommends that the Commission increase and extend bidding credits to race-neutral categories of firms,¹¹ and agrees with other Commenters that the revenue thresholds for small business eligibility, which have not been updated in several years, be evaluated and increased, as proposed.¹²

We look forward to working with the Commission to ensure that reformed DE rules are in place prior to the spectrum incentive auction scheduled for early next year.

Promoting Minority Ownership in the Wireless Industry (Feb. 25, 2014) at 27-29, available at http://mmtconline.org/wp-content/uploads/2014/02/Web-Unembargo-MMTC-WHITE-PAPER_WIRELESS-OWNERSHIP_2.24.14_FINAL-2.pdf (last visited Mar. 6, 2015).

⁸ See *id.* at 26 see also Comments of CCA, at 10; Comments of Rural Wireless Association (Feb. 20, 2015), at 9 ("RWA"); Auction Reform Coalition Comments at 27, WISPA Comments at 13.

⁹ See RWA Comments at 11.

¹⁰ See generally *Omnipoint Corp. v FCC*, 78 F.3d 620 (D.C Cir. 1996).

¹¹ See Initial Comments of the DE Opportunity Coalition at 33.

¹² See *e.g.* Comments at 8; Auction Reform Coalition at 21; WISPA Comments at 5.

Respectfully submitted,

By: _____

Kim M. Keenan,
President and CEO
Nicol E. Turner-Lee, Ph.D., Vice President
and Chief Research and Policy Officer
Jacqueline Clary
Senior Counsel
Multicultural Media, Telecom and Internet
Council
3636 16th Street NW, Suite B-366
Washington, DC 20010
(202) 332-0500
kkeenan@mmtconline.org

Counsel for the “DE Opportunity Coalition”

Of Counsel:

Devan Hankerson, MPP, Research Director,
Multicultural Media, Telecom and Internet Council

Steven R. Bradley, Former President/CEO of Integrated Communications Group, LLC
Anita S. Graham, Former Managing Partner of Opportunity Capital Partners
Stanley Campbell, Chairman and CEO of EagleForce Associates
Gilbert H. Scott, Sr., President and CEO of Hurshell Associates
Latinos in Information Sciences and Technology Association (LISTA)
League of United Latin American Citizens (LULAC)
Arthur Mobley, Broadcast Owner/Operator and Endowment Board Member, Walter Cronkite
School of Journalism, ASU
Multicultural Media, Telecom and Internet Council (MMTC)
National Association of Black Owned Broadcasters (NABOB)
National Association of Multicultural Digital Entrepreneurs (NAMDE)
Rainbow PUSH Coalition
U.S. Black Chambers, Inc.

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