

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 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 Rule Making 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
	)	

To: The Commission

**REPLY COMMENTS IN RESPONSE TO PUBLIC NOTICE REQUEST FOR FURTHER  
COMMENT ON ISSUES RELATED TO COMPETITIVE BIDDING PROCEDURES**

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## SUMMARY

The comments filed in response to the DE PN diverge on issues of central significance to the FCC's long-established DE program. On the one hand are comments that support CTI's extensive showings on the importance of: continued FCC adherence to the Statutory Mandates; promotion of DE alliances with large investors to enable DEs to compete effectively in large, regional, and nationwide markets; and repeal of the AMR Rule. On the other hand are the comments of proponents of DE rule changes that have failed to ground their proposals in fact, data, or the Statutory Mandates.

The DE PN and longstanding precedent establish rigorous standards that proponents of DE program change have failed to meet. Neither of two primary proffered justifications for proposed rule changes – alleged problems with DE alliances with large investors and the impact of DE bidding on RLECs – finds support in fact or data. In its comments, CTI exhaustively showed that, far from creating any cognizable real world problem, DE alliances with large investors have a demonstrated history of directly promoting the Statutory Mandates. In these Reply Comments, CTI uses extensive data from Auction 97 and earlier auctions to demonstrate that many factors other than DE bidding account for RLECs' performance in Auction 97. For example, data show that the fiercest competitor RLECs faced for Auction 97 spectrum was AT&T, not individual DEs; that RLECs showed up for Auction 97 in far fewer numbers and risked far fewer dollars, than they did in Auction 73; and that many RLEC bids in Auction 97 did not approach competitive levels. The resultant data-driven conclusion is that any RLEC-related concern about DE bidding in Auction 97 is misplaced. RLECs faced broad-based marketplace competition in Auction 97, especially from the large incumbents.

As for specific Revision Proposals or newly advanced proposals for changes in DE rules, they all fail to identify any fact-based problem with the existing DE rules, they all fail to explain

how a proposed change would remedy any such problem, and they all fail to show how any proposed changes adhere to the Statutory Mandates. As a consequence, none of them has merit, and all should be rejected.

On the basis of the record before it, the FCC has all the facts and data it needs to preserve and enhance the existing DE program, to both further the Statutory Mandates and maximize the chances that the upcoming BIA will succeed.

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Council Tree Investors, Inc. (“CTI”) hereby submits its reply comments in the above-captioned proceeding.<sup>1</sup>

**I. CTI’s Data-Driven, Fact-Based Comments Find Support in the Comments of Other Parties.**

CTI’s May 14, 2015 Comments in response to the DE PN (“CTI DE PN Comments”) were grounded in statute, responsive to Section 309(j)’s Statutory Mandates that the Commission design its spectrum auctions to promote competition, disseminate licenses widely, avoid excessive license concentration, and equitably distribute licenses and services among geographic

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<sup>1</sup> See FCC Public Notice, *Request for Further Comment on Issues Related to Competitive Bidding Proceeding; Updating Part 1 Competitive Bidding Rules*, FCC 15-49, WT Docket Nos. 14-170 and 05-211, GN Docket No. 12-268, and RM-11395 (rel. Apr. 17, 2015) (“DE PN”). Initially capitalized terms used herein are defined in the CTI DE PN Comments.

areas. The CTI DE PN Comments were also carefully fact-based, in satisfaction of the Data-Driven Burden of Proof prominently established by the Commission in this proceeding.

Comments of other parties strongly support CTI's basic positions in this proceeding.

**A. The Importance of FCC Fidelity to the Statutory Mandates.**

A number of commenters cite one or more of the Statutory Mandates as requiring FCC maintenance of a robust DE program that preserves, even strengthens, DEs' ability to challenge the entrenched positions of the large incumbents in large, regional, and nationwide markets. As King Street Wireless, a female-controlled business, notes:

These are mandates in the truest sense of the word. They constitute the *sine qua non* for the Commission being able to conduct auctions, and require accomplishments, not just effort. . . . [M]any of the purported ways to improve the program that have been put forward by nationwide carriers are, in effect, efforts to undermine the program rather than to correct anything.<sup>2</sup>

Additionally, Competitive Carriers Association ("CCA") emphasizes that "the Commission must first stay faithful to the directive given to it by Congress in Section 309(j) of the Communications Act of 1934, as amended."<sup>3</sup> Consistency with the Statutory Mandates is

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<sup>2</sup> Comments of King Street Wireless, L.P., WT Docket No. 14-170 et al. (May 14, 2015) ("King Street Comments"), at 3; *see also* Comments of Multicultural Media, Telecom and Internet Council, WT Docket No. 14-170 et al. (May 14, 2015) ("MMTC Comments"), at 5 ("MMTC respectfully urges the Commission to reform the [DE] program to increase competition and foster meaningful diversity in the ownership and control of the public's spectrum, as intended by Congress when it enacted Section 309(j) of the Communications Act."); Comments of NTCH, Inc., WT Docket No. 14-170 et al. (May 13, 2015) ("NTCH Comments"), at 5-6.

<sup>3</sup> Comments of CCA, WT Docket No. 14-170 et al. (May 14, 2015) ("CCA Comments"), at 5; *see also* Comments of the Rural Wireless Association, Inc. and NTCA-The Rural Broadband Association, WT Docket No. 14-170 et al. (May 14, 2015) ("Comments of RWA/NTCA"), at 5-6; Comments of United States Cellular Corporation, WT Docket No. 14-170 et al. (May 14, 2015) ("U.S. Cellular Comments"), at 5-6.

imperative and suggestions that “do not appear to be derived from any, much less specific, statutory language” should be ignored.<sup>4</sup>

**B. DE Alliances with Large Investors and Maximal DE Business Plan Flexibility are Keys to Promoting the Ability of DEs to Compete in Large, Regional, and Nationwide Markets.**

Other commenters also weigh in on the importance of minimizing government rules and restrictions that would make it unwieldy, if not impossible, for DEs to attract the investment capital necessary to mount marketplace challenges to the large incumbents, particularly given the daunting advantages of incumbency. As U.S. Cellular properly notes:

If the DE rules are altered to limit the opportunity for larger companies to participate in DEs, there will be fewer DEs, and those that remain will not have the resources needed to serve more than a few markets. When individual, properly constituted DEs win auctions, that is not an abuse of the rules. Rather it carries out their intent.<sup>5</sup>

The realities of the wireless industry further complicate the ability of non-incumbents to find investors.<sup>6</sup> With consolidation in the industry, “achieving sufficient scope and scale within a

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<sup>4</sup> Harold Furchtgott-Roth, *Economic and Regulatory Perspectives on Structuring Designated Entity Programs for Commission Auctions* (May 2015) (“Furchtgott-Roth Report”), at 4 (attached to U.S. Cellular Comments).

<sup>5</sup> U.S. Cellular Comments at 9 (internal footnotes omitted); *see also* King Street Comments at 12 (noting that AT&T’s proposal does nothing to advance the Commission’s statutory mandate, but instead would inhibit DEs’ ability to bid and operate on a sustainable scale).

<sup>6</sup> MMTC Comments at 9 (“Within the wireless industry, factors that include an increase in competition, the rising costs associated with the spectrum acquisition and management, post-purchase infrastructure investments, and price wars to attract consumers, all complicate the entry of non-incumbents who have to make the compelling case for support from potential investors.”); *see also* King Street Comments at 13 (“[I]n the two decades in which the Commission has licensed DEs, funding by those not already in the telecom industry in one way or another has been virtually non-existent.”).

market to effectively compete against the two largest incumbents” is essential.<sup>7</sup> “True competition,” as MMTC explains, “occurs when DEs of varying size and structure participate accordingly to the availability of their resources.”<sup>8</sup>

**C. Revision Proposals are Transparently Designed to Stifle Competition.**

Still other commenters recognize the Revision Proposals for what they are – thinly veiled, alternative ways for large incumbents to accomplish their red letter objective, based on their *private*, bottom-line interests – eliminate the type of competition DEs provided in Auction 97 in large markets, no matter the cost to competition and the taxpaying public. “[I]t should come as no surprise that most of the four national carriers want, in one way or another, to restrict DE access to spectrum – and that is unquestionably the result of their proposals. By so doing, they just happen to virtually guarantee the elimination of DE competition, first in the auction itself, then in the industry.”<sup>9</sup> The proposals set forth by AT&T and T-Mobile are “both unnecessary, and harmful to the DE program.”<sup>10</sup> These proposals would “keep DEs small when compared to larger companies.”<sup>11</sup> By “imposing arbitrary size caps,” it would keep small business “consigned forever to remain tiny”<sup>12</sup> and thus eliminate competition to the large incumbents.

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<sup>7</sup> CCA Comments at 6; *see also* NTCH Comments at 5 (“The best way to directly attack ‘concentration of licenses’ is by directly stimulating ownership of licenses by new entities.”); U.S. Cellular Comments at 20 (“An unreasonably low cap like that proposed by AT&T also would effectively prevent DEs from competing for spectrum in heavily-populated markets. And it would deny DEs access to some scale economies by limiting the number of licenses they can acquire, and thus, the number of markets they can serve.”).

<sup>8</sup> MMTC Comments at 16.

<sup>9</sup> King Street Comments at 14; *see also* U.S. Cellular Comments at 20.

<sup>10</sup> King Street Comments at 10.

<sup>11</sup> MMTC Comments at 16.

<sup>12</sup> *Id.* at 16-17.

**D. The AMR Rule Should Be Repealed.**

Finally, there is broad support for elimination of the AMR Rule.<sup>13</sup> Several commenters recognize that the AMR Rule is simply too rigid<sup>14</sup> and overly burdensome. To follow the Statutory Mandates and promote DE participation, the Commission must loosen “the strict prohibitions on third party access to spectrum acquired using bidding credits and enabl[e] a DE to operate under wholesale capacity service models or enter into other beneficial spectrum sharing arrangements . . . .”<sup>15</sup> The AMR Rule, which “is a rigid form of economic regulation,” is “required neither by statute nor economic rationality.”<sup>16</sup> Repealing the AMR Rule will “encourage diverse participation and competition”<sup>17</sup> in future auctions and will allow DEs to better secure financing to purchase auction licenses and meet build out requirements.<sup>18</sup>

At least one commenter has argued that Auction 97 was a success without repeal of the AMR Rule, and therefore, the AMR Rule should not be modified or eliminated.<sup>19</sup> The fact that DEs enjoyed some success in Auction 97, where AT&T and Verizon still bought some two-thirds of the available paired spectrum, presages the potential for even stronger results in the BIA if the AMR Rule is repealed.<sup>20</sup> Clear pro-competitive benefits will accrue from the operation of

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<sup>13</sup> *See, e.g.*, U.S. Cellular Comments at 11-12; CCA Comments at 7-9; MMTC Comments at 14-15; and Furchtgott-Roth Report at 12-13, 18.

<sup>14</sup> CCA Comments at 7-8.

<sup>15</sup> *Id.* at 8.

<sup>16</sup> Furchtgott-Roth Report at 13

<sup>17</sup> MMTC Comments at 14-15.

<sup>18</sup> U.S. Cellular Comments at 12.

<sup>19</sup> *See* Comments of T-Mobile USA, Inc., WT Docket No. 14-170 et al. (May 14, 2015) (“T-Mobile Comments”), at 4.

<sup>20</sup> *See infra* note 26.

marketplace forces, to the extent DEs are allowed to make their own decisions about how best to use their spectrum in addressing growing consumer demand. Furthermore, an argument based on DE success in Auction 97 does not take into account the Commission's administrative record in this and previous proceedings, as well as the record in *Council Tree* showing that the AMR Rule has hampered the business plans of many DEs since its improvident adoption in 2006.<sup>21</sup> This argument also ignores the Commission's own acknowledgment in the 2014 Part 1 NPRM that the rule can be a market entry barrier.<sup>22</sup> The AMR Rule can harm DEs with different business plans or access to capital needs.<sup>23</sup> It is critical that *all* DEs have maximal flexibility today *and* tomorrow to adapt to and address evolving industry conditions and norms, and to compete on a level playing field with non-DEs. "DEs need the maximum amount of operational flexibility to enter into leasing and wholesale arrangements as they see fit, and the ability to pursue other yet-to-be-developed entrepreneurial opportunities with their licensed spectrum. DEs will be doomed to failure if they are shackled to a one-size-fits-all business plan of being a facilities-based service provider."<sup>24</sup>

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<sup>21</sup> See DE PN at 26 (Statement of Commissioner Mignon L. Clyburn) ("In 2006, the Commission tried to impose more stringent unjust enrichment rules on designated entities. The United States Court of Appeals for the Third Circuit struck down a number of rules for lack of notice and strongly suggested that the rationale for adopting them was flawed.") (citing to *Council Tree*).

<sup>22</sup> *Updating Part 1 Competitive Bidding Rules*, Notice of Proposed Rulemaking, 29 FCC Rcd 12426, 12434 & 12436 ¶¶ 19-20 & 23-25 (2014) ("2014 Part 1 NPRM").

<sup>23</sup> See MMTC Comments at 12 ("MMTC also affirms our assertion that the AMR Rule limits DEs as facilities-based competitors. Some DEs have an interest in acquiring spectrum to support telemedicine or telehealth applications, or to serve multicultural, multilingual or religious populations, while others may be seeking to create secured networks to accommodate the burgeoning ecology of the Internet of Things.").

<sup>24</sup> Comments of Tristar License Group, LLC, WT Docket 14-170 et al. (May 14, 2015) at i; see also MMTC Comments, at 11 (citing to case studies and various potential uses of auction

## II. New Entrant DE Bidding Did Not Determine RLECs' Performance in Auction 97.

It is axiomatic that before a federal agency may move to adopt changes to a regulatory regime, it must first establish a rational, fact-based predicate for any such change. In colloquial terms, there is no need for the government to spend its time devising “solutions in search of a problem.” In this proceeding, that fundamental principle is very much in play. That is, commenters proposing changes in the decades-old DE program, fresh off DEs’ success in Auction 97, are promoting an inaccurate script as to claimed DE program problems that somehow need fixing.<sup>25</sup> The first of the claims is that large investor alliances with DEs were never intended to be part of the DE program’s blueprint and their existence harms taxpayers to the extent bidding credits flow in part to larger companies. CTI extensively rebutted that claim on all counts in their Comments in this proceeding.<sup>26</sup> A second claim is that high-dollar auction

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spectrum documented in the DE Opportunity Coalition Comments, WT Docket 14-170 et al. (Feb. 20, 1015)).

<sup>25</sup> The history of the PCS C Block Auction and the 2006 DE Rules demonstrate how unforeseen and inadvertent consequences can attend efforts to “revise” the DE program. *See* MMTC White Paper at 1-11 (citing to the saga of PCS C block) and 14 (citing to negative impact of 2006 DE Rules).

<sup>26</sup> *See* CTI’s DE PN Comments at Section IV (and authorities cited therein) and CTI Reply Comments at Section II (and authorities cited therein); *see also* U.S. Cellular Comments at 5-7 and King Street Comments at 7. CTI also notes that CCA very recently filed with the Commission a study authored by Professors Peter Cramton and Pacharasut Sujarittanonta which “discredits claims by the two largest incumbents that DE bidding credits in the AWS-3 auction came at the expense of taxpayers. In actuality, the use of DE bidding credits increased the collective pricing pressure put on the two largest bidders – AT&T and Verizon. AT&T and Verizon won more than two-thirds of the paired spectrum in the AWS-3 auction.” Press Release, CCA, *New AWS-3 Economic Study Reinforces Need for a Pro-Competitive Spectrum Reserve* (May 20, 2015), available at <http://competitivecarriers.org/press/rca-press-releases/new-aws-3-economic-study/9118020> (last visited May 21, 2015).

bidding by DEs harms other small businesses, RLECs in particular. CTI comprehensively rebuts that claim below.<sup>27</sup>

Certain commenters try to blame large-dollar DE bidders for the failure of certain RLECs to acquire spectrum in Auction 97.<sup>28</sup> Data-driven analysis of Auction 97's results demonstrates that these contentions are predicated on a highly selective, and unreliable, version of the underlying facts. A thoroughgoing review of the Auction 97 data concerning RLEC participation in, and RLEC results from, that auction tells a very different story.

Exhibit 1 hereto sets forth the following facts:

- Just 23 bidders who participated in Auction 97 indicated on FCC Form 175 that they were RLECs (the "23 RLECs"), a decline of 71 percent from the number of similarly identified RLECs participating in the last major spectrum auction (73). Deposits made by the

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<sup>27</sup> CTI cautions that the Commission not elevate RLECs to a special class of DEs superior to any other DE class, such as new entrants, small businesses, or women- and minority-owned businesses. RLECs are not any more "legitimate," "bona fide," "genuine," "true," or "qualified" than any other class of DEs. To so conclude would be inconsistent with the Statutory Mandates and discriminatory.

Significantly, RLECS are also incumbents and should not be insulated from viable competition in rural markets. There must be a balancing of the Statutory Mandates to ensure that there is a wide dissemination of licenses, even in rural areas. This means that RLECs should be subject to competition. Although Congress added rural telephone companies to the list of enumerated DEs to promote a wide dissemination of licenses, Congress also fully intended that Rural America have competition. CTI DE PN Comments at 13 n.27 (citing to Statements of Senators Stevens and Burns). Nor do RLECs have the same access to capital issues as other DEs, especially New Entrant DEs. RLECs, both large and small, have existing subscribers and revenue, and can more easily secure traditional loans as well as assistance from the U.S. Dept. of Agriculture's Rural Utility Service and state-based financial support. Many RLECs also receive federal Universal Service Funding support to help construct their wireless networks. *See* Comments of the Rural Carrier Coalition, WT Docket No. 14-170 et al. (May 14, 2015) at 14 ("Rural Carrier Coalition Comments") ("USF support is intended to be used for building and maintaining wireless network infrastructure . . . ."); *see also* RWA/NTCA Comments, at 13. New Entrant DEs have none of this financial support at the early stage of auction participation.

<sup>28</sup> *See, e.g.*, Comments of The Rural-26 DE Coalition, WT Docket No. 14-170 et al. (May 14, 2015) at 2 & 8; Rural Carrier Coalition Comments at 4; and AT&T Comments at 7-8.

23 RLECs (\$7 million), the number of winners among the 23 RLECs (8), and the value of licenses won by the 23 RLECs (\$10 million), also fell precipitously from Auction 73 levels. Exhibit 1 at 1.

- On many licenses, the 23 RLECs were unwilling to place bids that even approached competitive levels. That is, for licenses on which the 23 RLECs placed bids but failed to win, ultimate winning bids were an average of 3.4 times higher than the 23 RLECs' bids. On the 18 Auction 97 licenses where the 23 RLECs won, they paid just \$0.51 per MHz POP, which was 19 percent below the prices they paid in Auction 73, and just 23 percent of the \$2.21 per MHz POP pricing that otherwise prevailed in Auction 97. *Id.* at 2. RLECs' total winning bids in Auction 97 constitute an extremely small (0.02) percentage of the \$45 billion gross and \$41.3 billion net revenue raised by Auction 97. *Id.* at 9.

- The 23 RLECs did *not* face competition in Auction 97 only from DEs. To the contrary, they encountered broad-based bidding competition, from a variety of parties, *including AT&T, Verizon, and T-Mobile*. Indeed, on the 115 licenses where the 23 RLECs placed bids but did not win, both AT&T (\$139 million) and Verizon (\$44 million) won more license value than either SNR (\$41 million) or Northstar (\$35 million), and T-Mobile (\$33 million) was not far behind. *Id.* at 3.

- As to the criticism that high-dollar bidding DEs wrongly wrested particular spectrum blocks from various selective RLEC groupings or individual RLECs, such as the five named RLECs, the eleven-named RLECs, Atlantic, and Cerberus (see Exhibit 1 at 4), Exhibit 1 explains that, as with the 23 RLECs, these various selective RLEC groupings and individual RLECs all faced broad-based competition in Auction 97, including from AT&T and Verizon. The data in Exhibit 1 also show that the conclusions reached regarding the 23 RLECs apply

broadly to these various selective RLEC groupings and individual RLECs (e.g., they failed to bid competitively on licenses they lost).

The facts set forth above and in Exhibit 1 hereto concerning dwindling RLEC participation in spectrum auctions allow the Commission to reach the following data-driven conclusions:

- RLECs' overall performance in Auction 97 is not the result of large-dollar DE bidding in Auction 97; indeed, *large incumbents* captured a much higher dollar total of Auction 97 licenses on which the 23 RLECs were interested in bidding than did any other group of Auction 97 bidders. A similar conclusion obtains for the various selective RLEC groupings and individual RLECs.

- Small, rural markets are no longer sheltered from meaningful competition, including from large incumbents. Large incumbents have now largely built out, and are anxious to compete, in rural markets as part of their drive to establish *national* coverage footprints. And, to the extent RLECs are themselves incumbents, the Statutory Mandates, Commission precedent, and public policy all dictate that they be subject to the type of competition a spectrum auction provides.<sup>29</sup>

- Over time, a number of RLECs have sold their wireless businesses to the large incumbents at a profit.<sup>30</sup> That creates a very different market dynamic today – RLECs have a

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<sup>29</sup> See CTI Comments at n.27.

<sup>30</sup> For example, Midwest Wireless, a rural wireless carrier located in Southern Minnesota, was primarily owned by rural telephone companies in Minnesota and was sold to Alltel in 2005 for over \$1 billion. The proceeds were “substantially more than the value of the regional telecommunications companies that control[ed] Midwest Wireless.” See *Alltel Expands Into Midwest for \$1 Billion*, RCRWIRELESS NEWS, Nov. 21, 2005, <http://www.rcrwireless.com/20051121/carriers/alltel-expands-into-midwest-for-1-billion> (last visited May 21, 2015) (“The acquisition comes just months after Alltel closed on its \$6 billion

substantially reduced incentive to try to re-enter these wireless markets and compete with the same large-scale carriers to whom they sold their wireless assets.

As Exhibit 1 succinctly concludes (at 3), “RLECs include some of America’s finest generations of entrepreneurs; if they saw a meaningful economic opportunity they would most certainly acquire and develop spectrum.”

In summary, claims of commenters that large-dollar DE bidding is responsible for RLECs’ performance in Auction 97 find no support in the Auction 97 data or the overall marketplace realities that RLECs face in 2015. Rather, the simple conclusion supported by the data is that if RLECs want to win more licenses at auction, they need to compete by filing applications and placing competitive bids.

### **III. Comments Filed in Support of Revision Proposals Lack Statutory and Factual Basis.**

With no fact-based DE program problem to address, the Commission is left in this proceeding with the task of analyzing a tranche of untethered, rootless Revision Proposals and similar ideas advanced in comments filed in response to the DE PN. None of them has merit.

In sharp contrast to the Comments reviewed in Section I above, the comments of those who want to eliminate DEs’ ability to compete with the large incumbents occupy an echo chamber of their own creation, where they predictably applaud their own Revision Proposals, designed to eliminate the type of competition DEs brought to the large incumbents in large markets in Auction 97. These proponents of ostensible “change” tend to cite themselves and/or each other as authority for their proposals, divorced from the Statutory Mandates and devoid of

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purchase of Western Wireless Corp. and follows its 2002 acquisition of CenturyTel Inc.’s wireless assets for \$1.6 billion.”).

the facts and data which the DE PN demanded. Accordingly, they do not come close to satisfying the DE PN's Data-Driven Burden of Proof, and their proposals necessarily fail.

Under well-established precedent and the ground rules established by the DE PN itself, namely the Data-Driven Burden of Proof, the same rigorous analysis must be applied by the Commission to each Revision Proposal, indeed to any other proposal to change the DE program advanced in this proceeding. That means that the same fundamental questions must be asked of each such proposal: Is there a fact-based problem the proposed change is purportedly addressing? What is the rational basis for any conclusion that a proposed change would remedy a properly identified problem? Is the proposed change consistent with the Statutory Mandates? Would the change enhance or damage the goals that drive the Statutory Mandates – that is, would implementation of a particular change widen or narrow the dissemination of licenses, avoid or increase wireless license concentration, or promote an equitable or inequitable distribution of licenses and services among geographic areas (i.e., would a change help place those licenses in the portfolios of just a very few companies or in the hands of new entrants)?

In their comments, AT&T and certain RLECs with which it recently formed an ad hoc coalition (“AT&T-RLECs”) urge the FCC to adopt a new proposal that would cap DE bidding credits at an aggregate of \$10 million and impose other onerous restrictions on DEs.<sup>31</sup> This

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<sup>31</sup> Comments of AT&T, WT Docket No. 14-170 et al. (May 14, 2015) (“AT&T Comments”), at 3 (citing to Letter from Joan Marsh, VP – Federal Regulatory, AT&T, and Steve Merriam, CEO/General Manager, Arctic Slope Telephone Association Cooperative, Inc. et al. to Roger Sherman, Chief, Wireless Telecommunications Bureau, FCC, WT Docket No. 14-170 et al. (May 11, 2015)). AT&T-RLECs label their \$10 million-capped DE bidding credit in part a “New Entrant” credit. At a maximum of \$10 million, however, this proposal is the polar opposite of a new entrant credit. It would, rather, ensure that *no* New Entrant DEs could compete with a large incumbent in any material way. The impact of a \$10 million bidding credit cap on DE participation in auctions that require billions for large, regional, and nationwide market bids is self-evident. AT&T-RLECs’ proposal would, among other things, *also* preclude DEs from entering a joint bidding arrangement or consortium with any party other than another

proposal fails to identify a fact-based problem with existing bidding credits, fails to explain how the proposal would remedy any such problem, and fails to show how the proposal adheres to the Statutory Mandates. The proposal is premised on the startling claim that the FCC’s DE rules “are no longer serving their intended purpose – to benefit true small businesses to ensure diversity in spectrum ownership.”<sup>32</sup> Not one shred of authority is cited for this statement. To the contrary, as CTI has exhaustively shown, any effort to limit the DE program to facilitating only *small* bids by DEs in *small* markets is wholly inconsistent with the Statutory Mandates, which direct the Commission to use mechanisms such as DE bidding credits to promote competition in markets of all sizes – small, medium, large, regional, and nationwide – so as to widely disseminate licenses, avoid license concentration, and equitably distribute licenses and services among geographic areas.

AT&T tellingly cites *its own* comments<sup>33</sup> and those of its allies<sup>34</sup> in support of its viewpoints. But these positions have no anchors in the Statutory Mandates, and no support in fact or data, to demonstrate that they serve legitimate public policy goals or are balanced

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DE. While AT&T itself supports a more general ban on joint bidding arrangements, it also states that “[i]f the Commission fails to completely prohibit joint bidding, it should be limited to allow joint bidding only between or among eligible DEs.” AT&T Comments at n.3. Unique DE joint bidding restrictions would, by definition, *allow* this country’s largest wireless incumbents to enter into any joint bidding arrangement they please (other than with a DE). Such a proposal stands in complete derogation of the Statutory Mandates, as it would tend to *narrow* the dissemination of licenses, *accelerate* license concentration, and *thwart* an equitable distribution of licenses and services among geographic areas.

<sup>32</sup> AT&T Comments at 2.

<sup>33</sup> See AT&T’s Comments at nn.2, 23, 31, 32, and 73 and accompanying text.

<sup>34</sup> See, e.g., AT&T Comments at n.12, citing a letter to the FCC from Kathleen Grillo of Verizon.

sufficiently to serve the public interest.<sup>35</sup> Instead, such proposals, on their face, would effectively debilitate any DE wishing in future auctions (most immediately, the BIA) to place the types of large, regional or nationwide market bids that threaten the large incumbents' hegemony in the wireless industry. Such bids, of course, are the only ones the large incumbents really care about, and those are the bids the large incumbents are out to quash.

Similarly, T-Mobile continues to advance a series of proposals (e.g., a 25 percent minimum equity requirement for a DE's controlling interest holder (T-Mobile Comments at 6); unique buildout requirements for DEs (*id.* at 7); and a ten-year unjust enrichment period, with onerous penalties (*id.* at 7-8)) which fails to identify an underlying, fact-based problem, fails to explain how the proposed change would remedy any such problem, and fails to show how the changes adhere to the Statutory Mandates. For example, minimum equity requirements for DEs have already been rejected by the Commission, and for good reason, as they would undermine the Statutory Mandates,<sup>36</sup> the Ten Year Hold Rule was vacated and criticized on substantive grounds by the *Council Tree* Court,<sup>37</sup> and special buildout rules would only tilt the playing field against the very entities the Statutory Mandates direct the FCC to preserve and promote. In fact, the adoption of any one of T-Mobile's proposals would only be effective in securing the *large incumbents'* goal, namely, the *insulation* of large incumbents from DE competition in auctions for spectrum in large, regional, and nationwide markets. The "support" T-Mobile offers for its

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<sup>35</sup> For instance, at page 5 of its comments, AT&T cites Section 309(j)(4)(D) and a 1994 Commission order without making the slightest attempt to explain how those citations support in any way AT&T's draconian DE rule change proposals. To the contrary, those authorities support CTI's positions herein.

<sup>36</sup> See CTI DE PN Comments at 29 & n.75.

<sup>37</sup> See *id.*

proposals is circular, thin, and self-serving. Indeed, T-Mobile repeatedly cites its own previous comments in this proceeding.<sup>38</sup> Citations to the Statutory Mandates are nowhere to be found.<sup>39</sup>

Other proposals advanced in comments to change the DE program fare no better under the requisite rigorous analysis, as illustrated by these examples:

CCA's proposal to lengthen the unjust enrichment period to six years from five<sup>40</sup> fails to identify a fact-based problem with the existing five-year period, fails to explain how a six-year period would remedy any such problem, and fails to show how the proposed change adheres to the Statutory Mandates. Existing data show that the unjust enrichment period should not be lengthened in any way. Indeed, the Commission already has a robust record concerning the 2006 DE Rules, which contains ample evidence of the profound harm that increases in the unjust enrichment period (in that case, the Ten Year Hold Rule) visit on the DE program.

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<sup>38</sup> See T-Mobile's Comments at nn.4, 5, 8, 9, 10, 12, 14, 15, 17, 20, 22, 23, 26, and accompanying text.

<sup>39</sup> It should be noted, however, that as recently as 2012, T-Mobile agreed that robust competition in FCC spectrum auctions is critically important: "The FCC crafted its competitive bidding rules that way in the early PCS auctions, ensuring that not all the spectrum auctioned could be ho[a]rded by the dominant cellular carriers of the day. That is not picking winners and losers – it's only ensuring there are MORE winners than losers. . . . It is incumbent upon the government then to ensure that when and if it makes this resource available it does so fairly, ensuring all who want to compete have that opportunity. This is why former Congressman Dennis Hastert, a Republican, who later became Speaker of the House of Representatives, introduced in 1993 the very provision powerful interests are seeking to have modified today. Hastert said, 'we need to make sure that all qualified bidders will have the opportunity to participate in this new process . . . This language will ensure that the FCC promotes competition . . . thereby giving all potential bidders the opportunity to procure spectrum at auctions.' Speaker Hastert was right. We all need our fair share of spectrum in order to compete. For nearly 20 years Congress has empowered the FCC to conduct fair and competitive spectrum auctions. They should not take the bait today and *change the status quo in favor of the largest carriers.*" Kathleen Ham, Vice President of Federal Regulatory Affairs, T-Mobile USA, *T-Mobile Wants Fair Competition in FCC Auctions* (Feb. 10, 2012), available at <http://www.acellphonenumber.com/t-mobile-wants-fair-competition-in-fcc-auctions> (last visited May 16, 2015) (emphasis added).

<sup>40</sup> CCA Comments at 11.

Proposals advanced by several parties to permanently ban DEs from ever transferring licenses to large investors, to require full repayment of bidding credits with interest if a DE transfers any license during the initial ten-year license period, or to require repayment of any alleged windfall profits plus interest,<sup>41</sup> fail to identify a fact-based problem with the existing rules, fail to explain how the proposed changes would remedy any such problem, and fail to show how either proposed change adheres to the Statutory Mandates. In fact, the first proposal is just another way large incumbents would disincentivize large investors from investing in DEs, greatly reducing the chance that those large incumbents would be facing properly financed competitors at auction. The second and third proposals are merely a backdoor way to try to institute a variant on the Ten Year Hold Rule, a rule that is a proven DE-investment killer and was found substantively problematic by the Court in *Council Tree*.

Proposals to establish a rebuttable presumption that equity interests in a DE of 50 percent or more constitute de facto control fail to identify a problem with existing rules, fail to explain how the proposed changes would remedy any fact-based problem, and fail to show how these proposed changes adhere to the Statutory Mandates. There is no record evidence at all that problems have arisen under the FCC's purposeful and long-established control and equity ownership rules applicable to DEs. Indeed, companies now supporting proposals like this 50 percent equity rebuttable presumption proposal have themselves acquired without controversy or incident equity percentages in DEs of a size that would *not* be permissible under their current proposed changes. Again, the Statutory Mandates would be profoundly disserved by adoption of proposals that will stunt DEs' access to capital and make it impossible as a practical matter for New Entrant DEs to compete with the entrenched, massive large incumbents.

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<sup>41</sup> See *e.g.*, Blooston Comments at 11; T-Mobile Comments at 8; and RWA/NTCA Comments at 16.

In sum, on this record, proponents of the Revision Proposals and similar DE rule changes have failed to identify fact-based problems, failed to explain how any particular proposal would remedy any such problem, and failed to show how their proposed changes would adhere to the Statutory Mandates.

\* \* \*

From today's vantage point, viewing the record and context of this proceeding as a whole, a question of both immediate and enduring importance looms over this proceeding, namely the impact FCC adoption of *any* of the multifarious DE-crippling Revision Proposals will have on the BIA and its legacy.<sup>42</sup> Fueled by the financial success of Auction 97,<sup>43</sup> BIA revenue expectations have now taken flight.<sup>44</sup> But as CTI and others have shown in their data-driven comments in this proceeding, the record revenue results of Auction 97 were not produced by happenstance or magic. They resulted from the Bidder Effect, which took the form in

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<sup>42</sup> As CTI has made clear in its Comments and these Reply Comments, the DE PN sought comment on a large array of proposals (e.g., crimping or precluding DE alliances with large investors, capping bidding credit amounts, saddling DEs with unique, onerous new buildout requirements) that share a common objective – to render DEs incapable of challenging large incumbents at auction for spectrum in medium, large, regional, and nationwide markets. This objective runs directly contrary to the Statutory Mandates. CTI again urges the Commission not to take any steps that will negatively impact in any way the DE program's ability to disseminate licenses widely, avoid excessive concentration, and equitably distribute licenses and service among geographic areas.

<sup>43</sup> AT&T and others took note of Auction 97's financial success. *See, e.g.*, AT&T Comments at n.4 and accompanying text; *see also* Rural Carrier Coalition at 3.

<sup>44</sup> *See e.g.*, John Eggerton, *Kagan: Wireless Should Be Ready, Able for 2016 Auction*, Broadcasting & Cable (Feb. 18, 2015) ("The Big Four wireless carriers – Verizon, AT&T, T-Mobile and Sprint – and 'very possibly' others, will be 'fully engaged and sufficiently capitalized bidders' in a 2016 broadcast incentive auction that could raise as much as \$80 billion from those wireless carriers. That is the major takeaway from a just-released Kagan study commissioned by the Expanding Opportunities for Broadcasters Coalition, which is definitely hoping that is the case.") available at <http://www.broadcastingcable.com/news/washington/kagan-wireless-should-be-ready-able-2016-auction/138062> (last visited May 21, 2015).

Auction 97 of viable DE bidding, recovered from the DE bid-suppressing effects of the improvidently adopted 2006 DE Rules. If constraints on DEs similar to those imposed in 2006 are in any material way repeated, through implementation of rule changes that will only serve the private interests of the large incumbents at the expense of competition and the overall public interest, the lofty revenue expectations for the BIA will be placed at real risk, not only of crashing back to earth, but of giving way to bidding levels depressed enough to imperil the financial viability of the BIA itself. The vibrancy, indeed the success or failure of the BIA, hangs in the balance of this proceeding.<sup>45</sup>

#### **IV. Conclusion.**

For all of the reasons set forth herein, in the CTI DE PN Comments, and in the CTI Reply Comments, CTI again strongly urges the Commission to take steps in this proceeding to preserve and enhance a robust DE program, one that, going forward, will fulfill the mandates of Section 309(j) and promote competition, through the wide dissemination of licenses, the

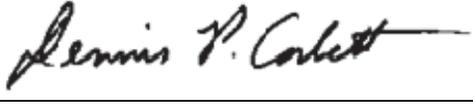
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<sup>45</sup> The FCC needs to get the BIA right. Revenue generation in the forward auction, so closely tied to robust DE participation, is a critically important piece of the complex BIA “jigsaw puzzle.” That is, the FCC must not only recapture enough broadcaster spectrum in the reverse auction to provide carriers with a viable opportunity to enhance service to customers and promote competition, but the FCC must design the forward auction to generate enough revenue to pay out FCC-accepted broadcaster bids, as well as broadcaster repacking and FCC costs, with an eye on deficit reduction as well.

avoidance of license concentration, and the equitable distribution of licenses and services among geographic areas.

Respectfully submitted,

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May 21, 2015

Its Attorneys

**EXHIBIT 1**

**RLEC-Related Exhibit**

**Hard data disproves assertions that RLEC success in Auction 97 was harmed by DE competition; instead, RLECs participated in the auction in reduced numbers and their bidding in the auction was well below market value**

- 1. RLEC participation in Auction 97 fell by 71% from Auction 73 levels to 23 RLECs**  
RLEC eligibility deposits fell by 72% from Auction 73 levels to \$7mm
- 2. RLECs that did participate in Auction 97 did not bid at competitive pricing levels**  
For licenses that RLECs bid but failed to win, RLEC bids were just 29% of the final sale price  
For licenses that RLECs won, RLECs paid just \$0.51 / MHz POP, 19% lower than they paid in A73
- 3. Finally, RLECs faced broad-based competition, with AT&T as their largest competitor**  
AT&T placed 36% of the winning bids by value that beat RLECs, 2.0x the next highest RLEC competitor



**May 21, 2015**

# Summary

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## Hard data tells the overall story of declining RLEC participation and low-priced bidding

- ▶ **RLEC data is based on FCC short form applications of RLEC bidders (the “RLECs”)**
  - i.e., 23 Auction 97 bidders who indicated on short forms applications that they were RLECs
  - Same methodology to identify RLEC bidders in Auction 66 and 73 for comparison purposes
  - Data for each of these groups of RLECs is shown on an aggregate basis for the auction class
- ▶ **RLEC success in Auction 97 fell sharply from Auction 73 levels**
  - There were just 8 RLEC winning bidders, down 71% from 31 in Auction 73
  - Those 8 RLECs won \$10mm of licenses (gross) in aggregate, down 84% from Auction 73
- ▶ **Reason #1: many fewer RLECs showed up to participate in Auction 97**
  - RLEC applicants placing deposits declined by 71% to just 23 (vs. 80 in Auction 73)
  - RLEC eligibility deposits declined by 72% to just \$7mm
  - Ensuring even before Auction 73 started that RLEC winning bids would decline significantly
- ▶ **Reason #2: RLECs who participated bid at non-competitive price levels**
  - RLECs placed bids totaling \$113mm on licenses that they failed to win
    - For those licenses the winning bidders paid \$387mm, or 3.4x more than the RLECs
    - Put differently, RLECs bid just 29% of winning levels, highlighting a low-price approach
  - For the 18 licenses that RLECs won, they paid just \$0.51 per MHz POP, a low level
    - 19% below the pricing levels they were willing to pay in Auction 73 seven years ago
    - And just 23% of the \$2.21 per MHz POP prevailing in Auction 97

## Summary (cont'd)

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- ▶ **The licenses that A97 RLECs failed to win were principally acquired by AT&T (2x next competitor)**
  - **AT&T (\$139mm)**      SNR (\$41mm)      NE Colorado (\$24mm)
  - Advantage (\$66mm)      Northstar (\$35mm)      Smith Bagley (\$1mm)
  - Verizon (\$44mm)      T-Mobile (\$33mm)      Other (\$4mm)

### **Why did RLECs appear to have a low level of interest in this spectrum auction? Our thoughts:**

- 1. Large national carriers have now largely built out rural markets, offering tough competition**
  - Rural markets are now much less sheltered from large carrier competition
- 2. With business cases tougher to justify, RLECs not surprisingly show less interest in spectrum**
  - Spectrum cost in rural markets is a small portion of the total cost to build-out a wireless footprint
  - In the past, many RLECs profited handsomely by selling their wireless ops to larger carriers
    - RLECs are less willing to risk hard-earned gains on higher risk, standalone wireless re-entry
  - Also, this mid-band spectrum is less attractive than low-band spectrum for rural propagation
- 3. RLECs are finding other ways to access spectrum – e.g., national carriers leasing it to them**
  - Pursuant to deployment and other partnerships

**In short, RLECs include some of America's finest generations of entrepreneurs; if they saw a meaningful economic opportunity they would most certainly acquire and develop spectrum**

## Summary (cont'd)

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**Further analyses of other RLEC “Subgroups” identified by DE Public Notice commenters reaches similar conclusions as with the 23-RLECs per the previous page**

- ▶ **We further analyze the following four “Subgroups” identified in Comments:**
  1. “5-RLECs” – as per May 14, 2015 AT&T Comments, page 5, footnote 18\*
  2. “11-RLECs” – as detailed in the March 25, 2015 ex parte filed by Herman & Whiteaker\*\*
  3. “Atlantic” – as detailed in the March 25, 2015 ex parte by Herman & Whiteaker\*\*
  4. “Cerberus” – Cerberus Communications - referenced in AT&T Comments at page 7, footnote 15
  
- ▶ **Comments regarding these parties generally contend that they would have acquired more spectrum but for competition from New Entrant DEs in Auction 97**

**Data analysis of each of the four sub-groups disproves that thesis; the analysis supports conclusions consistent with those from the 23-RLEC analysis**

1. **The Subgroups failed to bid competitively on licenses that they lost; in aggregate:**
  - They bid on 105 licenses and failed to win 96
  - They placed \$113mm of bids on those 96 licenses, which eventually sold for \$375mm
    - The winning price was 3.3x the high bids placed by the Subgroups in aggregate
    - Put differently, Subgroups bid just 30% of the winning price; they were not competitive

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(\*) Glenwood Telephone, Rainbow Telecommunications, Pioneer Telephone, Geneseo Communications and VTel Wireless

(\*\*) RSA 1 Limited Partnership, Horry Telephone, Paul Bunyan Rural Telephone, Piedmont Rural Telephone, Atlantic Seawinds Communications, Chester Telephone, FTC Management Group, Grand River Communications, Palmetto Rural Telephone, Texas RSA 7B3, Sandhill Communications. Note: MobiNet not included as it appears not to be listed as an applicant.

## Summary (cont'd)

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2. **The Subgroups paid low prices for the license that they won; in aggregate:**
  - The Subgroups won 9 licenses
  - They paid just \$0.58 per MHz POP, a low level
    - \$0.58 is just 26% of the \$2.21 per MHz POP prevailing in Auction 97
3. **The primary Subgroup competitor was AT&T; AT&T won \$159mm, or 43% of the 96 licenses that the Subgroups bid on but failed to win**
  - Aggregate - apart from AT&T, the Subgroups in aggregate faced broad-based competition:
    - **AT&T (\$159mm)** NE Colorado (\$25mm) Sofio (\$1mm)
    - Advantage (\$91mm) Verizon (\$19mm) T-Mobile (\$21mm)
    - Northstar (\$39mm) SNR (\$19mm)
  - Atlantic
    - AT&T (\$41mm) Advantage (\$19mm)
  - 11-RLECs
    - AT&T (\$72mm) Northstar (\$12mm) Sofio (\$1mm)
    - Advantage (\$30mm) Verizon (\$9mm) SNR (\$0.3mm)
    - T-Mo (\$17mm) NE Colorado (\$1mm)
  - Cerberus
    - AT&T (\$10mm) T-Mobile (\$3mm) Cypress (\$0.4mm)
  - 5-RLECs
    - Advantage (\$43mm) NE Colorado (\$23mm) T-Mobile (\$1mm)
    - AT&T (\$37mm) SNR (\$19mm)
    - Northstar (\$27mm) Verizon (\$10mm)

## 23-RLECs Detail

RLEC Auction 97 applications and deposits declined sharply from prior auctions, showing that RLEC lack of auction participation was a major problem at the starting gate

### RLEC Bidders and Depositors

Metric	Auction Number			% Change
	66	73	97	
No. of Bidders	71	80	23	-71%
Deposits - (\$ mm)	27	24	7	-72%
Avg. Bidder Deposit (\$ mm)	0.4	0.3	0.3	
Total Auction Deposits (\$ mm)	4,288	2,958	4,513	
RLECs as a % of Total	0.63%	0.82%	0.15%	

- ▶ Number of RLEC bidders declined by 71% to just 23
- ▶ RLEC deposits declined by 68% to just \$8mm
- ▶ RLEC deposits represented just 0.2% of the auction total

## 23-RLECs Detail (cont'd)

RLECs fared poorly in Auction 97 as a result of low participation and, for those that participated, the decision not to place competitive bids

### RLEC Auction Winnings

Metric	Auction Number		%	Change
	66	73		

#### RLEC A97 Results:

No. of Winning Bidders	40	31	8	-74%
As % of Bidders	56%	39%	35%	
No. of Licenses Won	120	60	18	-70%
Gross Winning Bids (\$ mm)	44	63	10	-84%
Net Winning Bids (\$ mm)	37	56	9	-84%
MHz POPs Won (mm)	297	100	20	-80%
Avg. RLEC Price Per MHz POP (Gross \$)	\$0.15	\$0.63	\$0.51	-19%
Vs. Total Auction Price Per MHz POP	\$0.54	\$1.29	\$2.21	71%
RLEC Price as % of Auction Price	27%	49%	23%	

Many RLECs failed to participate in this auction, driving RLEC auction results lower

- ▶ Winning RLEC bidders fell 74%
- ▶ Licenses won fell 70%
- ▶ \$ winnings fell 84%

Those RLECs that did participate paid only low prices, \$0.51 per MHz POP, a non-competitive level

- The \$0.51 per MHz POP RLECs paid is 19% below A73 levels
- Vs. A97 overall auction pricing that increased 71% to \$2.21 per MHz POP
- Meaning RLECs paid just 23% of auction average prices (vs. 49% in A73)

## 23-RLECs Detail (cont'd)

RLECs bid non-competitive prices, as data shows, for the licenses that they bid on and lost

### Analysis of Licenses Bid and Not Won

Metric	Auction Number			% Change
	66	73	97	
No. of Licenses Bid	317	363	133	-63%
No. of Licenses Not Won	197	303	115	-62%
Not Won %	62%	83%	86%	
RLEC Total Bids (\$ mm)	105	209	113	-46%
Winning Bid Price (\$ mm)	185	929	387	-58%
RLEC Bid as % of Winning Bid	57%	23%	29%	
Winning Bid Multiple of RLEC Bid	1.8	4.4	3.4	
Winner Bid Price Per MHz POP (\$)	0.24	1.12	1.03	
RLEC Bid Price Per MHz POP (\$)	0.13	0.25	0.30	
Difference (\$)	(0.10)	(0.87)	(0.73)	
Difference (%)	-43%	-77%	-71%	

### The RLECs bid \$113mm on the 115 licenses that they bid on but lost

- Those licenses sold for \$387mm, or 3.4x what the RLECs bid
- Put differently, RLECs were willing to bid only 29% of the final sale price

## 23-RLECs Detail (cont'd)

Given their limited spectrum bids, RLECs were small participants overall

### RLECs Vs. Auction 97 Totals

Metric	A97		RLEC %
	Total	RLECs	
Deposits Placed (\$ mm)	4,153	7	0.16%
Gross Dollar Value (\$ mm)	44,899	10	0.02%
Net Dollar Value (\$ mm)	41,330	9	0.02%
MHz POPs (mm)	20,310	20	0.10%
No. of Licenses	1,611	18	1.12%

# Detail of RLEC Subgroups

Below are profiles of the Subgroups

RLEC Subgroup - Profiles

Metric	Atlantic	11-RLECs	Cerberus	5-RLECs	Subgroups Combined
No. of Bidders	1	11	1	5	18
Deposits - (\$ mm)	1.3	3.0	0.3	2.0	6.5
Avg. Bidder Deposit (\$ mm)	1.3	0.3	0.3	0.4	0.4
Total Auction Deposits (\$ mm)	4,513	4,513	4,513	4,513	4,513
RLECs as a % of Total	0.03%	0.07%	0.01%	0.04%	0.14%

## Detail of RLEC Subgroups (cont'd)

Data below highlighting the licenses won by the Subgroup also shows that the Subgroup bid at relatively non-competitive levels compared with overall auction pricing

RLEC Subgroup - Analysis of Winning Bids

Metric	Atlantic	11-RLECs	Cerberus	5-RLECs	Subgroups Combined
No. of Winning Bidders	-	3	-	2	5
No. of Licenses Won	-	4	-	5	9
Gross Winning Bids (\$ mm)	-	4	-	3	8
Net Winning Bids (\$ mm)	-	4	-	3	7
MHz POPs Won (mm)	-	7	-	6	13
Avg. RLEC Price Per MHz POP (Gross \$)	N/A	\$0.60	N/A	\$0.57	\$0.58
Vs. Total Auction Price Per MHz POP	\$2.21	\$2.21	\$2.21	\$2.21	\$2.21
RLEC Price as % of Auction Price	N/A	27%	N/A	26%	26%

The Subgroups that acquired licenses paid only low prices averaging \$0.58 per MHz POP

- Vs. A97 overall auction pricing of \$2.21 per MHz POP
- Meaning RLECs were willing to pay just 26% of auction average prices

## Detail of RLEC Subgroups (cont'd)

RLEC Subgroups bid low prices and were not competitive based on data for licenses that they bid on and lost

RLEC Subgroup - Analysis of Losing Bids

Metric	Atlantic	11-RLECs	Cerberus	5-RLECs	Subgroups Combined
No. of Licenses Bid	4	47	10	44	105
No. of Licenses Not Won	4	43	10	39	96
Not Won %	100%	91%	100%	89%	91%
RLEC Total Bids (\$ mm)	22	53	5	32	113
Winning Bid Price (\$ mm)	60	142	13	160	375
RLEC Bid as % of Winning Bid	37%	37%	43%	20%	30%
Winning Bid Multiple of RLEC Bid	2.7	2.7	2.3	4.9	3.3
Winner Bid Price Per MHz POP (\$)	1.33	0.88	0.61	1.28	1.06
RLEC Bid Price Per MHz POP (\$)	0.49	0.33	0.26	0.26	0.32
Difference (\$)	(0.84)	(0.55)	(0.35)	(1.02)	(0.74)
Difference (%)	-63%	-63%	-57%	-80%	-70%

The Subgroups bid \$113mm on the 96 licenses that they bid on but lost

- Those licenses sold for \$375mm, or 3.3x what the Subgroups bid
- Put differently, Subgroups were willing to bid only 30% of the final sale price