



May 22, 2015

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

Re: *Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1001 and 1002*, AU Docket No. 14-252; *Expanding Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268

Dear Ms. Dortch,

Charter Communications, Inc. (“Charter”) files this letter in response to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice proposing procedures for the 600 MHz auction.¹ Charter supports the important steps the Commission has taken toward the “first-of-its-kind” broadcast television spectrum incentive auction. We appreciate that each auction detail is vital to ensuring that a basic goal of the auction—expanding mobile broadband coverage and competition to benefit all Americans—is met.² Charter encourages the Commission to implement auction plans that will advance this goal while enabling all providers to compete fairly in the auction.³

¹ *Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auctions 1001 and 1002*, Public Notice, FCC 14-191, AU Docket No. 14-252, GN Docket No. 12-268 (rel. Dec. 17, 2014) (“Public Notice”).

² See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, FCC 14-50, 29 FCC Rcd. 6567, 7031 (2014) Statement of Chairman Tom Wheeler (“The Incentive Auction is a once-in-a-lifetime opportunity to expand the benefits of mobile wireless coverage and competition to consumers across the Nation, offering more choices of wireless providers, lower prices, and higher quality mobile services.”); Public Notice, Statement of Chairman Tom Wheeler (the auction implementing procedures “begin and end with one basic goal—how best to preserve and promote competition to the benefit of all Americans.”).

³ Charter also supports the Commission’s efforts to designate spectrum in the guard bands, duplex gap, and channel 37, and to preserve spectrum in TV white spaces for unlicensed use.

Charter is eager to see the 600 MHz band support fast, high-capacity, and ubiquitous mobile broadband services. Charter has a keen interest in the evolving mobile broadband market and recognizes that the auction has the potential to inject much needed competition into the wireless marketplace. Charter, as a provider of cable television, high-speed broadband, and voice services to more than 6 million customers in 28 states, sees firsthand the growing interest in wireless services and agrees that “[e]very American should be able to enjoy the benefits of a competitive mobile wireless marketplace.”⁴ But, more spectrum is needed to meet consumers’ burgeoning wireless demands.

The Commission recognized that “the forward auction component of the Incentive Auction represents the last opportunity in the foreseeable future for providers to acquire licenses for below-1-GHz spectrum at auction.”⁵ But, unless the auction succeeds in providing low-frequency spectrum to competitive providers and new entrants, it will not advance the FCC’s goal of increasing competition and innovation.⁶ We agree with the Commission’s Mobile Spectrum Holdings Report that providers must have access to low-band spectrum in order to drive wireless investment and innovation.⁷

Charter therefore supports the FCC’s market-based auction reserve. This approach, with the adjustments discussed below, will provide realistic bidding opportunities to multiple entities, particularly including new entrants. In turn, this will help to facilitate the deployment of advanced

⁴ See *Policies Regarding Mobile Spectrum Holdings; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, FCC 14-63, 29 FCC Rcd. 6133, ¶ 1 (2014) (“Mobile Spectrum Holdings Report”).

⁵ *Id.* ¶ 153.

⁶ Mobile Spectrum Holdings Report ¶ 1 (“Competition . . . depends critically upon the availability of suitable spectrum as a necessary input in the provision of mobile wireless services.”); Letter from United States Dept. of Justice, Anti-Trust Div., to Marlene H. Dortch, Secretary, FCC, at 8, WT Docket. No. 12-269 (filed Apr. 11, 2013) (explaining that access to spectrum is critical to future wireless competition) (“DOJ Apr. 11, 2013 Ex Parte”).

⁷ See Mobile Spectrum Holdings Report ¶ 59 (“We find that a service provider holding a mix of low- and high-band spectrum licenses would have greater flexibility and would be better able to optimize its network costs for a given quality level, thus promoting the efficient and intensive use of spectrum.”); *id.* ¶ 61 (“Providers without access to that mix of spectrum that would allow them flexibility to optimize their networks must incur more costly means of expansion and will be unable to compete as robustly or constrain price increases by providers that do have such access.”); *id.* ¶¶ 3, 72 (explaining that low-band spectrum, with its superior propagation characteristics, is best suited for coverage purposes, while high-band spectrum, which is more widely available, more effectively meets capacity needs).

services by making spectrum available for flexible use and also distribute the costs of the auction on a fair and equitable basis.⁸

To ensure that the Commission can meet its 600 MHz auction goal of increased mobile broadband coverage and competition, Charter offers the following suggestions on the Commission’s reserve auction proposals:

First, adopt a 40 MHz reserve. The reserve auction will present potential new entrants with the opportunity in the foreseeable future to obtain access to a vital resource—low-band spectrum. It will prevent dominant providers from foreclosing smaller, competing providers from the auction—a concern raised by the U.S. Department of Justice Antitrust Division.⁹

The spectrum reserve will provide non-nationwide carriers and those carriers that do not already have significant low-band holdings access opportunities to the 600 MHz band. Without a meaningful reserve, however, rural and regional competing providers and new entrants will not be able to obtain the spectrum, and competition, consumers, and auction revenues will suffer.

The Commission should therefore allow 40 MHz in the reserve at all initial clearing levels at or above 70 MHz.¹⁰ Currently, the Commission proposes to make a maximum of 30 MHz of spectrum per Partial Economic Area (“PEA”) available in the reserve at initial clearing levels at or above 70 MHz.¹¹ A maximum reserve of 30 MHz per PEA at these clearing levels would not effectively prevent foreclosure of new entrants and other competing carriers from the auction or promote competition after the auction.¹² Limiting the size of the reserve to a maximum of 30 MHz per PEA therefore is

⁸ Mobile Spectrum Holdings Report ¶ 185.

⁹ See DOJ Apr. 11, 2013 Ex Parte at 8. See also Mobile Spectrum Holdings Report ¶ 62 (“We agree with the Antitrust Division of the DOJ, one of our nation’s expert antitrust agencies: there is a risk of foreclosure in downstream wireless markets.”).

¹⁰ The Commission should reserve at least half of the available 600 MHz spectrum for initial clearing levels under 70 MHz. This will allow sufficient spectrum in the reserve for competing carriers and will ensure robust competition among carriers bidding for the unreserved spectrum.

¹¹ Public Notice ¶ 23.

¹² See, e.g., Comments of T-Mobile USA, Inc. at 2-4, AU Docket No. 14-252; GN Docket No. 12-268 (filed Feb. 20, 2015) (“the reserve of 30 megahertz is too small to support robust competition. . . . [T]he best means of promoting competition in the 600 MHz incentive auction is to expand the spectrum reserve from 30 to 40 megahertz.”). See also Petition for Reconsideration of T-Mobile USA, Inc., GN Docket 12-268 (filed Sept. 15, 2014). See also Letter from Atlantic Tele-Network, Inc., et al. to Tom Wheeler, Chairman, FCC, GN Docket Nos. 12-268 and 12-269 (filed Apr. 22, 2015) (asking the Commission to “increase the maximum size of the reserve to 40 megahertz to

inconsistent with the Commission’s recognition that low-band spectrum is a critical component of competitive wireless service offerings. Simply put, the FCC’s auction goals cannot be met if competitors do not have access to sufficient spectrum, and a 30 MHz reserve will not do the job.

As explained below, the Commission found that 20 MHz blocks of spectrum provide the best utilization of vital spectrum resources. Thus, a reserve of 30 MHz will allow only one potential competitor per PEA to obtain the spectrum necessary to provide a truly competitive service offering.

Moreover, a 30 MHz reserve would reduce auction competition, and therefore the revenues raised, for the unreserved frequencies. By providing 40 MHz of unreserved spectrum to the two dominant carriers at nearly all clearing levels (including at initial clearing levels of 50 and 60 MHz), the dominant carriers can divide the available unreserved spectrum per PEA evenly, and thereby avoid competing directly against each other to the detriment of auction revenues and wireless competition.

To solve these problems, Charter recommends that the Commission provide for a minimum of 40 MHz of reserve spectrum at all initial clearing levels at or above 70 MHz and at least half of the available spectrum in initial clearing levels below 70 MHz. This will ensure a more robust auction and advance the FCC’s goals of expanded wireless coverage and competition.¹³ A larger reserve will provide competitive carriers the opportunity to obtain sufficient spectrum to enter and compete in the market. It will draw the interest of multiple carriers to the reserve who are likely to bid aggressively for the opportunity to enter desirable markets. Furthermore, an expanded reserve will force the two dominant carriers to compete against one another in the auction, thus increasing auction revenues.

Second, limit reserve blocks to 20 MHz. We agree with the Commission that 20 MHz blocks of spectrum are the foundation of an economical low-band deployment.¹⁴ Twenty MHz blocks are large enough to provide sufficient capacity to balance demand across unused spectrum resources, improving resource utilization and spectrum efficiency, yet also are small enough to give multiple competitors the opportunity to obtain reserve spectrum in each PEA. Twenty MHz blocks strike the right balance of promoting greater availability of competitive broadband service offerings, and greater investment from providers who may otherwise decide to sit out of the auction. They also will satisfy the Commission’s statutory requirement to maximize license diversification and benefit consumers by increasing the number of competitors able to acquire low-band spectrum.¹⁵

offer competitors the opportunity to acquire spectrum they need to challenge the largest two carriers, while limiting the amount of reserve spectrum that any one bidder can purchase.”).

¹³ Public Notice ¶ 23; Mobile Spectrum Holdings Report ¶ 190.

¹⁴ See, e.g., Mobile Spectrum Holdings Report ¶ 190.

¹⁵ 47 U.S.C. § 309(j)(3).

Third, place the least impaired spectrum in the reserve. Charter supports the Commission’s plan to include the least impaired spectrum in the auction reserve. But the details of how the FCC accomplishes this organization are critical to whether the FCC succeeds in supporting competition and investment. The Commission’s proposal would put licenses into two categories based on the extent of potential impairments.¹⁶ The Commission proposes to place Category 1 licenses (*i.e.*, licenses with impairments that affect zero to 15 percent of the population) in the reserve, but not to place any Category 2 licenses (*i.e.*, licenses with impairments that affect greater than 15 percent but less than or equal to 50 percent of the population) in the reserve.¹⁷ This proposal would effectively eliminate the reserve and foreclose bidding by competitive carriers in areas where there are no Category 1 licenses—undermining the Commission’s goal of using the reserve to advance competition and investment. Therefore, Charter urges the Commission to instead place the least impaired Category 2 licenses in the reserve in areas where there are no Category 1 licenses rather than eliminating the reserve (and therefore threatening effective competition) in communities across the country. This change will ensure that all areas have some spectrum in the reserve, while making the least impaired spectrum available in the reserve *regardless* of the category of the license.

Charter appreciates the opportunity to provide feedback on the Commission’s auction reserve proposals and looks forward to working with the Commission to ensure the worthy goals of the 600 MHz auction are met.

Sincerely,

/s/ Catherine Bohigian

Catherine Bohigian
Executive Vice President, Government Affairs

¹⁶ Public Notice ¶¶ 143, 145.

¹⁷ *Id.* ¶ 143.