



June 24, 2015

Via ECFS

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

RE: EX PARTE PRESENTATION

WT Docket No. 14-170: *Updating Part 1 Competitive Bidding Rules*

GN Docket No. 12-268: *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*

RM-11395: *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*

WT Docket No. 05-211: *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*

Dear Ms. Dortch,

On June 24th, John A. Prendergast and Cary Mitchell of the law firm Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP ("Blooston Rural Carriers"),¹ Erin Fitzgerald of the Rural Wireless Association, Inc. ("RWA") and Brian Ford of NTCA – The Rural Broadband Association ("NTCA") (together, "Rural Coalition") attended a teleconference with Patrick Donovan, Michael Janson, Jean Kiddoo, Sue McNeil, Karen Sprung, Johanna Thomas, Kelly Quinn and Margaret Wiener of the Commission's Wireless Telecommunications Bureau ("WTB").

The Rural Coalition continued to urge support for a rural telephone bid credit, and a cap on total bid credits. We continue to believe that a rural telephone credit that is cumulative with a small business bidding credit is the best outcome. However, in the event the Commission should

¹ The Blooston Rural Carriers have previously been identified in the record of these proceedings. *See, e.g.*, Comments of the Blooston Rural Carriers, WT Docket Nos. 14-170, 05-211, GN Docket No. 12-268, and RM-11395 at Attachment A (filed Feb. 20, 2015).

decide not to make such bid credit cumulative, the Commission should adopt a flat 25% rural telephone bidding credit that any eligible rural telephone company would be able to elect in lieu of a small business credit. This would benefit not only those rural telephone companies that were not previously eligible for any bidding credit, but also those that were previously only eligible for a 15% credit.

The Rural Coalition members have previously expressed support for a cap on both the Rural Telco Bid Credit (\$10 million) and Small Business Bid Credit (\$25 million).² In particular, the Rural Coalition has supported a cap under which no one rural telephone company could receive more than \$10 million in Rural Telco Bidding Credits. A cap helps ensure that the funds are used for spectrum acquisition in truly rural markets and while up to \$10 million would be a substantial help for small rural carriers, the credit is small enough to be unappealing to outside investors and helps guard against any concerns of “unjust enrichment” by rural carriers.

The Rural Coalition understands that there may be support on the record for a larger cap applicable to small businesses. As a compromise, the Rural Coalition would support a bifurcated cap, with differing cap levels for the larger urban and smaller rural markets. The proposed \$10 million cap would apply to rural markets, while in urban markets, the cap would be higher. For example, a higher cap of \$100 million could apply in the top 40 Partial Economic Areas (“PEAs”) or in those PEAs with a population of 500,000 or more. The \$10 million cap in rural areas would be applicable to bidders eligible for a Small Business Bid Credit and/or a Rural Telco Bid Credit.

In addition, the Rural Coalition discussed the possibility of a restriction preventing parties from holding an interest in more than one auction application, and how it may be structured so as to avoid any adverse impact on rural telephone companies that may hold an interest in more than one licensee entity in a given auction market area. The issue arises primarily with rural telcos that have telephone exchange areas in more than one Rural Service Area (RSA), and therefore ended up a part of more than one cellular RSA partnership as a result of the cellular B Block settlement process that applied to wireline companies in the mid to late 1980s.

These settlement agreements provided that each telephone carrier within a given RSA would become a partner in a partnership that would operate the B Block cellular license. The agreement was often structured so that each partner was labeled a “general partner,” even though in many instances the partnership is managed by one of the nationwide or regional wireless carriers (e.g., Verizon, AT&T or US Cellular), as the managing partner. In some cases, a rural telephone company may find that because it has telephone exchanges in more than one RSA, it ended up in multiple cellular partnerships, each of which plans to bid in an upcoming auction. Or the telco may be in a cellular partnership that may participate in the auction, but may be bidding on a license that does not include all of the telco’s exchange areas. Or the cellular

² Comments of the Rural Wireless Association, Inc. and NTCA – The Rural Broadband Association, WT Docket Nos. 14-170, 05-211, GN Docket No. 12-268, and RM-11395, at p. 8 (May 14, 2015); Comments of the Blooston Rural Carriers, WT Docket Nos. 14-170, 05-211, GN Docket No. 12-268, and RM-11395, at p. 12 (May 14, 2015).

partnership may not place as high a value on a particular license as the participating telco. In any of those instances, the telco may have a legitimate interest in being able to bid on its own, or by forming a consortium or other bidding entity with other interested rural telcos.

The Rural Coalition supports the general idea of limiting the number of applications in which a party may participate in any given auction, given the potential for abuse that can be involved in a multiple application scenario. However, the Rural Coalition asks the Commission to consider measures to ensure that the multiple application restriction does not inadvertently deprive bona fide rural telcos of the opportunity to participate in the auction, for reasons that do not involve gaming the system. In this regard, the Commission should grandfather rural telcos from the multiple application restriction, if the relationship that would prevent their participation in the auction is as a partner or successor-in-interest to a partner in an historic B Block cellular settlement partnership. Such entities should be allowed to bid directly or through another entity, if they are not part of the management of the cellular settlement partnership. The rural telco would be expected to insulate itself from the bidding process of the cellular partnership, other than voicing the maximum it is willing to spend as a partner. The exemption would apply only to rural telephone companies that have been partners in a historic B Block cellular partnership since prior to the enactment of the Spectrum Act, so that the Commission can be assured that the telephone company has not undergone an ownership change for the purpose of gaming the auction. Historic B Block cellular partnerships are a readily identifiable group of entities that were created as part of the cellular settlement process for rural wireline carriers established by the Commission in CC Docket No. 85-388, and in the long history of FCC auctions there has never been any suggestion of abuse by these entities.

Pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, this *ex parte* presentation is being filed electronically with the Office of the Secretary.

Sincerely,

/s/ D. Cary Mitchell

D. Cary Mitchell
Partner
Blooston, Mordkofsky, Dickens, Duffy &
Prendergast, LLP

Counsel to Blooston Rural Carriers

/s/ Erin P. Fitzgerald

Erin P. Fitzgerald
Assistant Regulatory Counsel
Rural Wireless Association, Inc.

/s/ John A. Prendergast

John A. Prendergast
Managing Partner
Blooston, Mordkofsky, Dickens, Duffy &
Prendergast, LLP

Counsel to Blooston Rural Carriers

/s/ Brian Ford

Brian Ford
Regulatory Counsel
NTCA – The Rural Broadband Association

cc (via email):
Patrick Donovan
Michael Janson
Jean Kiddoo
Sue McNeil
Johanna Thomas
Karen Sprung
Margaret Wiener
Kelly Quinn