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## Via ECFS

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

Re: *Notice of Ex Parte Presentation*  
GN Docket No. 12-268 and AU Docket No. 14-252

Dear Ms. Dortch:

On June 30, 2015, Grant Spellmeyer, Vice President, Federal Affairs and Public Policy, United States Cellular Corporation (“U.S. Cellular”), and the undersigned met with Commissioner Michael O’Rielly and Erin McGrath, Legal Advisor to Commissioner O’Rielly, to discuss issues related to the assignment phase of the forward auction. Specifically, we stressed that incorporating bidding procedures into the assignment phase is unnecessary and overly complex, and likely would lead to lower bids during the crucially important clock phase of the forward auction. As a result, assignment phase bidding could delay satisfaction of the final stage rule and cause the incentive auction to move to another stage with a lower spectrum clearing target.

U.S. Cellular previously provided a detailed example demonstrating the negative impact the proposed Vickrey-style assignment phase bidding procedures could have on clock phase revenue.<sup>1</sup> Under those procedures, the “losing” assignment phase bidders would pay nothing and be assigned their least-preferred blocks. While the “winning” bidders would be assigned their preferred blocks, these bidders could end up paying so much for those assignments that they would be no better off than if they had been assigned their least-preferred blocks at no additional cost. In other words, every bidder could end up with essentially no retained value.

While this would be an optimal outcome in a typical auction, it would be inappropriate for the assignment phase because bidders will already be bound to pay the amounts they bid during the clock phase for generic licenses. Thus, unlike in a typical auction, bidders will not be able to simply walk away from the assignment phase having neither paid nor received anything. As a consequence, during the earlier clock phase, bidders would value a category of generic licenses in a PEA based on the valuation they attach to their least-preferred block within that

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<sup>1</sup> See Reply Comments of United States Cellular Corporation, AU Docket No. 14-252, GN Docket No. 12-268, pp. 8-17 (Mar. 13, 2015).

category because they would rationally assume that they will ultimately be assigned those blocks unless they pay additional sums during the assignment phase.

Stated differently, during the clock phase, bidders will only bid up to the value they attach to a license less their anticipated assignment round bids for that license. The result would be decreased clock phase revenue. Notably, there is no record support for assignment phase bidding, while numerous commenters (including carriers of all sizes) have stressed that they would feel obligated to reserve a portion of their fixed budgets for the assignment phase if the Commission adopts its proposal. Given that these very carriers likely will be responsible for a significant portion of forward auction revenue, their unanimous view on this issue must not be ignored. Simply put, if these carriers believe assignment phase bidding requires them to withhold funds during the clock phase, there is a high likelihood that course of action will be the dominant strategy in the forward auction if the Commission adopts its proposal.

In response to a question, we noted that it is unlikely that the Commission's proposed "extended round" procedures would sufficiently compensate for the negative impact assignment phase bidding likely would have on clock phase revenue, and thus would not prevent the auction from unnecessarily moving to a new stage with a lower clearing target. In particular, for several reasons, the Commission's proposal "to conduct extended round bidding only for Category 1 blocks in the 'high-demand' PEAs with no excess supply" will limit the potential revenue impact from this additional round of bidding.<sup>2</sup> For instance, because bidding for the largest markets typically reaches near-final prices much sooner than in other markets,<sup>3</sup> it is unlikely that the bid increases for these PEAs during the extended round would be sufficient to overcome more than a minimal revenue shortfall with respect to satisfying the final stage rule. This would be especially so if bidders know they will need to expend additional sums during the assignment phase.

In addition, while satisfaction of the "price component" of the final stage rule will hinge only on the prices for the Category 1 licenses in high-demand PEAs that would be included in any extended round,<sup>4</sup> satisfaction of the independent "cost component" of the final stage rule requires that the *overall* proceeds of the forward auction be sufficient to cover specific costs, including payments to winning reverse auction bidders.<sup>5</sup> As a result, particularly at high clearing targets, the price component may be satisfied well before the cost component,<sup>6</sup> for which any shortfall in clock phase revenue would be even less likely to be remedied by an extended round. While satisfaction of the cost component hinges on the total forward auction revenues and will require sufficient proceeds to make payments to *every* winning reverse auction bidder, as well as

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<sup>2</sup> *Comment Sought on Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auctions 1001 and 1002*, Public Notice, 29 FCC Rcd 15750, 15810 (2014) ("Procedures PN").

<sup>3</sup> *See id.*

<sup>4</sup> *See id.* at 15770-71.

<sup>5</sup> *See id.* at 15771.

<sup>6</sup> *See, e.g.,* Sprint Letter at 3 (May 20, 2015) ("A high clearing target (requiring more payments to reverse auction participants) or broadcaster reluctance to accept lower descending clock prices will result in an FSR 'cost component' that is a substantial portion of license values.").

reimburse the repacking costs of *every* other eligible broadcaster, the extended round only has the potential to increase the revenue generated for a subset of the total PEAs.<sup>7</sup>

Given the significant risk that assignment phase bidding will undermine the overall goals of the incentive auction, during the meeting, we expressed our continued support for the joint proposal previously submitted by U.S. Cellular and T-Mobile US, Inc. Under that proposal, the Commission would utilize a “deferred acceptance algorithm,” or more properly, a “serial priority-assessment algorithm,” in order to assign bidders frequency-specific licenses.<sup>8</sup> As U.S. Cellular and T-Mobile previously explained, because deferred acceptance algorithms are well accepted and have been used in many different settings around the world, this approach to the assignment phase would be less risky than other possible mechanisms, including assignment phase bidding procedures, that have undergone far fewer practical tests and applications. Perhaps most importantly, the proposal would not cause bidders to withhold funds during the crucial clock phase of the forward auction, which would increase the odds of satisfying the final stage rule during a given stage of the auction, and thereby increase the likelihood of repurposing additional spectrum for next-generation wireless broadband networks.

Under this joint proposal, the Commission would begin by having all of the winning bidders from the clock phase of the forward auction prioritize all of the PEAs in which they won generic licenses based on the importance they attach to being assigned particular blocks in those PEAs. The auction system would then randomly rank-order all of the bidders, 1...N, and select bidder 1’s highest priority PEA for the first assignment round. Once every bidder with generic licenses for that PEA had prioritized their possible block assignments, the auction system would assign bidder 1 its highest priority block (or combination of blocks) that could be feasibly assigned to bidder 1 after optimizing for the three spectral-contiguity objectives proposed by the Commission.<sup>9</sup> Next, the auction system would again turn to the randomly selected rank-order of bidders and assign bidder 2 its highest priority block(s) from among those that remain available. This process would continue in descending rank-order of the bidders that hold generic licenses for that PEA until all of the blocks in the PEA have been assigned.

The auction system would then proceed to the second round, which would assign licenses for the currently unassigned PEA that was given the highest priority by bidder 2. In that PEA, bidder 2’s block preferences (to the extent feasible) would be honored first, followed by bidder 3’s preferences, and so on, with bidder 1 following bidder N if necessary. In other words, bidder 1 would now be at the bottom of the stack. When this round-by-round process reaches bidder N, the remaining PEA given the highest priority by bidder N would be selected, and bidder N’s

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<sup>7</sup> By our calculations, the high-demand (*i.e.*, top-40) PEAs cover only about 58% of the nationwide population.

<sup>8</sup> For a detailed overview of this joint proposal, *see Comments on the Assignment Round* (June 11, 2015), attached to Letter from Trey Hanbury, Counsel for T-Mobile US, Inc., to Marlene Dortch, Secretary, FCC, GN Docket No. 12-268, AU Docket No. 14-252 (June 11, 2015); *see also* Letter from Trey Hanbury, Counsel for T-Mobile US, Inc., to Marlene Dortch, Secretary, FCC, GN Docket No. 12-268, AU Docket No. 14-252 (June 16, 2015) (providing a detailed example of how the joint proposal would work).

<sup>9</sup> *See Procedures PN*, 29 FCC Rcd at 15815 (proposing a sequence of optimizations using three different objectives).

block preferences for that PEA would be honored first. Bidder 1's preferences would be honored second in that PEA, followed by bidder 2, etc.

In the following round, bidder N's priorities would again determine which PEA the auction system selects, and bidder N's block preferences would be honored first. At this point, however, the ordering would reverse. Thus, rather than honor bidder 1's block preferences next, the auction system would honor the preferences of bidder N-1, followed by N-2, and so on. The order would also reverse with respect to PEA selection. Thus, the next round would assign licenses for the remaining PEA given the highest priority by bidder N-1. In that round, the block preferences of bidder N-1 would be honored first, followed by the preferences of N-2, etc.

The process would continue in this manner until bidder 1's preferences determine the next PEA. After that, the original process would start all over again (*i.e.*, the order would again reverse), with the PEA priorities of bidder 1 again determining the next PEA and the block preferences of bidder 1 again being honored first, followed by bidder 2, and so on. In this way, the proposal mimics the "snake drafts" often used by fantasy football leagues, and would ensure that each bidder has a fair share of high and low "picks" as the assignment phase winds its way back and forth through the randomly selected rank-order of bidders.

Similar to the Commission's proposed procedures, under this joint proposal, the assignment rounds would be sequenced in order to allow "bidders to incorporate frequency assignments from previously-assigned areas into their bid preferences for other areas," which would provide an opportunity for bidders to acquire "contiguous blocks across adjacent PEAs."<sup>10</sup> At the same time, the joint proposal would make participation in the assignment phase far less complicated and time consuming for bidders. For instance, under this proposal, bidders would simply need to rank their feasible block assignments in each PEA. On the other hand, with bidding, in addition to ranking their feasible block assignments, a bidder would need to attach dollar amounts to each feasible assignment in a PEA based on the degree of preference it attaches to each such assignment. These valuation decisions would be especially complex and uncertain given that the Commission has never held an auction with an assignment phase incorporating bidding procedures, and thus bidders lack any basis on which to value the potentially large number of feasible block assignments they could be assigned in each PEA.

Finally, during the meeting we explained that assignment phase bidding also would create a significant risk that smaller bidders are saddled with the most impaired, and thus least valuable, licenses in each PEA, and that these bidders would not be "made whole" by the proposed impairment discounts. Further, in response to a question, we explained that the existence of the spectrum reserve would not help to address this harm related to assignment phase bidding. For instance, we noted that in those PEAs that will be the focus of U.S. Cellular and most other non-nationwide carriers in the incentive auction, at least two, and in many cases three, of the four nationwide carriers will be reserve-eligible. In addition, even in markets where there are fewer reserve-eligible nationwide carriers, smaller bidders would not benefit from the spectrum reserve

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<sup>10</sup> See *id.* at 15814.

