

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

In the Matter of)	
)	
Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auction 1001 and 1002)	AU Docket No. 14-252
)	
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions)	GN Docket No. 12-268
)	
Policies Regarding Mobile Spectrum Holdings Competitive Bidding Procedures for Broadcast Incentive Auction 1000, Including Auction 1001 and 1002)	WT Docket No. 12-269
)	

**PETITION FOR RECONSIDERATION OF PBP GROUP, LLC, BULLOCH
CELLULAR, INC., PINELAND CELLULAR, INC., AND PLANTERS RURAL
CELLULAR, INC.**

Pursuant to Section 1.429 of the Commission’s Rules,¹ PBP Group, LLC², Bulloch Cellular, Inc. (“Bulloch”), Pineland Cellular, Inc. (“Pineland”), and Planters Rural Cellular, Inc. (“Planters”) (together, “Petitioners”) hereby petition for reconsideration of the Federal Communications Commission’s (“FCC” or “Commission”) *Application Procedures for Broadcast Incentive Auction Public Notice*,³ insofar as it limits eligibility for the Rural Service Provider Bidding Credit to applicants that are “service provider[s]...in the business of providing commercial communications services,” and would exclude a non-service provider that is wholly

¹ 47 C.F.R. § 1.429.

² PBP Group, LLC is a Georgia limited liability company. The member companies are Bulloch Cellular, Inc., Pineland Cellular, Inc., and Planters Rural Cellular, Inc. The member companies, through their parent companies’ trade association, have participated in all phases of the proceeding establishing the rules and procedures for Auction 1000. The member companies are wholly owned subsidiaries of Bulloch County Rural Telephone Cooperative, Inc., Pineland Telephone Cooperative, Inc., and Planters Rural Telephone Cooperative, Inc.

³ Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding, AU Docket No. 14-252, GN Docket No. 12-268, WT Docket No. 12-269, Public Notice, DA 15-1183 (rel. Oct. 15) (*Public Notice*).

owned by rural service providers.⁴ As explained below, limiting Rural Service Provider Bidding Credit eligibility in this manner could have a chilling effect on the use of innovative business relationships between rural service providers and dampen Incentive Auction competition.

I. INTRODUCTION.

The Commission discusses Rural Service Provider Bidding Credit eligibility starting at Paragraph 123 of the *Public Notice*. The text states that an auction applicant itself must provide commercial communications service: “To be eligible for a Rural Service Provider Bidding Credit, an applicant must be: (1) a service provider that is in the business of providing commercial communications services and, together with its controlling interests, affiliates, and the affiliates of its controlling interests, has fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers; and (2) [serve] predominantly rural areas, defined as counties with a population density of 100 or fewer persons per square mile.”⁵

On its face, the *Public Notice* prevents an LLC *comprised* of rural service providers that provide commercial communications services and have a combined total of less than 250,000 subscribers from being eligible for a Rural Service Provider Bidding Credit if the LLC *itself* does not provide communications services and does not have its own subscribers. But, in creating the Rural Service Provider Bidding Credit, the Commission sought to “enable rural service providers to compete for spectrum licenses at auction and speed the availability of wireless voice and broadband services to rural areas...”⁶ A joint venture comprised of service providers located in rural America is exactly the sort of business that could accomplish these goals.

⁴ *Public Notice* at ¶ 123.

⁵ *Id.*

⁶ *In the Matter of Updating Part 1 Competitive Bidding Rules, et al.*, WT Docket Nos. 14-170; 05-211, GN Docket No. 12-268, RM-11395, Report and Order, FCC 15-80 (rel. July 21, 2015), at ¶ 91 (*DE/Competitive Bidding Report & Order*).

II. ALLOWING AN ENTITY WHOLLY OWNED BY ELIGIBLE RURAL SERVICE PROVIDERS TO BE ELIGIBLE FOR THE RURAL SERVICE PROVIDER BIDDING CREDIT IS CONSISTENT WITH THE INTENT UNDERLYING THE ADOPTION OF THE RURAL SERVICE PROVIDER BIDDING CREDIT.

Petitioners do not believe that limiting the ability of entities comprised of rural service providers to qualify for the credit was the Commission’s intention. The Commission has stated that its “rules provide options for several parties to combine resources and participate in an auction,” that it was “not limiting rural service providers to bidding through a consortium model,” and “that applicants seeking a rural service provider bidding credit have many options to structure their businesses in a manner that complies with our eligibility rules.”⁷ Further, the Commission clearly contemplated the use of joint ventures by non-nationwide providers “to realize the benefits of pooling resources that are sometimes associated with some kinds of joint bidding arrangements.”⁸ Given the FCC’s emphasis on making the Rural Service Provider Bidding Credit available to entities whose “primary focus of . . . business activity” is the “provision of service to rural areas,”⁹ and the flexibility that it intends such entities to have to structure their business arrangements, it is clear that the Commission’s intent was not to exclude rural service providers from eligibility for the Rural Service Provider Bidding Credit merely because they choose to participate in the Incentive Auction via a permissible joint bidding arrangement.¹⁰

⁷ *DE/Competitive Bidding Report & Order* at ¶ 101.

⁸ *Id.* at ¶ 190.

⁹ *Id.* at ¶ 94, n. 312.

¹⁰ Petitioners recommend that the Commission issue a new Public Notice revising the language in Paragraph 123 to state: “To be eligible for a Rural Service Provider Bidding Credit, an applicant must be: (1) (a) a service provider that is in the business of providing commercial communications services and, together with its controlling interests, affiliates, and the affiliates of its controlling interests, has fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers; and (b) serve predominantly rural areas, defined as counties with a population density of 100 or fewer persons per square mile; or (2) wholly owned by one or more service providers that are: (a) in the business of providing commercial communications services and, together with their controlling interests, affiliates, and the affiliates of their controlling interests, have fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers; and (b) serve predominantly rural areas, defined as counties with a population density of 100 or fewer persons per square mile.”

III. A BIDDING CONSORTIUM IS NOT A VIABLE VEHICLE FOR JOINT OPERATIONS.

While the Commission's rules provide Rural Service Provider Bidding Credit eligibility to rural service providers who choose to participate in the Incentive Auction by forming a bidding consortium, a bidding consortium is a far less desirable option for Bulloch, Planters, and Pineland than participation in the auction through PBP Group, LLC. Because its members have already formed PBP Group, LLC, reinventing the wheel to create a separate bidding consortium ahead of the Incentive Auction application deadline would be a costly extraneous step to protect Rural Service Provider Bidding Credit Eligibility – a step that still may prove unsuccessful in accomplishing Petitioners' goals. A bidding consortium can be a problematic vehicle for multiple companies that seek to jointly hold/operate any licenses won. As noted by the Rural Wireless Association, NTCA – The Rural Broadband Association, and The Blooston Rural Carriers:

[The consortium]...is not a suitable avenue for all rural bidder situations. The consortium is not an ongoing legal entity, but instead must partition any license won at auction during the long form process. As demonstrated in past auctions, many rural providers conclude that the best chance of operating a successful wireless service in a sparsely populated area is to keep the license intact, and achieve economies of scale by jointly operating the venture. The Commission should continue to facilitate such arrangements...[A]n LLC of qualified rural providers (each having a service area in the PEA) should qualify for the rural bid credit...¹¹

A consortium that is a winning bidder may not apply as a consortium for licenses covered by the winning bids. Instead, an individual member of the consortium or a new legal entity comprising two or more individual consortium members must be the applicant.¹² If Pineland, Planters or

¹¹ Letter from D. Cary Mitchell and John Prendergast, Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, Counsel to the Blooston Rural Carriers; Erin P. Fitzgerald, Assistant Regulatory Counsel, Rural Wireless Association; Jill Canfield, Vice President, Legal and Industry & Assistant General Counsel, NTCA – The Rural Broadband Association; and Anthony K. Veach, Bennet & Bennet, PLLC, Counsel to SRT Communications, Panhandle Telephone Cooperative, Inc., Copper Valley Telephone Cooperative, Nemont Telephone Cooperative, Inc., Pine Belt Telephone Company, Inc., and Central Texas Telephone Cooperative, to Marlene H. Dortch, Secretary, FCC (filed Jul. 8, 2015).

¹² 47 C.F.R. § 1.2107(g).

Bulloch individually sought the license(s), bidding credit eligibility would be preserved but the license(s) would not be jointly held. This creates several problems. Specifically, this would result in: (1) loss of the economies of scale enjoyed by joint operation of the license; or (2) undergoing expensive and time consuming machinations after the license is granted to legally reconfigure the license holder in a way that suits Petitioners' business plans. Prospective auction applicants like Bulloch, Pineland, and Planters should not be forced to utilize this vehicle as the only means to maintain Rural Service Provider Bidding Credit eligibility.

IV. CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Commission should modify the requirements adopted in the *Public Notice* to provide that an entity wholly owned by rural service providers that provide commercial communications services and have a combined total of less than 250,000 subscribers is eligible for the Rural Service Provider Bidding Credit.

Respectfully submitted,

PBP Group, LLC, Bulloch Cellular, Inc., Pineland Cellular, Inc., and Planters Rural Cellular, Inc.

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November 30, 2015