



Competitive Carriers Association
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April 6, 2016

VIA ECFS

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

Re: NOTICE OF EX PARTE

AU Docket No. 14-252: *Broadcast Incentive Auction Comment Public Notice Auction 1000, 1001, and 1002*; **GN Docket No. 12-268:** *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*; **WT Docket No. 12-269:** *Policies Regarding Mobile Spectrum Holdings*

Dear Ms. Dortch

The Federal Communication Commission’s (“FCC” or “Commission”) upcoming broadcast spectrum incentive auction (“Incentive Auction”) is a once-in-a-lifetime opportunity to expand the benefits of mobile wireless coverage and competition to consumers across the nation. At its conclusion, this first-of-its-kind auction will allocate valuable 600 MHz spectrum to entities of varied size, serving urban, rural and regional populations alike. Competitive Carriers Association (“CCA”) is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA urges the Commission to continue to promote a beneficial and fair Incentive Auction outcome by ensuring applicants are qualified to hold a spectrum license, are reserve eligible where applicable, and are eligible for bidding credits where applicable. Given that the Commission has established unprecedented auction rules, CCA also urges the Commission to carefully and clearly address any ambiguities identified by applicants in order to reduce uncertainty and encourage robust auction participation.

As CCA has long advocated, the Incentive Auction has the potential to stimulate economic investment, accelerate innovation, promote competition, and encourage the rapid deployment of mobile broadband services to American consumers. In fact, the FCC has acknowledged that the opportunity to acquire coveted low-band spectrum licenses “will not be replicated in the foreseeable future.”¹ It is an understatement to say the stakes are high with immeasurable benefits.

The Communications Act directs the Commission to promote “economic opportunity and competition” when holding auctions “by disseminating licenses among a wide variety of applicants,

¹ *Updating Part 1 Competitive Bidding Rules*, Report and Order; Order on Reconsideration of the First Report and Order; Third Order on Reconsideration of the Second Report and Order; Third Report and Order, 30 FCC Rcd 7493, ¶ 5 (2015) (“*Competitive Bidding Rules Order*”).

including small businesses.”² One of the principal means by which the Commission fulfills this mandate is through the use of bidding credits for designated entities, including small businesses and rural service providers. The Commission has found that such bidding credits can be “an effective tool in achieving the statutory objective of offering opportunities for participation by designated entities in the provision of spectrum-based services.”³ When allocated properly, these credits are critical to helping small businesses participate in spectrum auctions, to “gain an on-ramp into the wireless industry,” and “ultimately engage in more robust competition,”⁴ to the benefit of consumers.

Another means to encourage auction competition is through the FCC’s spectrum reserve established for the Incentive Auction. In the *Mobile Spectrum Holdings Report and Order*, the Commission adopted a market-based spectrum mechanism for the Incentive Auction that will reserve up to 30 megahertz of low-band spectrum in each market.⁵ By reserving spectrum consistently across “most levels of total licensed spectrum,” the Commission created an opportunity for *all* auction participants to bolster their networks with genuinely competitive bids.⁶

The Communications Act further requires that, in providing such opportunity, the Commission must ensure that the award of bidding credits does not result in unjust enrichment.⁷ Last year’s AWS-3 auction illustrates the need to closely review all applications, including those in which the applicant seeks to use bidding credits or claims to qualify as reserve eligible. In the AWS-3 auction, two winning bidders receiving \$3.3 billion in billing credits were later found by the Commission to be ineligible for those credits.⁸ The Commission arrived at this conclusion while, at the same time, admitting that the applicants’ “disclosure of their agreements and of the existence of their bidding arrangements was sufficient to comply with the disclosure obligations of [FCC] rules.”⁹

In the upcoming Incentive Auction, CCA urges the Commission to carefully examine all applications to ensure that each applicant is qualified to participate.¹⁰ CCA also recommends prompt response to requests for clarification of any rules, and swift action if certifications submitted to the Commission appear to contradict “specific evidence” that a violation of FCC rules has

² 47 U.S.C. § 309(j)(3)(B).

³ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report & Order, 29 FCC Rcd 6567, ¶ 476 (2014).

⁴ *Competitive Bidding Rules Order* ¶ 4.

⁵ *Policies Regarding Mobile Spectrum Holdings; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction*, 29 FCC Rcd 6133, 6210-6211 ¶¶ 189-191 (2014) (“*Mobile Spectrum Holdings Report and Order*”).

⁶ *Id.* ¶ 189.

⁷ 47 U.S.C. § 309(j)(4)(E); *see also id.* § 309(j)(3)(C).

⁸ *Northstar Wireless, LLC, SNR Wireless LicenseCo, LLC, Applications for New Licenses in the 1695-1710 MHz and 1755-1780 MHz and 2155-2180 MHz Bands*, Memorandum Opinion and Order, FCC 15-104 (2015) (“*Northstar MO&O*”).

⁹ *Id.* ¶ 9.

¹⁰ *Id.* ¶ 5.

occurred; in such cases, the Commission has stated certification “will not preclude the initiation of an investigation where warranted.”¹¹

CCA applauds the Commission’s efforts in forging the path towards a successful Incentive Auction. With the auction underway and the forward auction piece of the Incentive Auction yet to begin, CCA encourages the Commission to closely review all applications so that applicants are qualified to hold a spectrum license and meet other important eligibility requirements to ensure a successful and fair auction for all participants.

Sincerely,

/s/ Rebecca Murphy Thompson

Rebecca Murphy Thompson
EVP & General Counsel
Competitive Carriers Association

cc (via email): Jon Wilkins
Jim Schlichting
Margaret Wiener
Jean Kiddoo
Joel Taubenblatt

¹¹ *Competitive Bidding Rules Order* ¶¶ 199, 201, 207.