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July 23, 1999

Office of the Secretary
Federal Communications Commission
The Portals, 445 Twelfth Street, S.W.,
Washington, D.C. 20554

RE: WT Docket 99-87, Revised Competitive Bidding Authority

Dear Ms. Salas:

Enclosed are the original and 4 copies of comments submitted by Citizens Water Resources in response to the Federal Communication Commissions request for comments on WT Docket 99-87, Revised Competitive Bidding Authority.

Citizens Water Resources appreciates the opportunity to offer the attached comments on this important rulemaking.

Sincerely,

Paul G. Townsley
Vice President, Citizens Water Resources

Attachments

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C. 20554

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In the Matter of)
Revised Competitive Bidding Authority)

WT Docket 99-87)

To: The Commission)

COMMENTS OF CITIZENS WATER RESOURCES

Citizens Water Resources ("Citizens Water") hereby submits its comments in the above-styled rulemakings proceeding and shows as follows:

Citizens Water is the water and wastewater business component of Citizens Utilities Company. Citizens Water provides drinking water and wastewater service to over 300,000 customers, serving a population in excess of one million people. Citizens Water's water and wastewater service areas include portions of six states including California, Arizona, Illinois, Indiana, Ohio, and Pennsylvania.¹ Citizens Water relies heavily on radio service for voice and data transmission due to the widely dispersed and primarily rural nature of its service areas.

Managing the water supply to protect the health, safety and property of over one million citizens in six states, Citizens Water maintains close communications ties to numerous local emergency response organizations using voice radio links. The use of voice and data radio links internally, and to connect to emergency response units, allows

¹ In California, Citizens Water serves drinking water to over 60,000 customers in Sacramento County and in small rural communities in the San Francisco Bay area. In Arizona, Citizens Water provides water and wastewater service to over 120,000 customers in the Phoenix metro area and in rural Mohave and Santa Cruz Counties. In Illinois, Citizens Water provides water and wastewater service to over 70,000 customers who reside in the southwest suburbs of the greater Chicago area. In Indiana, Citizens Water provides water service to over 1,000 rural customers near Kokomo. In Ohio, Citizens Water provides water and wastewater service to over 14,000 suburban and rural customers near Columbus. In Pennsylvania,

Citizens Water to quickly direct necessary resources to the location of problems and resolve them without delay. For example, last winter's freezing weather in the Midwest caused numerous water pipeline failures and subsequent loss of water to Citizens Water customers in the Chicago area. Without the use of radio for voice and SCADA (System Control And Data Acquisition) communications, the length of outages and customer suffering would have been significantly lengthened. In Pennsylvania, the Governor recently declared a drought emergency. Citizens Water is using radio facilities to monitor reservoir levels and communicate with personnel in the field to better manage what water there is available for the region.

In the Telecommunications Act of 1996 the Congress charged the Federal Communications Commission ("FCC") with the requirement that radio frequency spectrum for communications, both voice and data, be assigned as a result of auctions. In this Act, particular radio spectrum was set aside for use by public safety organizations and made exempt from assignment by auction. In the Act, "public safety" was identified as police and fire protection services. However, the Balanced Budget Act of 1997, ("Balanced Budget Act") directed the FCC to provide spectrum set-aside and exemption from auction for a more expansive class of "public safety services," including critical national infrastructure entities. Citizens Water believes that water distribution and waste water service providers constitute critical national infrastructure entities that should be considered public safety services for purposes of assignment, without auction, of radio spectrum allocated to public safety use.

Timely implementation of the Balanced Budget Act's provisions regarding spectrum access for critical infrastructure entities in spectrum allocated to public safety entities is critical in meeting a need expressly recognized by the U.S. Congress. The Balanced Budget Act and associated report language provide clear legislative direction to the FCC to insure that public safety radio services as defined in the Act and report language are exempt from auction. The definition for "public safety radio services" as stated by Congress is broader than the current "public safety radio services" definition. "Public safety radio services" are defined as including private internal radio services that are used by non-governmental entities to protect safety of life, health or property, and not made commercially available to the public. The Balanced Budget Act was accompanied by report language that included utilities in the definition of private radio services that meet the criteria of public safety radio services.

Exemption from competitive bidding for public safety radio spectrum allocation is a function of the service provided, i.e., protection of safety of life, health, or property. In determining that there was a specific need for access to spectrum outside of the auction process, Congress implicitly recognized the need for adequate availability of spectrum to activities deemed public safety radio services, and that that spectrum should be made available to these activities through a mechanism other than auctions. The exemption from competitive bidding for private internal radio services used by water and waste water service providers should, of course, be subject to a prohibition against commercial use of the spectrum. By any reasonable definition, water and waste water service providers should be deemed eligible for public safety radio spectrum exempt from auction because they will use that spectrum to protect safety of life, health and property

and will not sell that radio service as a commercial product. Citizens Water supports the formation of a public safety radio service pool that includes water and wastewater service providers as eligible to ensure that exempt spectrum is designated for the public safety needs identified in the Balanced Budget Act. Exemption from auction implies the formation of a core spectrum allocation to meet public safety radio service needs.

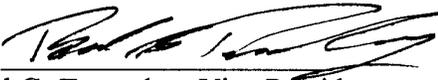
Water and wastewater utilities, including Citizens Water should be eligible for auction- exempt spectrum identified by the FCC as it implements the Balanced Budget Act's provisions. Citizens Water along with other water and wastewater service providers across the United States are finding it difficult to obtain suitable spectrum to meet critical system needs. The Utilities Telecommunications Council ("UTC") has estimated that at least 6 MHz of spectrum (with the majority of that allocation being above 900 MHz) is needed to meet power, pipeline, railroad, and water/wastewater utility spectrum needs for the near future. While the public safety radio services pool will not meet this total need, the proposed pool would help address a portion of the spectrum needs identified by UTC for the critical infrastructure entities.

It is essential that the FCC recognize the critical role that water and wastewater utilities play in protecting the life, health and property of this country's citizens. Likewise the FCC must also recognize that due to the distributed manner in which water and wastewater systems are operated and the less automated nature of the business than other utilities, the critical role that radio systems play for these utilities. For these reasons, Citizens Water strongly requests that that the FCC correctly interpret Congressional intent by exempting water and wastewater service providers from the spectrum auction process and providing them with technically appropriate wireless spectrum. It is only

through continued access of this critical resource that Citizens Water will be able to adequately protect the life, health and property of over one million people it serves every day.

Respectfully submitted,

Citizens Water Resources

By: 
Paul G. Townsley, Vice President

July 26, 1999