Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of	)	
	)	WT Docket 97-82
Amendment of the Commission's Rules	)	
Regarding Installment Payment Financing	)	
for Personal Communications Services	)	
(PCS) Licenses	)	
Order on Reconsideration of the Fourth	)	
Report and Order	)	

To: The Commission

Opposition of American Wireless Licensing Group, LLC

American Wireless Licensing Group, LLC ("American Wireless"), pursuant to the Commission's Public Notice,[1/] hereby submits its opposition to the Petition for Reconsideration of the Order on Reconsideration of the Fourth Report and Order in WT Docket 97-82 filed jointly by U.S. WEST Wireless, LLC and Sprint Spectrum L.P. d.b.a. Sprint PCS (U.S. WEST and Sprint Spectrum are collectively referred to as the "Petitioners"and their submission is referred to as the "Petition") in the referenced matter.[1/] American Wireless believes there is no justification for removing the Commission's separate eligibility rules for the C and F Block spectrum. Both clear Congressional mandates and longstanding, well reasoned FCC auction rules that are dedicated to

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[1/] Public Notice, DA 00-760, rel. April 5, 2000.

[2/] The Petition for Reconsideration was submitted to the Commission on April 4, 2000.

serving the public interest require that the Commission maintain its established separate eligibility rules for small businesses and rural telephone companies ("Entrepreneurs").[1/] Accordingly, American Wireless urges the Commission to maintain its existing eligibility rules. In the alternative, if the Commission determines that the record supports a change to the existing auction rules with respect to C and F Block spectrum, American Wireless urges the Commission to adopt the following alternative proposal.

I. Discussions

A. Petitioners' Proposal is contrary to the Congressional Mandate to ensure that Small Businesses have an Opportunity to Provide Spectrum-based Services.

Petitioners contend that Section 309(j) of the Communications Act requires that the Commission promote a variety of objectives, including: (A) "rapid deployment of new technologies, products, and services for the benefit of the public," (B) promotion of "economic opportunity and competition" and encouraging participation by "a wide variety of applicants, including small businesses," (C) recovery for the public of part of "the value of the public spectrum resource," and (D) "efficient and intensive use of the....spectrum." Petition, at 3. Thus, Petitioners conclude that based on the record established and the various proposals submitted to the Commission, the auction

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[3/] The Commission's often-stated desire to maintain the integrity of its auction rules provides an additional, independent reason to do so.

rules must be revised to "further all of the statutory objectives to the greatest extent possible." Petition, at 4.

Despite Petitioners' arguments, the record only demonstrates several self-serving requests by large carriers seeking to obtain valuable PCS spectrum. This is the same spectrum that these carriers had the opportunity to acquire several years ago. Further, the majority of the commenters in these proceedings opposed SBC, Nextel, Bell South and Bell Atlantic Mobile's requests. Thus, if anything is too be gleaned from the record, it would be to maintain the existing designated entity rules.

In addition to the statutory objectives, the Petitioners contend that their proposal would increase the number of licenses available for re-auction; thus, increasing the likelihood of designated entities obtaining PCS licenses. Petition, at 5. The Petitioners further contend that the 10 MHz licenses would be more affordable for small businesses with limited financial resources. *Id.* The Petitioners, however, disregard the Commission's primary reasoning for setting aside a portion of the PCS spectrum bock for small businesses. As the Commission explained, "[i]f one or more of these big firms targets a market for strategic reasons, there is almost no likelihood that it could be outbid by a small business."[1/] This same reason remains valid today. If any large carrier, such as a Sprint, SBC, AT&T or Nextel, targeted a particular PCS market, it would clearly have the financial resources to outbid any designated entity.

[4/] In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding, PP Docket 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5585 (1994).

Finally, the Petitioners contend that not only would their proposal preserve opportunities for small businesses, it would create new opportunities for non-designated entity licensees to obtain spectrum to increase capacity or coverage or for the deployment of new services, such as 3G. Petition, at 5. However, similar to the spectrum cap waivers, Petitioners have not demonstrated that there is a need for additional spectrum for capacity reasons or even for deployment of other services. Thus, the record does not support a change to the current rules for the reasons set forth by Petitioners.

2. In the Alternative, American Wireless Supports a Proposal that Would Ensure a More Competitive Balance between Large and Small Carriers in the Competitive Bidding Context.

American Wireless opposes any change in the Commission rules for the C and F Block spectrum subject to re-auction. Specifically, American Wireless continues to find that the record developed from the recent requests regarding this spectrum does not support a change to the existing rules. However, in the event that the Commission should determine there to be a need for a change in the Commission's eligibility rules for the C and F Block spectrum subject to re-auction, American Wireless proposes that the Commission:

1. Maintain the existing 30 MHz C Block licenses as 30 MHz licenses.

2. Permit non-designated entities to participate in the larger markets. These markets will be defined as markets containing a population exceeding two million. This would consist of the top twenty-three markets.

3. With respect to the larger markets, increase the bidding credits for qualified very small businesses and small businesses to 45 percent and 35 percent, respectively. Increasing the bidding credits will ensure

> that smaller entities would not be at a distinct competitive disadvantage.

By reserving some of the licenses for eligible designated entities, this proposal at the very least will ensure that small businesses will acquire a proportionate share of the PCS licenses subject to re-auction.

III. Conclusion

American Wireless urges the Commission to modify existing rules as set forth herein, to the extent any modification is deemed necessary.

Respectfully submitted,

American Wireless Licensing Group, LLC.

By:_____/s/_____
Wirt A. Yerger, III
Operations Manager

April 17, 2000

CERTIFICATE OF SERVICE

I, Wirt A. Yerger, III, do hereby certify that on this 17th day of April, 2000, I caused copies of the foregoing "*Comments of American Wireless Licensing Group, LLC*" to be served via hand delivery upon the following:

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/s/

Wirt A. Yerger, III