

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

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
 )  
Amendment of the Commission's Rules )  
Regarding Installment Payment Financing for )  
Personal Communications Services (PCS) )  
Licenses )

WT Docket No. 97-82

**REPLY COMMENTS OF AT&T WIRELESS SERVICES, INC.**

Pursuant to the Commission's Further Notice of Proposed Rulemaking, AT&T Wireless Services, Inc. ("AT&T") hereby submits its reply comments in the above-captioned proceeding.<sup>1/</sup>

**I. APPLICATION OF THE CMRS SPECTRUM CAP IN THIS AUCTION IS UNNECESSARY AND CONTRARY TO THE PUBLIC INTEREST**

AT&T agrees with BellSouth Corp., Verizon Wireless, and the Cellular Telecommunications Industry Association ("CTIA") that increased competition in the provision of wireless services has eliminated the need for application of the CMRS spectrum cap in this C and F block reauction.<sup>2/</sup> As CTIA correctly states, "[g]iven the maturity of the CMRS market, and the incentive provided entrepreneurs by the Commission's rules, the spectrum cap serves little purpose other than to frustrate the wireless industry's efforts to prepare for Third Generation ('3G') services and to add needed capacity to satisfy existing consumer demand."<sup>3/</sup>

<sup>1/</sup> Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, Further Notice of Proposed Rulemaking, FCC 00-197, WT Docket No. 97-82 (rel. June 7, 2000) ("Further Notice").

<sup>2/</sup> Comments of BellSouth Corp. at 14-15; Comments of CTIA at 5-6; Comments of Verizon Wireless at 20-24. See also Comments of Voicestream Wireless at 13 (supports complete elimination of the CMRS spectrum cap as part of the biennial review, but not on an auction-by-auction basis). Moreover, some entities that once vehemently voiced objection to the elimination of the spectrum cap no longer mention any opposition to its elimination for this auction. See, e.g., Comments of Nextel Communications, Inc.

<sup>3/</sup> Comments of CTIA at 6.

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In this regard, Verizon Wireless explains that the “goal of developing 3G services is advanced by providing U.S. carriers with access to sufficient spectrum that will allow them to meet the rapidly growing demand for wireless data, Internet access and other spectrum-intensive services.” Restricted access to spectrum caused by spectrum caps significantly undermines this goal.<sup>4/</sup>

The record before the Commission is replete with evidence that the CMRS spectrum cap should be eliminated from this auction, thereby giving carriers the ability to provide the advanced services demanded by customers. The Commission’s decision to postpone the C and F block auction until November 2000 provides ample time to review the record and make a well-supported decision not to apply the cap in this instance.”<sup>5/</sup>

**II. THE COMMISSION SHOULD DISAGGREGATE THE C BLOCK LICENSES INTO THREE 10 MHZ LICENSES AND ELIMINATE THE ELIGIBILITY RESTRICTIONS FOR ALL BUT ONE 10 MHZ C BLOCK LICENSE IN EACH MARKET**

Most commenters, designated entities and non-designated entities alike, agree that the Commission should split the 30 MHz C block licenses into three 10 MHz licenses.<sup>6/</sup> America Connect, for example, states that the “Section 309(j) objectives are best met if the Commission

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<sup>4/</sup> Comments of Verizon Wireless at 23.

<sup>5/</sup> Id. If the Commission chooses to retain the spectrum cap for this auction, it should waive the cap for those carriers like AT&T that have demonstrated that such waiver would be in the public interest. See AT&T Wireless Services, Inc. Petition for Waiver of the CMRS Spectrum Cap Requirements of 47 C.F.R. § 20.6 for the PCS Frequency Blocks C and F Auction To Begin on July 26, 2000 (Feb. 15, 2000). See also Comments of U.S. Airwaves, Inc. at 10 (stating that the spectrum cap should be waived whenever it would be in the public interest).

<sup>6/</sup> See, e.g., Comments of Airgate Wireless, LLC at 2; Comments of America Connect, Inc. at 3; Comments of BellSouth Corp. at 2, 5; Comments of CTIA at 2-3; Comments of Carolina PCS I Limited Partnership at 3; Comments of Cook Inlet Region, Inc. at 7-8; Comments of Radha Krushn Communications at 1-2; Comments of SBC Communications Inc. at 3; Comments of U.S. Airwaves, Inc. at 5; Comments of U S West Wireless at 3; Comments of Verizon Wireless at 5; Comments of Voicestream Wireless Corp. at 4.

breaks up the returned 30 MHz C block licenses into three 10 MHz licenses, as proposed.”<sup>7/</sup>

Disaggregating these C block licenses will allow bidders to acquire only the amount of spectrum needed to support their business plans, provide affordability and bidding flexibility to small businesses with limited access to capital, and give larger carriers greater flexibility to increase their capacity without violating the spectrum cap.<sup>8/</sup>

Many commenters also recognize the need to allow all interested entities (whether or not entrepreneurs) to participate in this auction. According to Dobson Communications Corp., “the Commission must balance competing interests in this proceeding” by opening some licenses to non-designated entities.<sup>9/</sup> Similarly, TeleCorp PCS, Inc. and Tritel Communications, Inc. are “cognizant of the Commission’s desire to reach a compromise arrangement” between entrepreneurs and larger carriers who are spectrum constrained and thus TeleCorp and Tritel generally “do not take issue” with the Commission’s proposal.<sup>10/</sup> Cook Inlet Region, Inc. similarly acknowledges that “changes to the rules are warranted by changes in the PCS marketplace.”<sup>11/</sup>

A number of parties correctly point out that the best way to balance these competing interests would be to open two 10 MHz C block licenses per market while reserving one for entrepreneurs. As BellSouth notes, permitting open bidding on at least two licenses would speed

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<sup>7/</sup> Comments of America Connect at 3.

<sup>8/</sup> Comments of U S West Wireless, Inc. at 3. Notably, Canada recently decided to split its 30 MHz C block PCS licenses into three 10 MHz licenses and stated that, if adopted, “the FCC proposal would ensure that revised ‘C’ block spectrum aligns in both countries.” See Industry Canada, Frequently Asked Questions, Personal Communications Services at 2 GHz, at 1, 3 (June 28, 2000) <<http://strategis.ic.gc.ca/SSG/sfo1979e.html>> (“Canada PCS Fact Sheet”).

<sup>9/</sup> Comments of Dobson Communications Inc. at 6.

<sup>10/</sup> Comments of TeleCorp PCS, Inc. and Tritel Communications, Inc. at 2.

<sup>11/</sup> Comments of Cook Inlet Region, Inc. at ii, 1. See also Comments of Burst Wireless, Inc. at 2 (Commission’s proposal is a “workable compromise”).

the deployment of services to the public, assure efficient use of the spectrum because each license will go to the bidder that values it the most, and ensure that the U.S. Treasury receives a portion of the value of the spectrum.<sup>12/</sup> Opening only one 10 MHz C block license in all but the largest markets, in contrast, would not sufficiently take into account the acknowledged “demand for spectrum to satisfy congestion, new technology and competitive needs.”<sup>13/</sup> To address these needs and ensure meaningful participation in the auction, the Commission should eliminate eligibility restrictions for two of the 10 MHz C block licenses in each BTA.<sup>14/</sup>

The Commission’s proposal to use population-based tiers to determine which licenses should be restricted would be administratively cumbersome and inefficient.<sup>15/</sup> However, should the Commission decide to adopt a tiered approach for these licenses, numerous commenters agree that the upper tier should include licenses in BTAs with populations of one million or greater.<sup>16/</sup> Small businesses are “simply not capable of entering large markets and competing in

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<sup>12/</sup> Comments of BellSouth Corp. at 8-9 (supporting elimination of eligibility rules for all licenses). See also Comments of AT&T at 6.

<sup>13/</sup> See Further Notice at ¶ 26. In adopting eligibility standards for its recently-allocated PCS spectrum, Canada found “no compelling arguments demonstrating that spectrum set aside for new entrants would significantly advance new service offerings and expansion of digital service.” Therefore, Canada has opened its C block PCS auction to all entities, stating that the “open entry policy will foster competition, provide an opportunity for existing companies to get additional spectrum and open up opportunities for new entrants with viable business plans.” See Canada PCS Fact Sheet at 1-2.

<sup>14/</sup> The substantial bidding credits proposed for small and very small businesses would ensure that designated entities can compete meaningfully in the auction -- in open and closed blocks -- and have a good chance of acquiring the licenses they desire. See Comments of AT&T at 7; see also, e.g., Comments of BellSouth Corp. at 12 (current bidding credits will be effective); Comments of U S West Wireless at 12 (same).

<sup>15/</sup> Comments of AT&T at 6; Comments of Northcoast Communications, LLC at 5 (Commission should “reassess and simplify its proposed approach by eliminating all ‘tiering’ aspects”); Comments of Verizon Wireless at 11 (tiered approach is overly complicated).

<sup>16/</sup> Comments of AT&T at 7-8; Comments of Nextel Communications, Inc. at 12; Comments of SBC Communications Inc. at 3-8; Comments of U S West Wireless at 5; Comments of Voicestream Wireless Corp. at 4-5.

any significant way.”<sup>17/</sup> As SBC notes, the entrepreneurs who have benefited from set-asides have themselves acknowledged that they are best suited to providing service in small and medium size markets.<sup>18/</sup> A one million population cut off for Tier 1 would ensure that customers in substantial markets such as Columbus, Indianapolis, Orlando, Greensboro, Jacksonville, Richmond, and Albany would have the opportunity to obtain services from the wireless carriers best positioned to meet their demands expeditiously.<sup>19/</sup>

### CONCLUSION

For the foregoing reasons, the Commission should eliminate the CMRS spectrum cap for this auction and set aside one of three 10 MHz C block licenses in each market for designated entities.

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<sup>17/</sup> Comments of SBC Communications Inc. at 4.

<sup>18/</sup> Id.

<sup>19/</sup> Id. AT&T continues to support opening the remaining C and F block licenses to all bidders. See Comments of AT&T at 8. See also, e.g., Comments of SBC Communications Inc. at 10-11; Comments of Roseville PCS, Inc. at 6-7 (supporting opening F block to all bidders).

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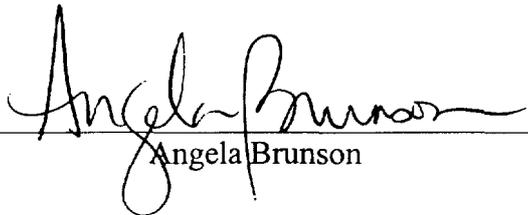
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