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WT Docket  
no. 02-2341

March 11, 2003

## RECEIVED

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Federal Communications Commission  
Office of the Secretary

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: QUALCOMM Incorporated  
Auction Discount Voucher

Dear Ms. Dortch:

QUALCOMM Incorporated ("QUALCOMM"), by its attorneys, hereby requests an extension of time during which it may use the remaining amount of its Auction Discount Voucher ("ADV").

### Background

Pursuant to the Court's mandate in *QUALCOMM v. FCC*, 181 F.3d 1370 (D.C. Cir. 1999), on June 8, 2000, the Federal Communications Commission ("FCC" or "Commission") awarded QUALCOMM an Auction Discount Voucher in the amount of \$125,273,878. *See QUALCOMM Incorporated. Petition for Declaratory Ruling Giving Effect to the Mandate of the District of Columbia Circuit Court of Appeals*, 20 Comm. Reg. 862 (2000). The Commission's award of the ADV was subject to certain terms and conditions. Among these conditions was the requirement that the ADV be used in an auction in which Form 175s have been accepted within 3 years of June 8, 2000.

As the Commission is aware, QUALCOMM has made diligent efforts to use the ADV within the three-year period. On March 9, 2001, QUALCOMM transferred the total amount of the ADV to Leap Wireless for use in connection with Auction No. 35. However, a decision of the DC Circuit Court of Appeals negating the results of the auction made necessary the return of the entire amount of the ADV to QUALCOMM from Leap Wireless.

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Subsequently, QUALCOMM transferred **\$10,848,800.00** of the ADV to Summit Wireless, which Summit used for payment on the Jackson, Mississippi BTA **210** license. Consequently, QUALCOMM has a total of **\$1 14,425,078 remaining** in its ADV.

Further, on August **1, 2002**, QUALCOMM asked the Commission to allow the ADV to be used for payment of outstanding obligations arising out of past auctions, ~~rather~~ than solely for auctions **taking** place after June **8, 2000**. QUALCOMM based its request on the very limited auction opportunities that had arisen since June **2000**, including the **long** period of uncertainty concerning Auction No. **35**. On November **27, 2002**, the Commission granted QUALCOMM's request and allowed the ADV to be used to satisfy auction obligations owed by licensees using CDMA technology in connection with licenses initially awarded before June **8, 2000**. See *QUALCOMM Incorporated, Petition for Waiver of Certain Terms and Conditions of its Auction Discount Voucher, WT Docket No. 02-234*, released November **27, 2002**.

Since that decision, QUALCOMM has been in contact with several potential licensees interested in acquiring some or all of the ADV. In addition, QUALCOMM is considering use of the ADV in connection with Auction No. **49**, which is currently scheduled to begin on May **28, 2003**. However, none of these potential uses for the ADV can be said to be definite at this time.

#### Request for Extension of Time

QUALCOMM hereby requests that the Commission grant it an additional year in which to use the ADV. Although we **are hopeful** that negotiations for use of the ADV will come to fruition within the next few months, it is always possible that there may be unexpected delays. For example, if Action **49** were **further** delayed, it is extremely likely that the ADV could not be used in that auction.

The public interest warrants granting QUALCOMM additional time in which to use the ADV in order to satisfy the U.S. Court of Appeals requirement that the Commission fashion an "appropriate remedy" for QUALCOMM. See *QUALCOMM v. FCC* at **1375**. In view of the **long** period during which **no** suitable opportunity to use the ADV was available, and in view of QUALCOMM's diligent efforts to do **so**, an extension of time is consistent with the equitable remedy sought by the Court.

Respectfully submitted,



Veronica M. Ahern

cc: John Muleta  
Blaise Scinto  
Bryan Tramont