



# Council Tree Communications, Inc.

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April 16, 2004

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
TW-A325  
Washington, DC 20554

Re: WT Docket No. 97-82

Dear Ms. Dortch:

On March 8, 2004, Council Tree Communications, Inc. ("Council Tree") filed a Petition for Rulemaking ("Petition") in which it urges the Commission to amend Part 1 of its Rules to include a personal net worth limitation for competitive bidding small business preference eligibility.

In its Second Order on Reconsideration of the Third Report and Order and Order on Reconsideration of the Fifth Report and Order in the referenced proceeding, FCC 03-98, the Commission, *inter alia*, clarified the operation of its Rules relating to the attribution of personal net worth for competitive bidding small business preference eligibility. One petition for reconsideration of a separate portion of that order remains pending before the Commission. On March 9, 2004, Council Tree submitted a copy of the Petition for inclusion in the record of the referenced proceeding due to the treatment of the personal net worth issue. Today, Council Tree submits a copy of a written presentation made to Commissioners Abernathy and Adelstein and to John B. Muleta, Harry Wingo, Barry J. Ohlson, Anne Perkins, Jennifer Manner, Samuel Feder, and Paul Margie on the issue. Council Tree also made oral presentations to these individuals, the substance of which presentations was consistent with the Petition and the attached written presentation.

One copy of Council Tree's written presentation is being submitted electronically with this letter.

Sincerely,

/s/ Steve C. Hillard

Steve C. Hillard

Enclosure

**ENSURING REAL OPPORTUNITIES FOR SMALLER BUSINESSES TO PARTICIPATE IN THE PROVISION OF SPECTRUM-BASED SERVICES**

(RM-10956; WT Docket No. 02-353)

**I. The Commission Must Safeguard its Designated Entity (“DE”) Program**

**A. The Problem**

- The Commission does not count *personal wealth* in assessing the size of a business that applies for DE benefits
- High net worth individuals — often wireless industry veterans — parlay wealth and contacts into sweetheart deals
- Legitimate new entrants are excluded

**B. The Solution**

- Follow the Small Business Administration’s lead
- Institute a *personal net worth test* for small business eligibility
- Attribute the personal net worth of a “controlling interest” individual if he or she, directly or indirectly, has an appreciable equity ownership interest in the applicant (1 percent or more)

**II. The Commission Must Improve Opportunities for DEs in the Upcoming Advanced Wireless Services (“3G”) Auction**

**A. This is a Critical Auction**

- 90 MHz Band of Spectrum
- May be used for wireless voice and data applications
- Will augment systems of existing wireless carriers

**B. To Mirror the Opportunities Offered to DEs in the Broadband PCS Auctions, the Commission Should Set Aside 3G “Block D” for Bidding Only by Smaller Businesses**

- Block D is comprised of 10 MHz MSA/RSA Authorizations
- Commission determined these licenses to be well-suited for new entrants
- Set-aside is similar to approach used in broadband PCS auctions

**C. In the Alternative, the Commission Should Offer a New Bidding Credit Level in the Auction**

- Currently      15 percent      (\$40 million gross revenues)  
                         25 percent      (\$15 million gross revenues)
- Add              35 percent      (\$3 million gross revenues)