

DOCKET FILE COPY ORIGINAL

RECEIVED

FEB 22 2006

Atlanta
Beijing
Brussels
Hong Kong
London
Los Angeles
Milan
New York
Orange County
Palo Alto
Paris
San Diego
San Francisco
Shanghai
Stamford
Tokyo
Washington, DC

(202) 551-1725
carlnorthrop@paulhastings.com

Federal Communications Commission
Office of Secretary

February 22, 2006

57739-000013

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Advanced Wireless Services Auction Public Notice (AU Docket No. 06-30) and
Designated Entity Further Notice of Proposed Rulemaking (WT Docket No. 05-211)

Dear Ms. Dortch:

On February 21, 2006, Mark Stachiw, Senior Vice President, General Counsel and Secretary of MetroPCS Communications, Inc. ("MetroPCS"), accompanied by Carl Northrop of Paul, Hastings, Janofsky & Walker LLP, met with the Commission staff members shown below as receiving courtesy copies of this letter to discuss the above-referenced proceeding.

MetroPCS made an oral presentation as summarized in the attached handout, copies of which were distributed at the meeting.

Kindly refer any questions in connection with this letter to the undersigned.

Respectfully submitted,

Carl W. Northrop

Carl W. Northrop
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

cc: Martha Stancill
Walter Strack
Leslie Marx
Evan Kwerel
Benjamin Freeman
Fred Campbell



**Advanced Wireless Services Auction Public Notice
(AU Docket No. 06-30)**

And

**Designated Entity Further Notice of Proposed Rulemaking
(WT Docket No. 05-211)**

**MetroPCS Communications, Inc.
8144 Walnut Hill Lane
Suite 800
Dallas, TX 75231**

Introduction

- **MetroPCS is a fast growing, rapidly expanding wireless carrier providing innovative service.**
 - **MetroPCS targets a market that is largely underserved by large national carriers.**
 - **MetroPCS has acquired spectrum in private transactions (e.g. Dallas and Detroit) and invested in designated entity Royal Street (LA and Florida markets).**
- **MetroPCS plans to participate in the Advanced Wireless Services (AWS) spectrum auction.**
 - **MetroPCS may participate on its own or may invest in a designated entity.**
- **The AWS auction is a landmark event and the Commission should not make major rule changes that could create problems or have unintended consequences.**
 - **The procedures in prior auctions of PCS spectrum worked well and there is no compelling reason to change them.**
- **Changed circumstances justify changes to the designated entity rules for the AWS auction as proposed by the Commission in the *FNPRM*.**
- **MetroPCS wants the AWS auction to proceed sooner rather than later, but needs 60 days after the applicable rules are adopted to properly plan for the auction.**

No Major Changes to Prior PCS Auction Procedures are Warranted

- **The Commission has conducted a series of successful PCS spectrum auctions.**
 - **The auction rules generally have worked well and resulted in licenses being awarded to bidders who valued them most.**
 - **Claims of collusion or other anti-competitive behavior in prior auctions have been rare.**
 - **No claims of collusion or other anti-competitive behavior were alleged after Auction 58.**
 - **Prior actions of the Commission to address collusive and anticompetitive behavior (e.g., bid signaling and tacit collusive behavior) have proved effective.**
- **The AWS auction is extremely important and the Commission cannot afford to change long-settled, well-established rules that have worked well without compelling public interest justifications.**
 - **Now is not the time for the Commission to engage in experimentation.**

BOTTOM LINE: If it isn't broken; don't try to fix it.

The Proposal to Eliminate Bidder Information Should Not Be Adopted

- **Commenters overwhelmingly oppose blind bidding; there is no unanimity among economists.**
- **There are substantial *pro-competitive* public interest benefits of full transparency:**
 - **The identity and number of other bidders and bids is critical information in evaluating the value of spectrum and provides a check on speculative bidding.**
 - **Technical information conveyed via bidder identities is critical to evaluating when AWS equipment will be available, roaming possibilities, technology deployment, and interference prospects.**
 - **Transparency promotes confidence in the auction process and is important to the financial markets.**
 - **This is critical to small carriers and new entrants who rely on outside financing.**
 - **Prior auctions contradict the view that providing bidder identities results in collusion; withholding bidder information will not deter outright collusion.**
 - **The current rules allow bidders to act as third party enforcers and alert the Commission if collusive or anticompetitive behavior appears to be occurring.**
- **A fully transparent auction is a more efficient auction; prior FCC actions reduce the prospects for bid signaling and tacit collusion.**

Do Not Use Combinatorial Bidding in a Concurrent Simultaneous Auction

- **Overwhelming opposition exists to this proposal; no carrier supports simultaneous concurrent auctions.**
- **Combinatorial bidding with simultaneous auctions introduces substantial complexity into the auction process and could have unintended consequences particularly for smaller carriers and new entrants.**
 - **Combinatorial bidding is not required in order to run an efficient auction.**
 - **Combinatorial bidding could foreclose small bidders and new entrants interested in only one area from being able to purchase the licenses they value the most.**
 - **Package bidding is incredibly complex with over 17 million possible combinations.**
 - **Bidders must develop substantial bidding information systems and software.**
 - **Increases logistical difficulty in assessing likely outcomes and increases possibility of error.**
 - **Bidders participating in two simultaneous auctions could end up winning duplicate unwanted licenses.**
 - **The result could be defaults or bid withdrawals and prolonged auctions.**
 - **The prospect of becoming the provisional high bidder long after bidding creates uncertainty.**
 - **Not clear that tests suggested by Commission economists have been conducted or, if they have, that the results have been adequately vetted.**
 - **The Regional Economic Area Group (REAG) licenses are not appropriate for combinatorial bidding.**

MetroPCS Supports the Proposed Changes to the DE Program

- **The DE program has been successful but can be improved.**
- **Changed circumstances merit changes to the DE program.**
 - **Improved capital markets reduce the need for large incumbent carrier support of designated entities in order for them to be able to raise capital.**
 - **Consolidation has created a class of nationwide carriers holding 90% of all customers who should not be further advantaged by gaining access to bidding discounts.**
- **MetroPCS agrees with the proposed changes to the DE rules set forth in the *FNPRM*.**
 - **Excluding large national carriers from participating with DEs in region is justified; DEs affiliated with such carriers would not innovate or act as new entrants.**
 - **The Commission should broadly and explicitly define “material relationships”.**
 - **The size test proposed by the Commission draws a rational distinction between the nationwide carriers and the non-nationwide carriers.**
- **Large non-wireless companies should not be precluded from investing in DEs.**

MetroPCS Supports the Proposed Changes to the DE Program (con't)

- **The Commission should make procedural changes to assist DEs.**
- **The FCC should make changes to the DE program before conducting the AWS auction.**
 - **It is in the public interest to have the new rules apply to this major auction**
 - **If the rules are not finalized in advance of the auction, participation by *bona fide* DEs will be deterred.**

Conclusion

- **It is essential to carriers such as MetroPCS that the auction procedures and DE rule changes be settled at least 60 days before MetroPCS must finalize its AWS plans**
 - **MetroPCS will need this time to determine whether to invest in a Designated Entity in the AWS Auction.**
 - **MetroPCS will need to raise money in the capital markets to participate in the AWS Auction and uncertainty in the auction rules will inhibit its ability to do so.**