

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
 )  
Auction of Advanced Wireless Services ) AU Docket No. 06-30  
Licenses Scheduled for June 29, 2006 )  
 )

To: The Wireless Telecommunications Bureau

**REPLY COMMENTS OF THE  
BLOOSTON RURAL AWS COALITION**

In response to the *Public Notice* issued by the FCC Wireless Bureau (the “Bureau”) announcing the June 29, 2006 starting date for the 1.7 – 2.1 GHz Advanced Wireless Services (“AWS-1”) spectrum auction (“Auction No. 66”) and seeking comment on certain auction-specific procedures, the law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP (“Blooston”) respectfully submits these reply comments on behalf of the rural telephone companies, rural telephone cooperatives, rural telephone affiliates and other small businesses listed in Attachment A (the “Blooston Rural AWS Coalition” or “Blooston Coalition”).

In addition to members of the Blooston Rural AWS Coalition, a broad range of commenters in AU Docket No. 06-30 (including both small and larger businesses) have urged the Bureau to conduct a single auction of AWS-1 licenses using standard simultaneous multiple-round (“SMR”) format; to refrain from the use of combinatorial (or “package”) bidding; and to provide full disclosure of bidders’ license selections, upfront payments and round-by-round results. The record also shows that there will be far more participation in the AWS-1 auction by rural telephone companies and other Designated

Entities (“DEs”), and bidding activity will be far more robust (resulting in a more accurate valuation of rural spectrum and reducing the likelihood that licenses will be left unsold), if the Bureau significantly reduces the upfront payment and minimum opening bid amounts for A-Block CMA licenses. The Blooston Coalition strongly believes that the adopting a reduced upfront payment/minimum opening bid of \$0.01 per MHz-POP for RSA licenses and \$0.02 per MHz-POP for MSA licenses sets a proper balance between the relative size and valuation of the two and would encourage broad participation in Auction No. 66 by rural telephone companies and other *bona fide* DEs.

**I. Package Bidding is Far Too Complex and Would Unduly Prejudice Small and Regional Bidders**

A significant majority of commenters in this proceeding have urged the Bureau to refrain from using any type of package bidding in the AWS-1 auction. The AWS-1 auction is too large, complex and significant for the Commission to introduce any such major innovation<sup>1</sup> and it threatens to create a “threshold problem” for small, rural and minority-owned businesses that are only interested in acquiring individual licenses or licenses in discrete portions of the country.<sup>2</sup> With nearly seventeen million possible bidding packages (this considering only 24 REAG licenses), the Bureau’s proposal is too much to manage for even the nation’s most sophisticated potential bidders, and this problem would only be compounded by the inclusion of 734 CMA licenses. In addition, conducting two auctions will result in unnecessary confusion and expense, which ultimately will harm small and rural bidders.<sup>3</sup> The Bureau should therefore conduct a single auction of AWS-1 licenses using its standard SMR auction format.

---

<sup>1</sup> See, e.g., Comments of T-Mobile USA, Inc. (“T-Mobile Comments”) at p.4

<sup>2</sup> Comments of Sprint Nextel Corporation (“Sprint Nextel Comments”) at pp. 2-4

<sup>3</sup> Comments of Rural Telecommunications Group, Inc. (“RTG Comments”) at p. 7

As commenter Alltel Corporation so aptly states, “Auction No. 66 should not be treated as an experiment based on economic theory.”<sup>4</sup> Instead, the Blooston Commenters urge the Commission to utilize tried-and-true SMR auction procedures that have worked in dozens of previous FCC auction proceedings and with which potential bidders are already familiar.

## **II. Anything Less than Full Disclosure of Bids and Bidder Identities May Harm Designated Entities**

The Blooston Coalition agrees with a majority of commenters who believe that full disclosure of the bids and bidders in each round, as well as their initial and ongoing bid eligibility, promotes the legitimate needs of bidders. Aside from Verizon, the only other commenters that appear to be in favor of the Bureau’s “blind bidding” proposal are economists and consultants. Small businesses and rural telephone companies cannot afford to retain the services of one of a handful of experts in this arcane discipline, and this puts them at an even further disadvantage.

Along with all of the small businesses and rural telephone companies that filed comments, T-Mobile urges the Commission to conduct the AWS auction “with full disclosure of bidders’ license selections and upfront payments prior to auction commencement, and bidder identities and their bid amounts at the end of each round.”<sup>5</sup> And T-Mobile correctly points out that an extremely serious problem could arise if a confidentiality leak occurred during the auction. Should a leak occur, and this would be difficult to prevent over the six weeks or longer that the AWS-1 auction could take, the Commission may be required to cancel the auction results and to conduct a new auction at a

---

<sup>4</sup> Comments of Alltel Corporation (“Alltel Comments”) at p. 3.

<sup>5</sup> T-Mobile Comments at p. 5.

later date. Companies that are actually harmed or that perceive they were harmed would then have every incentive to litigate, which could delay the issuance of licenses and the availability of the AWS spectrum, even for those companies and license markets that were in no way impacted by the leak. Regardless of whether a challenger is likely to succeed, the litigation would cause substantial delays.

Potential bidders would not only be harmed directly by the Bureau’s “blind bidding” proposal, but, as the joint comments of Columbia Capital, LLC and MC Venture Partners point out, “[t]he financial markets are likely to abhor this blackout of information, which again will have a chilling effect on investment and access to follow-on capital.”<sup>6</sup> The Blooston Commenters agree with Columbia/MC that the interests of small and very small businesses – who depend upon having access to capital markets – are likely to be disadvantaged the most by this result.

In this large, high-stakes auction with billions of dollars at risk (not to mention the spectrum resources important to the survival of many *bona fide* small businesses and DEs), smaller players would be disproportionately harmed by concealing the standard disclosures on bids and bidders.<sup>7</sup> Even larger carriers like U.S. Cellular are of the opinion that the AWS-1 auction should not be tainted by the uncertainties and anti-small-bidder bias of these proposed new rules for any portion of this spectrum.<sup>8</sup>

---

6 Joint Comments of Columbia Capital, LLC and MC Venture Partners (“Columbia/MC Comments”) at p. 7.

7 Comments of U.S. Cellular Corporation (“US Cellular Comments”) at p. 7.

8 *Id.*

### **III. More DEs Will Participate in the AWS-1 Auction and Bidding Will Be Far More Robust if the Bureau Reduces its Required Upfront Payment and Minimum Opening Bid for CMA Licenses**

A majority of commenters who addressed the issue of upfront payments have urged the Bureau to adopt reduced upfront payment and minimum opening bid requirements for the A-Block CMA licenses available for bidding in FCC Auction No. 66. Rural carriers and smaller businesses all agree that the upfront payments and minimum opening bids should be discounted substantially. The Blooston Coalition urges that the upfront payment and minimum opening bid for RSA licenses (*i.e.*, a subset of the CMA licenses) be reduced to \$0.01 per MHz-POP; RTG suggested that the Commission adopt an upfront payment formula of \$0.02 per MHz-POP for all A-Block AWS licenses (*i.e.* all CMA licenses)<sup>9</sup>; and Wirefree Partners III, LLC suggest a reduced upfront payment of \$0.025 per MHz-POP for all A- and B-Block AWS licenses and no reserve price.<sup>10</sup> The Communications Advisory Council does not suggest any specific amount, but it stresses that upfront payments and minimum bids required of DEs should be smaller than that required of larger entities in order to promote DE participation.<sup>11</sup>

The Blooston Coalition suggests that adopting a reduced upfront payment/minimum opening bid of \$0.01 per MHz-POP for RSA licenses and \$0.02 per MHz-POP for MSA licenses sets a proper balance between the relative size and valuation of the two, and would encourage broad participation in Auction No. 66 by rural telephone companies and other *bona fide* DEs. However, the Coalition believes that any reduction into the range suggested by the rural commenters in this proceeding would better serve the public interest than the proposed “one size fits all” nickel per MHz-pop formula. Moreover, the Blooston

---

<sup>9</sup> RTG Comments at pp. 6-7.

<sup>10</sup> Comments of Wirefree Partners III, LLC (“Wirefree Comments”) at p. 1.

<sup>11</sup> CAC Comments at p. 6.

Coalition agrees with CAC that the upfront payment and minimum opening bid amount for *bona fide* DEs should be smaller than that required for larger licenses, because this will encourage broad DE participation.

CAC is correct in its observation that reducing minimum bids will not harm the public. If the market value of a RSA license exceeds the reduced minimum bid suggested by the commenters in this proceeding, the bid price will rise to meet the market value.<sup>12</sup> If not, the public interest will be served by allowing DEs to place bids that reflect the actual market value, to win the license, and to deploy new services.<sup>13</sup> The public interest will not be served if RSA licenses are auctioned for a minimum bid that may exceed license value, resulting in unsold licenses, a delay in deployment of the spectrum and the need for holding another auction at the taxpayers' expense.

#### **IV. The Bureau Should Take Additional Steps to Ensure that AWS-1 Licenses are Disseminated to Designated Entities**

The Blooston Coalition agrees with commenters such as CAC that the Bureau should consider establishing more liberal minimum activity rules for DEs in order to ensure that they do not unnecessarily lose eligibility necessary to bid for and win rural AWS-1 licenses.<sup>14</sup> DEs should also be provided with additional activity waivers to promote their continued participation during the latter stages of the auction, where it is imperative for smaller businesses with limited resources to have the ability to take a “time out” and to size up their options without loss of eligibility.

---

<sup>12</sup> If the reduced minimum bids place the RSA licenses below market value, it will take only a few rounds for the bidding on such licenses to return to actual market value. This would not increase the length or expense of Auction No. 66. The Commission can take official notice that auctions are rarely “held open” by bids on rural licenses. Instead, bidding on rural licenses usually reaches equilibrium relatively early in the auction, and the auction is held open by the exchange of bids on larger licenses.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at p. 7.

## CONCLUSION

The Blooston Coalition and its members thank the Bureau for this opportunity to comment on its proposed AWS-1 auction procedures and urge the Bureau to adopt auction policies and procedures that not only ensure the ability of rural telephone companies and other *bona fide* DEs to participate in Auction No. 66, but that ensure the dissemination of AWS-1 licenses to these entities.

Respectfully Submitted,

**THE BLOOSTON RURAL AWS COALITION**

/s/

By: John A. Prendergast  
D. Cary Mitchell

Their Attorneys  
Blooston, Mordkofsky, Dickens,  
Duffy & Prendergast  
2120 L Street, NW, Suite 300  
Washington, DC 20037  
(202) 659-0830

Dated: February 28, 2006

## The Blooston Rural AWS Coalition

<b>3G Comm, LLC</b>	<i>Appleton, WI 54915</i>
<b>Advanced Communications Technology</b>	<i>Sheridan, WY 82801</i>
<b>Alpine Communications</b>	<i>Elkader, IA 52043</i>
<b>Cameron Communications, LLC</b>	<i>Sulphur, LA 70664</i>
<b>Cascade Communications Co.</b>	<i>Cascade, IA 52033</i>
<b>CC Communications</b>	<i>Fallon, NV 89407</i>
<b>Chibardun Telephone Cooperative, Inc.</b>	<i>Cameron, WI 54822</i>
<b>Clear Lake Telephone</b>	<i>Clear Lake, IA 50428</i>
<b>Consolidated Telcom</b>	<i>Dickinson, ND 58601</i>
<b>Copper Valley Wireless</b>	<i>Valdez, AK 99686</i>
<b>Dubois Telephone Exchange</b>	<i>Dubois, WY 82513</i>
<b>East Buchanan Telephone Cooperative</b>	<i>Winthrop, IA 50687</i>
<b>Farmers and Business Mens' Telephone Co.</b>	<i>Wheatland, IA 52777</i>
<b>Farmers Mutual Telephone Co.</b>	<i>Nora Springs, IA 50458</i>
<b>Grand Mound Cooperative</b>	<i>Grand Mound, IA 52751</i>
<b>Interstate Telecommunications Cooperative, Inc.</b>	<i>Clear Lake, SD 57226</i>
<b>Kennebec Telephone Co.</b>	<i>Kennebec, SD 57544</i>
<b>Lost Nation-Elwood Telephone Co.</b>	<i>Lost Nation, IA 52254</i>
<b>Marne &amp; Elk Horn Telephone Co.</b>	<i>Elk Horn, IA 51531</i>
<b>Miles Cooperative Telephone</b>	<i>Miles, IA 52064</i>
<b>Nucla-Naturita Telephone Company</b>	<i>Nucla, CO 81424</i>
<b>Premier Communications</b>	<i>Sioux Center, IA 51250</i>
<b>RT Communications</b>	<i>Worland, WY 82401</i>
<b>South Central Utah Telephone</b>	<i>Escalante, UT 84726</i>
<b>South Slope Cooperative Communications Co. *</b>	<i>North Liberty, IA 52317</i>
<b>UBTA-UBET Communications</b>	<i>Roosevelt, UT 84066</i>
<b>Van Buren Telephone Co., Inc.</b>	<i>Keosauqua, IA 52565</i>
<b>Venture Communications Corp.</b>	<i>Highmore, SD 57345</i>
<b>Webster-Calhoun Cooperative Telephone Assn.</b>	<i>Gowrie, IA 50543</i>
<b>Winnebago Cooperative Telephone Assn.</b>	<i>Lake Mills, IA 50450</i>
<b>Yadkin Valley Telephone Membership Corp.</b>	<i>Yadkinville, NC 27055</i>

\* did not file initial comments but supports the individual rural commenters and joins in the Blooston Rural AWS Coalition reply.