

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

In the Matter of)
)
Implementation of the Commercial Spectrum) WT Docket No. 05-211
Enhancement Act and Modernization of the)
Commission’s Competitive Bidding Rules and)
Procedures)
)

To: The Commission

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

In response to the *Further Notice of Proposed Rulemaking* issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceeding,¹ and after review of the initial comments filed in WT Docket No. 05-211, the law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP (“Blooston”) respectfully submits these reply comments on behalf of the forty (40) rural telephone companies, rural telephone cooperatives, rural telephone affiliates and other small businesses listed in Attachment A (the “Blooston Rural DE Coalition” or “Blooston Coalition”).

The Blooston Rural DE Coalition and its individual members support generally the Commission’s efforts to modify its Part 1 competitive bidding rules to limit the availability of bidding credits in its auctions to *bona fide* designated entities (“DEs”). The FCC has a statutory obligation to promote economic opportunity and to disseminate licenses among a wide variety of applicants, including small businesses, rural telephone companies and other

¹ In the Matter of Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures, WT Docket No. 05-211, *Further Notice of Proposed Rule Making*, FCC 06-8 (*rel.* February 3, 2006) (“*Further Notice*”).

DEs.² Moreover, the Commission has a statutory obligation to ensure that small businesses, rural telephone companies and other DEs are given the opportunity to participate in the provision of spectrum-based services.³ These obligations are not fulfilled by merely giving DEs opportunity to bid in the FCC's auctions, but by giving them a realistic opportunity to become successful bidders and to obtain spectrum licenses. Modifying the DE eligibility rules to ensure that bid credits and related benefits go only to the intended beneficiaries is an important step. However, the single most effective way for the Commission to fulfill these statutory mandates, as well to ensure the equitable distribution of licenses and services among geographic areas,⁴ is by continuing to use a mix of geographic licenses in all auctions and ensuring that at least one spectrum block in each auction is allocated on an MSA/RSA basis.

As members of the Blooston Coalition have consistently told the Commission, RSA license areas ensure that these licenses will be acquired by the entities that place the highest value upon serving rural areas. Rural telephone companies have a long and proven record of high-quality service that has been responsive to the needs of rural customers. If license sizes are small enough for rural telephone companies to acquire them with their limited resources, and the availability of bidding credits can be limited to *bona fide* DEs, wireless services will be more readily deployed in rural America, consistent with the rural mandates of the Communications Act.

² See 47 U.S.C. § 309(j)(3)(B).

³ See 47 U.S.C. § 309(j)(4)(D).

⁴ See 47 U.S.C. § 309(j)(4)(D).

Bearing these points in mind, the Blooston Rural DE Coalition offer the following reply comments on the Council Tree DE proposals:

I. The Commission Should Limit Eligibility for DE Benefits to Bidders That Have No Material Financial Relationship to a Large Incumbent Wireless Carrier

The Blooston Coalition and its members generally support the Commission’s proposal to restrict the award of bidding credits or other small business benefits to an otherwise qualified designated entity where it has a “material relationship” with a “large in-region incumbent wireless service provider.” However, as noted in comments filed by the National Telecommunications Cooperative Association, RTG/OPASTCO and others,⁵ the Commission must be careful to target only real abuse and it must not put rural carriers in the position of having to choose between the availability of bidding credits and the ability to enter into legitimate business relationships with nationwide wireless carriers. In this regard, the FCC should avoid adopting an overly expansive definition of what constitutes a “material relationship” to avoid inadvertently excluding small businesses and rural telephone companies from the DE benefits to which they are entitled.

Not all relationships between small and rural wireless providers and nationwide carriers are undesirable or inconsistent with the policies that underlie the DE program. As NTCA points out, many rural telephone companies provide wireless services to rural consumers, and many have developed relationships with larger carriers as a means of better serving their customers. As it stands, the Commission’s proposed restriction would appear to include any management, joint marketing or trademark licensing arrangements,

⁵ See, e.g., Comments of The National Telecommunications Cooperative Association (“NTCA Comments”), *passim*; Comments of the Rural Telecommunications Group, Inc. and the Organization for the Promotion and Advancement of Small Telecommunications Companies (“RTG/OPASTCO Comments”) at pp. 4-5.

regardless of how the arrangements affect the financing, management or control of the otherwise qualified designated entity. Rural wireless carriers also rely upon roaming, resale and other intercarrier agreements to offer rural consumers the benefits of inclusive long-distance service and/or access to a nationwide calling network. Indeed, in many cases, it is impossible for a small carrier to compete effectively if it does *not* have some sort of relationship with a large incumbent.⁶ Rural carriers must be able to offer their customers a service that will continue to work as those rural customers travel outside of their sparsely populated communities. In addition, rural carriers can offer a more viable service if they can co-brand with larger carriers, offer common technical platforms, and benefit from volume equipment discounts (which are essential when building wireless networks in high cost rural areas). The Commission must take these types of arrangements into account in revising its DE eligibility rules.

The Blooston Coalition believes that the greatest harms can be prevented and the integrity of the Commission's DE program can be restored if the type of material relationship targeted under the revised rules is a "material financial relationship" with a large in-region incumbent wireless service provider. In the vast majority of cases, large carriers do not finance or control the wireless operations of rural telephone companies, nor do they influence decisions regarding the rural telco's acquisition of spectrum.⁷ The FCC's policies and rules should therefore seek to promote rural carriers' access to bidding credits and spectrum resources, instead of seeking to "block" small business and rural telco access

⁶ RTG/OPASTCO Comments at p. 4.

⁷ NTCA Comments at p. 4.

to bid credits and other DE benefits as a result of having entered (or planning to enter) into other types of operating arrangements with large wireless carriers.

II. The Commission Must Reject Commenters Suggestions That In-Region Wireline Companies Should Be Restricted from Partnering With DEs or Otherwise Participating in the Auction for AWS Licenses

Joint Comments filed by National Hispanic Media Coalition, The Office of Communication of the United Church of Christ, Inc. and Media Alliance (“Media Alliance”) suggest that the Commission should consider safeguards for in-region wireline companies and question whether wireline in-region incumbents “should be permitted to even participate in the AWS auction, let alone whether they should be allowed to partner with designated entities and receive a 25% bidding credit.”⁸ Media Alliance goes on to claim that “every AWS license won by an in-region incumbent wireline provider translates into a loss of a direct competitor.”⁹ The Commission should reject these assertions about the potential anticompetitive impacts of convergence, especially with respect to rural telephone companies and cooperatives. Rural telephone companies are mentioned throughout Section 309(j) of the Communications Act as the intended beneficiaries of the very DE benefits that Media Alliance urges the Commission to restrict. Far from being anticompetitive, rural wireline carriers have proven to be a source of reliable, state-of the art telecommunications services and are often the only business that has demonstrated a true commitment to rural communities and consumers they serve.

Many members of the Blooston Rural DE Coalition have been involved in deploying advanced technologies, including fiber optic rings and advanced wireless services, in rural

⁸ Media Alliance Comments at p. 12.

⁹ *Id.* at p. 13.

states such as Iowa, Minnesota, Montana, New Mexico, North Dakota and South Dakota. However, it is still necessary to accomplish the “last mile” deployment to the subscriber. In remote areas, this last mile is often in fact several miles, making wireless technology an attractive or even necessary solution. The availability of AWS spectrum in Auction No. 66, and smaller geographic licenses that correspond to RSAs, provide rural wireline carriers with a cost-effective means of bridging that “last mile” to serve rural communities and households. The availability of meaningful bid credits will allow rural telephone companies and other *bona fide* DEs to conserve their scarce capital resources for use in improving and expanding rural network coverage and advanced wireless service offerings.

CONCLUSION

The Blooston Coalition and its members thank the Commission 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 licenses to these entities.

Respectfully Submitted,

THE BLOOSTON RURAL DE COALITION

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The Blooston Rural DE Coalition

3G Comm, LLC	<i>Appleton, WI 54915</i>
3 Rivers Communications	<i>Fairfield, MT 59436</i>
Advanced Communications Technology	<i>Sheridan, WY 82801</i>
Alliance Communications	<i>Garretson, SD 57030</i>
Alpine Communications	<i>Elkader, IA 52043</i>
Cameron Communications, LLC	<i>Sulphur, LA 70664</i>
Cascade Communications Co.	<i>Cascade, IA 52033</i>
CC Communications	<i>Fallon, NV 89407</i>
Chibardun Telephone Cooperative, Inc.	<i>Cameron, WI 54822</i>
Clear Lake Telephone	<i>Clear Lake, IA 50428</i>
Consolidated Telcom	<i>Dickinson, ND 58601</i>
Copper Valley Wireless	<i>Valdez, AK 99686</i>
Dickey Rural Networks	<i>Ellendale, ND 58436</i>
Dubois Telephone Exchange	<i>Dubois, WY 82513</i>
East Buchanan Telephone Cooperative	<i>Winthrop, IA 50687</i>
Eastern Colorado Wireless, LLC	<i>Wiggins, CO 80654</i>
Farmers and Business Mens' Telephone Co.	<i>Wheatland, IA 52777</i>
Farmers Mutual Telephone Co.	<i>Nora Springs, IA 50458</i>
Golden West Telecommunications	<i>Wall SD 57790</i>
Grand Mound Cooperative	<i>Grand Mound, IA 52751</i>
Interstate Telecommunications Cooperative, Inc.	<i>Clear Lake, SD 57226</i>
Kennebec Telephone Co.	<i>Kennebec, SD 57544</i>
Lost Nation-Elwood Telephone Co.	<i>Lost Nation, IA 52254</i>
Marne & Elk Horn Telephone Co.	<i>Elk Horn, IA 51531</i>
Miles Cooperative Telephone	<i>Miles, IA 52064</i>
Nucla-Naturita Telephone Company	<i>Nucla, CO 81424</i>
Peñasco Valley Telecommunications	<i>Artesia, NM 88210</i>
Polar Communications Mutual Aid Corporation	<i>Park River, ND 58270</i>
Premier Communications	<i>Sioux Center, IA 51250</i>
Red River Rural Telephone Association	<i>Abercrombie, ND 58001</i>
RT Communications	<i>Worland, WY 82401</i>
South Central Utah Telephone Association	<i>Escalante, UT 84726</i>
South Slope Cooperative Communications Co.	<i>North Liberty, IA 52317</i>
UBTA-UBET Communications	<i>Roosevelt, UT 84066</i>
Valley Telecommunications Cooperative Assn.	<i>Herreid, SD 57632</i>
Van Buren Telephone Co., Inc.	<i>Keosauqua, IA 52565</i>
Venture Communications Corp.	<i>Highmore, SD 57345</i>
Webster-Calhoun Cooperative Telephone Assn.	<i>Gowrie, IA 50543</i>
Winnebago Cooperative Telephone Assn.	<i>Lake Mills, IA 50450</i>
Yadkin Valley Telephone Membership Corp.	<i>Yadkinville, NC 27055</i>