

**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

**COUNCIL TREE COMMUNICATIONS, INC.
MOTION FOR EXTENSION OF COMMENT AND
REPLY COMMENT DEADLINES**

Council Tree Communications, Inc. (“Council Tree”), pursuant to Section 1.46 of the Commission’s Rules, 47 C.F.R. § 1.46, respectfully moves that the Commission extend the deadlines for the submission of comments and reply comments in response to the *Second Further Notice of Proposed Rule Making*, FCC 06-52, in the captioned proceeding (“*Second FNPRM*”). Specifically, Council Tree urges the Commission to extend the deadline for the submission of comments in response to the *Second FNPRM* to a date that is at least one month after the post-Auction 66 downpayment deadline and extend the deadline for the submission of reply comments to a date that is at least one month after the new comment deadline.

In the *Second FNPRM*, the Commission requests comment on whether it “should modify further [its] general competitive bidding rules governing benefits

reserved for designated entities.”^{1/} The *Second FNPRM* accompanied the *Second Report and Order* in the captioned proceeding (“*Second Report and Order*”) in which the Commission modified its rules concerning the eligibility of applicants and licensees for designated entity benefits but did not address its tentative conclusion that it “should restrict the award of designated entity benefits to an otherwise qualified applicant where it has a ‘material relationship’ with a ‘large in-region incumbent wireless service provider.”^{2/} The *Second FNPRM* seeks comment on a number of issues associated with that tentative conclusion.

Though the *Second FNPRM* was released on April 25, 2006, notice thereof was not published in the Federal Register until June 21, 2006.^{3/} As a result, comments in response to the *Second FNPRM* are currently due to be filed by August 21, 2006 and reply comments are due to be filed by September 19, 2006.^{4/} It is this schedule that warrants the extension of the filing deadlines requested herein.

First, Auction 66, the Commission’s auction of advanced wireless services licenses, is scheduled to begin on August 9, 2006.^{5/} Parties that have applied to participate in Auction 66 are currently subject to the Commission’s prohibition of

^{1/} *Second FNPRM* at ¶ 53 (footnotes omitted).

^{2/} *See Second Report and Order* at ¶ 2 (footnote omitted).

^{3/} *See* 71 Fed. Reg. 35,594 (2006).

^{4/} *See id.*

^{5/} *See Auction of Advanced Wireless Services Licenses Rescheduled for August 9, 2006, Public Notice*, FCC 06-71, at 2 (rel. May 19, 2006).

collusion, which, generally speaking, prohibits applicants for licenses in any of the same geographic license areas from disclosing to each other in any manner the substance of their own, or each other's, bids or bidding strategies until after the post-auction downpayment deadline.^{6/}

One effect of this prohibition is to render many such applicants unwilling to discuss matters relating to the *Second FNPRM* for fear that doing so could unintentionally reveal one's bids or bidding strategies for Auction 66.^{7/} Likewise, many such applicants may forego commenting at all out of an abundance of caution with respect to information contained in their public comments and reply comments. The *Second FNPRM* asks for comment on important issues relating to the Commission's spectrum auction policy and designated entity program. A record developed while interested parties feel limited in their ability to participate actively in the proceeding *because* of an ongoing spectrum auction will be inadequate for Commission action.

Likewise, the current deadline for filing comments in response to the *Second FNPRM* falls just eight business days after the scheduled start of Auction 66. Auction 66 participants cannot reasonably be expected to take their attention away from bidding in the auction to draft detailed comments on the issues raised in the

^{6/} See 47 C.F.R. § 1.2105(c).

^{7/} As a result of the prohibition of collusion, many bidders maintain a policy of conducting no discussions and making no submissions that could, even unintentionally, have the effect of revealing one's bids or bidding strategies.

Second FNPRM. This is particularly important for smaller businesses, who may lack the resources meaningfully to address the important matters raised in the *Second FNPRM* while simultaneously bidding in the auction. The Commission should not require any applicant, particularly these smaller businesses, to choose between bidding in Auction 66 and participating in response to the *Second FNPRM* in a meaningful way.

Finally, since the *Second FNPRM* asks for comment on issues relating to the Commission's spectrum auction policy and designated entity program, interested parties should have the ability to include data and experiences from Auction 66 in their comments and reply comments filed in response. At the moment, however, the deadline for the submission of comments in response to the *Second FNPRM* falls eight business days after the scheduled start of Auction 66. The record before the Commission will be more robust if the deadlines for the submission of comments and reply comments in response to the *Second FNPRM* permit parties to take the results of Auction 66 into account.

For these reasons, Council Tree urges the Commission to extend the deadline for the submission of comments in response to the *Second FNPRM* to a date that is at least one month after the post-Auction 66 downpayment deadline and to extend the deadline for the submission of reply comments to a date that is at least one month after the new comment deadline. This additional time will permit interested parties to participate actively and meaningfully in the instant proceeding, which

will help to improve the quality of the record before the Commission. No party will be disadvantaged by such an extension, and all parties will benefit by the opportunity to comment on the important matters raised in the *Second FNPRM*.

CONCLUSION

For these reasons, Council Tree urges the Commission to extend the deadline for the submission of comments in response to the *Second FNPRM* to a date that is at least one month after the post-Auction 66 downpayment deadline and extend the deadline for the submission of reply comments to a date that is at least one month after the new comment deadline.

Respectfully submitted,

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