

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762)	
and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Revision of the Commission's Rules to Ensure)	
Compatibility with Enhanced 911 Emergency)	CC Docket No. 94-102
Calling Systems)	
)	
Section 68.4(a) of the Commission's Rules)	
Governing Hearing Aid-Compatible)	
Telephones)	WT Docket No. 01-309
)	
Biennial Regulatory Review – Amendment of)	
Parts 1, 22, 24, 27, and 90 to Streamline and)	WT Docket No. 03-264
Harmonize Various Rules Affecting Wireless)	
Radio Services)	
)	
Former Nextel Communications, Inc.)	
Upper 700 MHz Guard Band)	WT Docket No. 06-169
Licenses and Revisions to Part 27 of)	
the Commission's Rules)	
)	
Implementing a Nationwide,)	
Broadband, Interoperable Public)	PS Docket No. 06-229
Safety Network in the 700 MHz)	
Band)	
)	
Development of Operational, Technical and)	WT Docket No. 96-86
Spectrum Requirements for Meeting Federal,)	
State and Local Public Safety)	
Communications Requirements Through the)	
Year 2010)	

REPLY COMMENTS OF UNITED STATES CELLULAR CORPORATION

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June 4, 2007

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REPLY COMMENTS OF UNITED STATES CELLULAR CORPORATION

United States Cellular Corporation ("USCC"), by its attorneys, respectfully submits its reply comments in response to the Commission's Report and Order ("R&O") and Further Notice of Proposed Rulemaking ("Further Notice"), FCC 07-72 (released April 27, 2007) in the above captioned proceedings addressing rules governing wireless licenses in the 698-806 MHz Band (herein, the "700 MHz Band").

Introduction and Summary

Numerous commenters have described the important contributions which local, rural and regional providers have made in expanding wireless services into rural and underserved areas. The auction of 700 MHz spectrum will provide a unique opportunity for such companies to enter new markets, expand coverage in existing markets, and deploy advanced services.

The active participation of smaller bidders in Auction #66 was a direct result of the Commission's decision to provide fair and balanced opportunities in the AWS-1 band plan, open and transparent auction procedures, flexible performance standards, and open eligibility. The Commission has an opportunity to achieve a similar result in the 700 MHz auction if it adheres to these principles again. But this goal could be compromised if the Commission adopts unnecessary, complex and unproven package bidding procedures, if it imposes anonymous bidding so that vital information is withheld from smaller bidders, or if it imposes licensing conditions which are effectively set aside tailored to individual companies' business plans.

We believe that a fair and balanced band plan should include at least four blocks which are smaller than REAGs. The Commission should adopt its Lower band proposal for EAs in the A Block and CMAs in the B Block and should adopt its Upper band Proposal #2. We also support Proposal #5 as an alternative to Proposal #2, provided it is implemented without package bidding.

We continue to strongly oppose the use of package bidding methodologies in the auction of 700 MHz spectrum because of their bias and complexity and the lack of real world experience with package bidding methodologies. We agree with the many small, regional and even national providers who described in their comments how they would be harmed by the complexity and uncertainty created by any SMR-PB auction combining for the first time simultaneous multiple-round and combinatorial or package procedures in a single auction. We strongly disagree with the few commenters supporting SMR-PB. They have failed to show how adoption of package bidding is justified because of a serious exposure threat and they overlook the clear bias such procedures would introduce in favor of national players.

We agree with numerous commenters who state that open bidding provides bidders, especially small and regional ones, with important real-time information that helps them make appropriate valuation decisions and supports confident and active participation in the spectrum auction. Withholding this information will unfairly handicap small and regional bidder participation in the auction. Uncertainties, such as the timing of technology development, what specific services they will support, what the likely costs will be, what operating characteristics will emerge, and whether established market leaders will drive technology development, take on heightened importance in valuation decisions where emerging technologies are involved, not less as claimed by PISC. We particularly object to the use of anonymous bidding, if applied to an auction involving package bidding, because it magnifies the already unfair burden that a package auction places on smaller bidders (i.e., the threshold problem).

USCC continues to oppose the geographic performance requirements proposed in the Further Notice. Those requirements, coupled with "keep what you use" rules, would constitute an unwarranted and unwise reversal of decades of evolution in FCC rules and policies toward

flexible buildout requirements. The comments provide additional and powerful arguments against turning back the clock regarding performance standards. They show that the proposed changes would promote the construction of lower quality, less advanced networks than would be possible with more flexible requirements. The problem of market access for smaller and rural carriers will be solved by the creation of more license blocks with smaller service areas than was originally contemplated. The existing "substantial service" performance standard should be left in place.

The FCC should not adopt the Frontline proposal. It is inconsistent with other spectrum allocations in this proceeding and would constitute undesirable company specific rulemaking. Moreover, Frontline's own comments demonstrate that its proposal consists of over optimistic deployment promises and implausible assumptions about how its wholesale network will function. The Frontline proposal is too great a risk for the FCC to take.

Lastly, the comments have provided no valid reason for the FCC to impose any eligibility restrictions in the 700 MHz auction. The current eligibility standard has been responsible for wireless growth and dynamism and no evidence has been submitted to the FCC in this proceeding which would support an end to that policy. If the FCC is concerned about undue concentration of spectrum, in particular markets, it could consider spectrum "caps."

Discussion

1. The Commission Should Adopt a Balanced Approach to Selection of the Geographic Sizes, Spectral Sizes and Locations of Channel Blocks in its Final Band Plan.

In our Comments we asked the Commission to adopt its Lower Band Plan proposal¹ to assign EAs as the geographic area for licenses in the existing A Block and CMAs as the geographic

¹ *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 06-150, FCC 07-72, ¶¶ 178-181 (released April 27, 2007).

service area for licenses in the existing B Block. We also supported two of the Commission's Upper Band proposals² to adopt multiple EA and/or CMA licensing opportunities in the Upper Band Plan; i.e. Proposals #2 and #5 (but not package bidding).

Lower Band Plan Proposal.

Numerous comments, including those of Alltel Corporation, Aloha Partners, LP, AT&T Inc., Blooston Rural Carriers, Cellular South Licenses, Inc., Centennial Communications Corporation, Central Wisconsin Communications, LLC, Dobson Communications Corporation, Frontier Communications, Leap Wireless International, Inc., MetroPCS Communications, Inc., National Telecommunications Cooperative Association, Rural Cellular Association, Union Telephone Company and Wireless Internet Service Provider Association, supported adoption of this proposal. Based on this widespread support from such a diverse group of national, regional and local providers, the record clearly requires the Commission to adopt this proposal to promote the statutory goals for this Auction.

Upper Band Plan Proposals.

(a) Proposal #1 - We continue to oppose adoption of this proposal because it limits access to upper band spectrum opportunities to extremely large carriers with the financial resources to deploy networks on such a large scale. PISC argues that the Commission should adopt Proposal #1 because it will facilitate creation of national providers and because smaller providers will not be harmed since they can bid on Lower Band spectrum.³ We strongly disagree. There are only two EA/CMA license blocks in the Lower Band. Two blocks are insufficient to meet the needs of smaller bidders who are effectively foreclosed from bidding on spectrum allocated over

² *Id.* at ¶¶ 183-206.

³ Comments of Ad Hoc Public Interest Spectrum Coalition (PISC), WT Docket No. 06-150, pp. 35-36 (filed May 23, 2007).

REAGs. But the same is not true of larger bidders who, if they are unsuccessful in acquiring REAG licenses, still have realistic opportunities to aggregate EA and/or CMA licenses by outbidding smaller bidders. The Commission should not adopt any band plan which prevents rural and smaller bidders from having sufficient bidding opportunities to meet their reasonable spectrum needs in this most important auction.

(b) Proposal #2 - We support adoption of this proposal. Numerous regional and local providers, including Aloha, Cellular South, Centennial, Central Wisconsin, Frontier, Leap, MetroPCS, National Telecommunications Cooperative Association ("NTCA"), RCA, RTG, SpectrumCo, Union, and the Wireless Internet Service Provider Association, also support adoption of this proposal. We prefer the option discussed in the Further Notice for two of these three upper blocks to be licensed in adjacent blocks, one on a CMA basis and the other on an EA basis, since this would provide the best balance of local and regional opportunities. We agree with the comments of RTG,⁴ Centennial,⁵ and Frontier⁶ which support expanded CMA licensing in the Upper band.

(c) Proposal #3 - We oppose adoption of this proposal because it limits access to upper band spectrum opportunities to extremely large carriers with the financial resources to deploy networks on such a large scale.

We strongly disagree with the attempts of Access Spectrum, the Coalition for 4G in America and Verizon to create what amounts to a set aside of 20 MHz or more of this spectrum for these few bidders. In effect, they are asking the Commission to adopt rules which will permit them to dominate the 700 MHz auction, the most important auction of unique spectrum which

⁴ Comments of Rural Telecommunications Group, Inc. (RTG), WT Docket No. 06-150, p. 6 (filed May 23, 2007).

⁵ Comments of Centennial Communications Corporation (Centennial), WT Docket No. 06-150, p. 5 (filed May 23, 2007).

⁶ Comments of Frontier Communications (Frontier), WT Docket No. 06-150, pp. 4-5 (filed May 23, 2007).

the Commission will hold for many years. We agree with MetroPCS that "...influencing the outcome of an auction in this heavy handed fashion prior to bidding would be a dangerous and unwise path for the Commission to take."⁷

Regional, rural and local providers have made important contributions to the expansion of availability of advanced services in rural and underserved areas. They deserve the opportunity to bid on licenses which are affordable and geographically aligned with the markets they choose to serve as contemplated in the Commission's statutory directive to disseminate licenses "among a wide variety of applicants, including small businesses, rural telephone companies...."⁸ As we pointed out in response to PISC in our opposition to adoption of Proposal #1 above, the two CMA/EA license blocks in the Lower Band are inadequate to meet the needs of smaller bidders. Large national carriers can easily squeeze smaller bidders out if there are relatively few licenses to bid on. The Commission should not adopt any band plan which prevents rural and smaller bidders from getting bidding opportunities to meet their reasonable spectrum needs in this most important auction. As Chairman Martin stated at the conclusion of Auction #66

"... I am particularly pleased that more than half of the winning bidders were small businesses. I hope many of these smaller companies will fulfill the promise of advanced wireless services in America's underserved and rural areas."⁹

A band plan with ample small license area opportunities encourages diverse auction participation while still providing options for bidders with regional and national footprint needs.

(d) Proposal #4 - We oppose Proposal #4 because, while it does make one additional EA license available, it leaves the large number of potential bidders with localized (CMA) needs

⁷ Comments of MetroPCS Communications, Inc. (Metro), WT Docket No. 06-150, pp. 6-7 (filed May 23, 2007).

⁸ See 47 U.S.C. § U.S.C. § 309(j)(3)(B).

⁹ See FCC News Release, "Statement of Chairman Kevin J. Martin on the Conclusion of Advanced Wireless Services Auction" dated September 18, 2006.

with only one bidding opportunity (assuming adoption of the Commission's Lower 700 MHz proposal).

We disagree with the arguments of AT&T that the mix of REAG and EA licenses under this proposal "... strikes an appropriate balance between the need to encourage economies of scale and scope – which will facilitate nationwide deployment of infrastructure equipment and devices – and the desire to allow prospective bidders to target their bidding to particular, more localized market areas."¹⁰ As we stated regarding Proposal #3, the Commission should not adopt any band plan which prevents rural and smaller bidders from having ample bidding opportunities to meet their reasonable spectrum needs in this most important of all wireless auctions. Under Proposal #4, the two proposed REAGs are unaffordable, oversized and effectively unavailable to smaller bidders. Furthermore, it is highly unlikely that smaller bidders will be able to acquire even the remaining EA license which under this proposal is sandwiched between REAG licenses, because larger bidders interested in one or both of these REAG licenses will have strong incentives to aggregate this EA spectrum.

We share the view of Centennial¹¹ and RCA¹² that the bidding opportunities of smaller bidders would be greatly enhanced if the Commission were to include a CMA block in the Upper band. Specifically, we support RCA's proposal to make the Commission's Proposal #4 "...more equitable"¹³ by making the following changes: an 11 MHz C Block licensed as CMAs, an 11 MHz D Block licensed as EAs, and a 10 MHz E Block licensed as REAGs.

(e) Proposal #5 - For many of the same reasons described above in connection with Proposal #2, we also support Proposal #5 (without package bidding) to license the C Block as an

¹⁰ Comments of AT&T Inc. (AT&T), WT Docket No. 06-150, pp. 6-7 (filed May 23, 2007).

¹¹ Comments of Centennial Communications Corporation (Centennial), WT Docket No. 06-150, p. 5 (filed May 23, 2007).

¹² Comments of Rural Cellular Association (RCA), WT Docket No. 06-150, pp. 16-17 (filed May 23, 2007).

¹³ *Id.* at p. 17.

11 MHz license on an REAG basis, the D Block as an 11 MHz license on an EA basis, and the E Block as a 10 MHz license on an EA basis.

We also support a modification to make one of the three Blocks a CMA Block and to locate this CMA Block adjacent to the EA Block. We agree with RCA,¹⁴ Cellular South¹⁵ and Centennial¹⁶ that the Commission's Proposal #5 would be improved if one of the EA Blocks in this proposal were made CMA into a CMA Block.

2. The Commission Should Not Adopt Package Bidding Procedures Because They Work Solely to the Advantage of Large Bidders and Will Diminish the Participation And/or Aggressiveness of Smaller Bidders.

In our Comments, we described how use of SMR-PB procedures could cause significant threshold "exposure" and strategic complexity problems for smaller bidders because of the combination of SMR and SMR-PB in the same auction. The uncertainty and strategic risk imposed by the use of these complex procedures could deter some bidders from participating in the 700 MHz auction, leading to a less competitive auction, lower auction revenues, and a failure to achieve important statutory policy objectives under Section 309 (j) of the Communications Act.¹⁷

Many smaller and regional providers described in their comments how they would be harmed by the complexity and uncertainty created by any SMR-PB auction. See for example the comments of Aloha, Alltel, Blooston, Cellular South, Leap, MetroPCS, RCA and RTG

¹⁴ Comments of Rural Cellular Association, WT Docket No. 06-150, p. 18 (filed May 23, 2007).

¹⁵ Comments of Cellular South Licenses, Inc. (Cellular South), WT Docket No. 06-150, p. 19 (filed May 23, 2007).

¹⁶ Comments of Centennial Communications Corporation, WT Docket No. 06-150, p. 5 (filed May 23, 2007).

¹⁷ See 47 U.S.C. § 309(j)(3)(A) ... (statutorily directed goals to promote service to rural areas); 47 U.S.C. § 309(j)(3)(A), (4)(C)(iii) ... (promotion of investment in and the rapid deployment of new technologies and services); and 47 U.S.C. § 309(j)(3)(B), (4)(C) ... (avoidance of the excessive concentration of licenses, and provide for the dissemination of licenses among a wide variety of applicants).

describing how such auction procedures would work solely to the advantage of large bidders and would diminish the participation and/or aggressiveness of smaller bidders.¹⁸

We agree with Aloha, SpectrumCo, MetroPCS, RCA and Verizon that adequate aggregation opportunities are available under the Commission's standard SMR procedures, especially with the diverse geographic and spectrum sizes for the 700 MHz licenses; in light of the substantial disadvantages from use of package bidding, SMR is the far better approach.¹⁹

Aloha, Alltel, SpectrumCo, Leap, MetroPCS, and Verizon are correct in concluding that package bidding involves substantial risks and complexity for bidders, that implementation of package bidding would require careful design of very complex auction rules, and that the time

¹⁸ See Comments of Aloha Partners, LP (Aloha), WT Docket No. 06-150, pp. 7-8 (filed May 23, 2007) ("In actuality, it is an option that works only to the advantage of large carriers (who can utilize it) and to the detriment of small carriers (who can virtually never use it)."); Comments of Alltel Corporation (Alltel), WT Docket No. 06-150, p. 10 (filed May 23, 2007) ("Such a proposal would create a strong bias in favor of nationwide bidders and would be tantamount to giving away the spectrum on a nationwide basis."); Comments of Blooston Rural Carriers (Blooston), WT Docket No. 06-150, p. 10 (filed May 23, 2007) ("Package bidding would unduly complicate the bidding for small and rural carriers, who do not have the resources to hire teams of economists and 'game theory' experts. More importantly, package bidding could deprive these entities of meaningful opportunities to participate in the 700 MHz Band service."); Comments of Cellular South Licenses, Inc., WT Docket No. 06-150, p. 16 (filed May 23, 2007) ("Combinatorial bidding favors large carriers at the expense of small participants and adds needless complexity to the auction process."); Comments of Leap Wireless International, Inc. (Leap), WT Docket No. 06-150, p. 9 (filed May 23, 2007); Comments of MetroPCS Communications, Inc., WT Docket No. 06-150, p. 22 (filed May 23, 2007) ("... the use of a combinatorial bidding design would harm small, rural, and regional carriers and prospective new entrants."); Comments of Rural Cellular Association, WT Docket No. 06-150, p. 18 (filed May 23, 2007) ("RCA believes it is not appropriate at this time because it adds an unneeded level of complexity which disadvantages small, predominantly rural, providers."); Comments of Rural Telecommunications Group, Inc., WT Docket No. 06-150, p. 16 (filed May 23, 2007) ("Combinatorial bidding would add increased risk and uncertainty for small companies who lack the resources to hire game theorists to handle their auction participation.")

¹⁹ See Comments of Aloha Partners, LP, WT Docket No. 06-150, p. 5 (filed May 23, 2007) ("...there simply is no validity to the claim that combinatorial bidding is needed in order to permit consolidation of large license areas."); Comments of SpectrumCo LLC (SpectrumCo), WT Docket No. 06-150, p. 16 (filed May 23, 2007) ("...the risk of a failed aggregation keeping bidders from aggressively bidding in an auction – was not a problem in the AWS-1 auction and is unlikely to be one in the 700 MHz auction."); Comments of MetroPCS Communications, Inc., WT Docket No. 06-150, p. 20 (filed May 23, 2007) ("Many prior auctions confirm that combinatorial bidding is not necessary to enable carriers to assemble nationwide licenses."); Comments of Rural Cellular Association, WT Docket No. 06-150, p. 17 (filed May 23, 2007) ("Aggregation of spectrum is possible without instituting a measure which would unduly complicate the bidding process and negatively affect small carriers which are less likely to be able to navigate the intricacies of complex coordinated bidding efforts."); Comments of Verizon Wireless (Verizon), WT Docket No. 06-150, p. 39 (filed May 23, 2007) ("There is no reason for the Commission to propose providing a combinatorial bidding opportunity for the purpose of combining large regional licenses into a nationwide license.")

remaining for the Commission to explore issues with these procedures before the 700 MHz auction effectively precludes successful implementation of package bidding.²⁰

The statement of Karen Wrege (Attachment B, Verizon Comments) includes the following thoughtful caution to the Commission on the many uncertainties and pitfalls ahead if it attempts to use complex, largely untested and unfamiliar package bidding procedures:

"Based on my experience with auction theory and design, I do not believe that it is feasible or wise for the FCC to proceed with combinatorial bidding for this auction, especially in the manner the FNPRM appears to contemplate. The FNPRM appears to propose a hybrid of combinatorial and SMR auctions in a single auction event. Based on my auction design experience, and as I explain below, I believe it would be difficult and unwise to implement such a system. In addition, based on my experience representing auction participants, and as I also explain below, I believe that even bidders who would otherwise support a combinatorial approach will find the hybrid proposal complicated to utilize. Furthermore, the hybrid combinatorial approach, with combinatorial bidding for some licenses but not for others, is inappropriate for this auction because it applies a different set of auction bidding rules to licenses that are substitutes for bidders."²¹

Her warning to the Commission not to experiment in this large, important auction with new rules confirms our own conclusions that use of SMR-PB procedures will risk causing major damage to statutory objectives, as well as auction efficiencies and revenues.

²⁰ See Comments of Aloha Partners, LP, WT Docket No. 06-150, p. 5 (filed May 23, 2007)("Combinatorial bidding presents an array of logistical issues that has never been completely addressed."); Comments of Blooston Rural Carriers, WT Docket No. 06-150, p. 10 (filed May 23, 2007)("Package bidding would unduly complicate the bidding for small and rural carriers, who do not have the resources to hire teams of economists and 'game theory' experts."); Comments of Cellular South Licenses, Inc., WT Docket No. 06-150, p. 16 (filed May 23, 2007)("Combinatorial bidding favors large carriers at the expense of small participants and adds needless complexity to the auction process."); Comments of SpectrumCo LLC, WT Docket No. 06-150, p. 16 (filed May 23, 2007) ("...the implementation of a new, complicated auction format on a tight timeline is likely to be difficult and fraught with challenges, adding unnecessary risk to one of the Commission's most important remaining auctions."); Comments of Leap Wireless International, Inc., WT Docket No. 06-150, p. 9 (filed May 23, 2007)("...the Commission should not introduce a new, untried, as-yet-not-even-fully-defined type of auction procedure in this important upcoming auction."); Comments of MetroPCS Communications, Inc., WT Docket No. 06-150, p. 22 (filed May 23, 2007) ("The Commission should not undertake such a radical change in such a short expected time period and should avoid any procedures that could delay the auction or deter participation by potential bidders."); Comments of Verizon Wireless, WT Docket No. 06-150, p. 43 (filed May 23, 2007)("Given the importance of the 700 MHz auction, the downside risks of this new, unproven hybrid auction mechanism are far too great for the Commission to experiment with combinatorial bidding at this time.").

²¹ Comments of Verizon Wireless, WT Docket No. 06-150, Exhibit 1, ¶ 9 (filed May 23, 2007).

One of the principal supporters of package bidding, Google/ Coalition for 4G in America (collectively "Google Inc./Coalition"), argues that "[c]ross-block packages at the regional or local level will create substantial complexity."²² We agree on this point. However, we strongly disagree that adoption of package bidding is justified because of any serious exposure threat to large bidders. The Commission has already created a band plan that could accommodate the Google/Coalition needs by proposing to offer one REAG license B block and to align EAs and/or REAGs in adjacent blocks to enable efficient aggregation. There is no reason to subject smaller bidders to bias, strategic burdens and complicated package bidding procedures when standard SMR procedures provide adequate aggregation opportunities.

Any form of limited package bidding necessarily helps some bidders, while not offering offsetting advantages to other bidders whose most-desired packages are not offered. The Google Coalition version of limited package bidding is designed to meet the needs of nationwide bidders exclusively. It tilts the playing field by creating a bias against regional and smaller bidders, who are interested in only a portion of such a package. The Google/Coalition proposal thus unfairly imposes strategic burdens on smaller bidders which would place them at a substantial disadvantage in the auction.

We also strongly disagree that a limited package bid auction "... can be easily accommodated and [that] the winning bidders can be determined without complicated algorithms."²³ If adopted, the Google/ Coalition proposed procedures for determining provisional winners, based on the "... sum of the individual REAG bids to the highest nationwide bid for the block . . .,"²⁴ would virtually assure that the bidders for portions of a package will never be able to outbid the package bidder. This is true because regional and other

²² Comments of Coalition for 4G in America, WT Docket No. 06-150, p. 7, fn. 11 (filed May 23, 2007).

²³ *Id.*

²⁴ *Id.*

smaller bidders would face a near impossible coordination problem. In order to “top” a standing bid on a package of licenses by a national bidder, several small or regional bidders must simultaneously choose to (and be free to!) shift their bidding activity from provisionally-winning bids on other licenses (outside of the package) to prospectively-losing bids on pieces of the package. At the same time, the FCC’s proposed “minimum-acceptable-bid-ratcheting” procedures might well over-price pieces of the package (or force smaller bidders into distorted strategies merely to hold back the rate of price increase on licenses actually of interest to them).

We disagree with Frontline's claims that the premature withdrawal of DirecTV/Echostar from Auction #66 is conclusive evidence of an "exposure" problem or that such withdrawal is even relevant to its proposals for packages consisting of CMA and EA licenses.²⁵ Despite its claims to the contrary, it seems self-evident that Frontline's packages of as yet unspecified CMA and EA licenses, nationwide packages of such licenses and other unspecified "combined packages"²⁶ would add substantially to the complexity, uncertainty and risks in the auction. As described in our Comments, the exposure problems caused by these types of packages will result in substantial strategic burdens on all bidders, could diminish auction participation and could result in diminished auction revenues.

We also oppose AT&T's proposed package bidding procedures which would impose pre-selected packages including "... all of the EAs comprising a REAG," "... a nationwide package bid for all licenses in any block," and "... all the EAs in a REAG and the adjacent-block REAG

²⁵ See Letter of George Y. Wheeler, Counsel to USCC, to Marlene H. Dortch, Secretary, FCC, ex parte in WT Dkt No 06-150, "Statement of Robert J. Weber," p. 1 (Filed March 7, 2007).

²⁶ Comments of Frontline Wireless, LLC (Frontline), WT Docket No. 06-150, Exhibit 1, pp. 21-23 (filed May 23, 2007)(arguing that the Commission could use of package bidding procedures providing "... a limited number of non-overlapping packages and a nationwide package, and a combined package across the D and F blocks.").

license."²⁷ The Commission should also reject AT&T's proposed use of package bidding for the same reasons discussed above in connection with the Frontline proposals.

We also oppose the Embarq, CenturyTel and Citizens (collectively "Embarq") proposals for open ended packages comprising combinations of CMA licenses. The Commission has not previously used package bidding for CMA licenses.²⁸ Were it to do so in the 700 MHz auction, the computational complexity, strategic burdens, bid reactivation/coordination problems and threshold problems would be grossly unfair to and burdensome for smaller bidders who are most interested in acquiring CMA licenses.

Finally, we believe that the Commission should not pursue novel and unproven package bidding methodologies in the short time which remains before conducting its large, high stakes 700 MHz auction. While the Commission has not indicated that it may be considering using either the modified form of flexible package bidding (MPB) or bidding on hierarchically structured packages, or "tiered package bidding" (TPB) for its 700 MHz auction, it appears from the timing of the Commission's release on May 25, 2007 of a recent study examining the performance properties of these two specific designs for simultaneous multiple round auctions with package bidding that this may be the case.²⁹

(1) The Experiment on package bidding released by the Commission May 25, 2007 points out the weaknesses of a package bidding approach in this auction. Even based on highly-simplified conditions (just 18 licenses and 7 bidders), the experimenters found that the smaller bidders had difficulty in coordinating with flexible package bids. The report observes: "the home-made packages constructed under the flexible MPB format tended to overlap, causing a

²⁷ Comments of AT&T Inc., WT Docket No. 06-150, p. 36 (filed May 23, 2007).

²⁸ Comments of Embarq, CenturyTel and Citizens/Frontier, WT Docket No. 06-150, pp.5-6 (filed May 23, 2007).

²⁹ See "An Experimental Comparison of Flexible and Tiered Package Bidding," Prepared for the Wireless Telecommunications Bureau of the Federal Communications Commission by Jacob K. Goeree, Charles A. Holt, and John O. Ledyard, *Final Report*, May 25, 2007 (Released May 25, 2007) ("Experiment").

'fitting problem' that made it difficult for strong regional bidders to unseat a national package bid." (Experiment, p. 17) This coordination difficulty compounds the threshold problem which harms smaller bidders in any package-bidding approach.

(2) The form of constrained packaging that the experimenters prefer-- tiered (hierarchically structured) package bidding -- will already be effectively present in this auction through the offering of diverse CMA, EA and REAG licenses. By bidding on REAG licenses, larger bidders can pursue complementary geographic areas without a significant exposure problem. A band plan which offers a single REAG block and two EA blocks will allow the SMR auction to capture the efficiencies that the experimenters found in the TPB approach. In other words, in an auction where there are diverse geographic sizes such as we support, a reasonable cost/benefit analysis tilts heavily in favor of using the SMR format because the efficiencies described above can be obtained without subjecting bidders to the complexity or risks associated with using a new package bidding auction methodology or software that is unfamiliar to both the Commission and bidders alike.

(3) Moreover, these experiments did not address the following operational realities:

* Both TPB and MPB are new auction formats and, to our knowledge, neither exists in the Commission's production environment nor has anyone seen them work outside of the Caltech software lab.

* The Experiment did not address possible exposure problems for bidders between the package and non-package licenses in TPB. In order to realize the benefits that the Experiment identifies with TPB, the Commission would be compelled to select pre-packaged groups of licenses. Selection of pre-packaged groups would match the needs of some bidders and ignore the needs of others. This means that under a TPB format probably most bidders, particularly

smaller bidders, would be subject to exposure problems reducing their bid activity and diminishing auction revenues.³⁰ This possible risk is significant, given the late stage of these proceedings and the short time left to address this among many other important issues.

* The Experiment does not address the impact of the activity rules as the FCC will use them in the auction (For example, in the Experiment the required activity levels were all at 100% and the bidding units for each license were equal).

* The Experiment doesn't address the size or complexity of the 700 MHz band plans or bidder preferences.

The Commission should not pursue such a dangerous package bidding experiment in this large, important auction.

3. The Commission Should Only Withhold Bidder Identity and Interest Information if Bidder Eligibility is Below the Threshold Ratio.

The comments of Alltel, Aloha, AT&T, Blooston, Dobson, Leap, MetroPCS, RCA, RTG and SpectrumCo confirm the Commission's experience in prior auctions that all bidders with strategic dependencies make better valuation decisions under open bidding.³¹ In other words,

³⁰ See Study, p. 16 ("...if the hierarchical pre-packaging completely mismatches bidders' preferences, the resulting exposure problem that all bidders face would likely reduce bids and revenues.")

³¹ See e.g. Comments of Alltel Corporation, WT Docket No. 06-150, p. 9 (filed May 23, 2007) ("...Alltel believes that open bidding leads to a more efficient auction. . ."); Comments of AT&T Inc., WT Docket No. 06-150, p. 39 (filed May 23, 2007) ("In the absence of any demonstrated need to change the information disclosure policy, anonymous bidding is a solution in search of a problem. In an auction environment with high stakes but little transparency, withholding bidder information will no doubt increase uncertainty for bidders, thereby increasing perceived risk and reducing the desire to bid aggressively."); Comments of Blooston Rural Carriers, WT Docket No. 06-150, p. 9 (filed May 23, 2007) ("... any speculative benefit in 'economic efficiency' that the Commission or any supporting commenters hope to gain from making less bidder information available will be vastly outweighed by bidder confusion and uncertainty with the new procedures."); Comments of Dobson Communications Corporation (Dobson), WT Docket No. 06-150, pp. 8-9 (filed May 23, 2007) ("If the Commission conceals this information from bidders, Dobson would have difficulty assessing the value to it of the various licenses. As a consequence, Dobson may have to curtail its participation in the auction to withstand significantly greater risks."); Comments of Leap Wireless International, Inc., WT Docket No. 06-150, p. 9 (filed May 23, 2007) ("The bottom line is that the imposition of anonymous bidding is unnecessary, will introduce uncertainty into the 700 MHz auctions, and is likely to directly affect smaller bidders' risk and level of participation."); Comments of MetroPCS Communications,

open bidding provides bidders, especially small and regional bidders, with important real-time information that helps them make appropriate strategic technology and valuation decisions and supports confident and active participation in spectrum auctions.

If a threshold ratio is considered necessary to guard against an insufficient level of competitive interest, we recommend the Commission consider reducing the 3.0 ratio of Auction #66 to 2.50. A 3.0 ratio was more than sufficient and risks having a closed auction when a closed auction would result in many negative effects on small and regional bidders.

We also agree with Aloha, RCA and RTG that anonymous bidding unfairly handicaps smaller bidders because they cannot be expected to have access to sophisticated and expensive research tools which larger bidders use.³² The Commission risks discouraging the participation of smaller bidders in the auction if it adopts policies such as anonymous bidding which have a disproportionate impact on them.³³ The Commission already has strong rules and policies in place to guard against collusive auction conduct. This means the Commission has both statutory incentives and the regulatory tools to create an open auction environment where information which has legitimate value to smaller bidders is not withheld.

Inc., WT Docket No. 06-150, p. 47 (filed May 23, 2007) ("... having participated in multiple 'open' auctions, MetroPCS still considers the benefit to it of having bidder information far outweighs the risk that MetroPCS will be targeted and blocked from entering a new market by an incumbent."); Comments of SpectrumCo LLC, WT Docket No. 06-150, p. 19 (filed May 23, 2007) ("There are no new or different developments that have emerged for the 700 MHz auction that should lead the Commission to change significantly the approach taken in the AWS-1 auction.").

³² See Comments of Aloha Partners, LP, WT Docket No. 06-150, p. 9 (filed May 23, 2007) ("...blind bidding would remove one of the core integrity checks in the auction: the fact that all [large and small] bidders have access to the same information about competing bids and bidders."); Comments of Rural Cellular Association, WT Docket No. 06-150, p. 19 (filed May 23, 2007) ("Cloaking auction information would only exacerbate competitive inequities based on entity size."); Comments of Rural Telecommunications Group, Inc., WT Docket No. 06-150, p. 14 (filed May 23, 2007) ("Absent information regarding the identities of competing bidders, it is impossible for small carriers to make rational bidding decisions.").

³³ See Comments of Rural Telecommunications Group, Inc., WT Docket No. 06-150, p. 9 (filed May 23, 2007) ("While blind bidding will leave rural carriers 'in the dark', the large nationwide carriers and other deep-pocketed auction participants will be able to afford the type of 'night vision goggles' provided by the retainer of scores of economists and auction behavioral analysts who can micro analyze and macro analyze the bidding behavior of other auction participants and determine with reliability the identities of such entities based on their bidding behavior.").

We strongly disagree with comments claiming that the strategic dependencies of smaller bidders "...can have no impact here, where technologies have not yet developed and where companies remain coy about their future business plans."³⁴ As we described in our comments, there are many risks which can affect valuation decisions of smaller bidders in situations where technologies have not yet developed. Uncertainties, such as the timing of technology development, what specific services they will support, what the likely costs will be, what operating characteristics will emerge, and whether established market leaders will drive technology development, all have heightened importance on valuation decisions where emerging technologies are involved. Also, contrary the claims of Frontline,³⁵ advances in technology nor the speculative proffers made by Frontline obviate the need for smaller bidders to consider roaming and other inter carrier relationships in their determinations of spectrum valuations.

We also support the conclusions of Aloha, AT&T, MetroPCS and SpectrumCo that PISC's speculative charges concerning retaliating and blocking bids in the AWS-1 auction³⁶ demonstrate PISC's basic lack of understanding of the bidding process and mischaracterize the auction behavior and results in Auction #66.³⁷ Contrary to the claims of PISC, we agree with

³⁴ See Comments of Ad Hoc Public Interest Spectrum Coalition, WT Docket No. 06-150, p. 32 (filed May 23, 2007).

³⁵ See Comments of Frontline Wireless, LLC, WT Docket No. 06-150, p. 57 (filed May 23, 2007).

³⁶ See Ex Parte submission of the Media Access Project, dated April 20, 2007, as submitted in WT Docket No. 06-150 and PS Docket No. 06-229, on April 23, 2007.

³⁷ See Comments of Aloha Partners, LP, WT Docket No. 06-150, p. 8 (filed May 23, 2007) ("First, with respect to whether there is any need for it, the lone quantitative analysis of the potential for collusion submitted in any of the captioned proceedings, and that argues for the remedy of blind bidding, offers no support for its urging."); Comments of AT&T Inc., WT Docket No. 06-150, p. 39 (filed May 23, 2007) ("...Dr. Rose's allegations of collusion are wholly unsubstantiated – the auction behavior and results he identifies, far from supporting his speculative assertions, describe a highly competitive auction among independent and fiercely competitive bidders."); Comments of MetroPCS Communications, Inc., WT Docket No. 06-150, p. 49 (filed May 23, 2007) ("Since MetroPCS has demonstrated that the Rose Paper is riddled with errors, the Paper should not form the basis of a change by the Commission in its auction procedures."); Comments of SpectrumCo LLC, WT Docket No. 06-150, pp. 19-20 (filed May 23, 2007) ("Dr. Rose's analysis, however, reveals a fundamental misunderstanding of Commission spectrum auctions and related license valuations. ... Ultimately, Dr. Rose demonstrates nothing other than that his so-called 'target' bidders were unwilling to pay the market price for licenses established in the AWS-1 auction. As

AT&T's statement that Auction #66 was "...a highly competitive auction among independent and fiercely competitive bidders."³⁸ We also agree with Verizon's Comments which show the baselessness of PISC's claims that the record of upfront payments and subsequent AWS-1 bidding activity somehow suggest that bidders attempted to "game" the Commission's eligibility threshold ratio to avoid anonymous bidding in that auction.³⁹

Finally, we strongly oppose the use of anonymous bidding, particularly when applied to an auction involving package bidding, because it magnifies the already unfair burden that a package auction places on smaller bidders (i.e., the threshold problem).⁴⁰ The arguments of PISC⁴¹ and Google⁴² for a combination of anonymous and package bidding procedures fail to address the extremely adverse consequences for smaller bidders outlined in our Comments.⁴³

4. The Commission Should Not Adopt Geographic Area Performance Requirements.

In our Comments (pp. 12-19), USCC strongly opposed the performance requirements proposed in the Further Notice and proposed retaining the existing "substantial service" standard. The proposed changes would require CMA and EA 700 MHz licensees to cover 25% of the geographic area of their licensed service areas within three years of license grant, 50% within five years and 75% within eight years. The FCC also proposed that 700 MHz licensees lose portions of their service areas if they failed to meet those benchmarks. USCC argued that the

the Commission balances the competing effects of making information available during the auction, the analysis provided by Dr. Rose should not move the scales even a hair's breadth.").

³⁸ Comments of AT&T Inc., WT Docket No. 06-150, p. 39 (filed May 23, 2007).

³⁹ See Comments of Verizon Wireless, WT Docket No. 06-150, p. 37 (filed May 23, 2007) ("...Verizon Wireless disagrees with PISC that some bidders entered the auction solely for the purpose of increasing the eligibility ratio. The facts belie PISC's assertions, for example, that designated entities with ties to incumbents 'had no intent to seriously participate' and filed to ensure that there was not anonymous bidding. Of the top 20 depositors representing 97.2 percent of the upfront deposits, only two were affiliated with incumbents and those two entities were active bidders and won valuable licenses in the auction.").

⁴⁰ We also oppose use of two-sided auctions.

⁴¹ See Comments of Public Interest Spectrum Coalition, WT Docket No. 06-150, p. 31 (filed May 23, 2007).

⁴² See Comments of Google Inc., WT Docket No. 06-150, p. 10 (filed May 23, 2007).

⁴³ Comments of United States Cellular Corporation, WT Docket No. 06-150, pp. 26-27 (filed May 23, 2007).

proposed buildout and "keep what you use" requirements constitute an unwarranted and counterproductive reversal of decades of evolution in the FCC's rules, based on experience with the wireless industry, toward flexible buildout requirements. USCC also stressed the willingness of wireless carriers to build base stations in any location that can support viable wireless service and the need to permit deployment in accordance with a rational economic plan generated by the carrier, and not by the federal government.

The proposed performance requirements will also have a variety of undesirable side effects, including: (a) the FCC having to determine an exact signal "contour" measurement technique despite the differing propagation characteristics of varying digital signal formats and (b) having to exclude from such measurements "bodies of water" and "government lands." As was the case in the eighties with the much simpler cellular "32 dBu contour," such signal measurement issues will be the subject of endless and unproductive disputes, whose intensity will be increased by the loss of territory which would be the consequence of failing to meet the coverage benchmarks. Finally, the greatest threat which the proposed performance standards pose to the future of the wireless industry lies in how they may interact with the uncertain 700 MHz license renewal standards adopted in the companion R&O. Together, they may undermine the reasonable "license renewal expectancy" which is vital to continued strong levels of capital investment in wireless systems.

The comments furnish additional powerful arguments against turning back the clock on performance standards. AT&T notes that the FCC's proposed geography-based construction benchmarks would promote the deployment of "low cost low grade markets" at the expense of "advanced wireless services," and also notes the lack of evidence in the record of a market failure

justifying either such requirements or a "keep what you use" regime.⁴⁴ AT&T also demonstrates that "keep what you use" licensing may have precisely the opposite effect of that intended, by removing "hard to serve" territories from the service territory of incumbent 700 MHz licensees, which have both the incentive and resources to provide service to such territories after the initial buildout period or to partition such territory or disaggregate spectrum within it if the licensee decides it cannot serve it economically.⁴⁵

Verizon Wireless argues that the proposed three year 25% geographic area buildout deadline is especially misguided, as it will disadvantage "carriers – particularly new entrants - that need to secure land and tower space for their 700 MHz infrastructure."⁴⁶ Incumbents, in contrast, will have much of their infrastructure already in place. Verizon Wireless also notes the fact that many carriers plan to use their 700 MHz for "4G" uses. Since 4G technology does not yet exist, an unduly onerous early construction requirement would force carriers to construct less than "state of the art" systems to comply with the requirement.

MetroPCS makes the valuable argument that the "call" for stricter performance requirements arose out of the FCC's original band plan, which included mainly large EAG and REAG service areas.⁴⁷ But the band plan proposals have changed, in the direction of smaller service areas. As MetroPCS points out, the better way to provide opportunities for rural and smaller carriers is precisely to create smaller service areas to start with, a course of action USCC has strenuously urged throughout this proceeding, rather than to mandate geographic performance requirements.

⁴⁴ Comments of AT&T, Inc. pp. 17-18.

⁴⁵ AT&T Comments, p. 18.

⁴⁶ Comments of Verizon Wireless, p. 26.

⁴⁷ Comments of MetroPCS Communications, Inc., ("MetroPCS"), p. 32.

The Further Notice also does not take adequate account of how sharply its buildout and "keep what you use" proposals diverge from virtually all the FCC's other recent actions allocating spectrum for advanced wireless uses. Those actions have consistently emphasized adherence to "market conditions" rather than "regulatory requirements."⁴⁸ Agencies may change their minds, but the FCC would need much better reasons and evidence than it has cited here for a change of this magnitude.⁴⁹

Commenters supporting geographic based performance requirements and "keep what you use" licensing have also failed to justify such a drastic departure from the FCC's consistent recent determinations regarding spectrum allocations and service rules. Rural Cellular Association ("RCA"), for example, not only endorses the proposed performance requirements in the Further Notice, it also proposes to limit "coverage" recognition to areas in which customer handsets can actually receive service.⁵⁰ Adoption of such a limiting requirement would make the measurement of signal strength even more difficult than would be the case under the Further Notice. It would also deprive the public of service from willing providers under "keep what you use" restrictions. We doubt if such a rule would serve the interests of RCA's member companies and it certainly would not serve the public interest. RCA would also prohibit incumbent 700 MHz licensees from filing applications to serve areas they had relinquished under the "keep what you use" rules.⁵¹ As we have noted previously with reference to USCC's own experience (USCC Comments, p. 16), incumbents would be the most likely providers of service in 700 MHz

⁴⁸ MetroPCS Comments, pp. 33-34.

⁴⁹ See Bell Atlantic Telephone Companies v. FCC, 79 F.3d 1195, 1202 (D.C. Cir. 1996) ("Everyone agrees that an agency's change of mind does not itself render the agency's action arbitrary ... what matters is the agency's explanation for its decision." That explanation and its necessary evidentiary support are what is missing here.

⁵⁰ RCA Comments, p. 5.

⁵¹ RCA Comments, p. 7 footnote 11.

"unserved areas" and it would be contrary to reasoned policy to deprive them of the opportunity of providing such service.

Finally, RCA correctly states that while the Communications Act does not require "symmetry" in performance requirements among AWS licensees,⁵² reason and logic suggest and the law requires that similarly situated carriers be treated similarly, unless there is a good reason not to. No such reason has been provided here.

5. The Commission Should Not Adopt the Frontline Proposal.

In our Comments, (pp. 19-21), USCC stated its strong opposition to the Frontline proposal. We noted its inconsistency with the allocation of other spectrum in this proceeding, the negative "cascade" effect it would have on other spectrum allocations, and the likelihood that if it is adopted it would encourage an endless proliferation of self interested, company specific spectrum proposals in the future. We referred to its over complication and the multiple layers of uncertain assumptions upon which it is constructed. Given the importance of the 700 MHz spectrum and of improving the quality of public safety service, to allocate one sixth of the spectrum available in this auction essentially to implement Frontline's business plan would be too great a risk for the Commission to take. USCC also stated that the issues of "open access" and "automatic roaming," which Frontline has proposed for the E Block spectrum, should appropriately be considered in other pending proceedings.⁵³

Frontline's own comments⁵⁴ only underscore the dubiousness of its proposal. In its Comments, Frontline promises to build a new multi-billion dollar national network covering 75% of the U.S. population within four years; 95% of the population within seven years and 99%

⁵² RCA Comments, p. 10.

⁵³ See USCC Comments filed April 30, 2007, in RM-11361 ("Skype" proceeding); USCC Comments, filed November 28, 2005 and Reply Comments filed January 6, 2006 in WT Docket No. 05-265 ("automatic roaming" proceeding).

⁵⁴ See "Initial Comments" of Frontline Wireless, LLC.

of the population within nine years.⁵⁵ However, during those first four years, Frontline would, in theory, authorize and coordinate, within its own network, thousands of "virtual private networks" controlled by local public safety entities, negotiate a "network sharing agreement" including pricing terms with the (as yet nonexistent) "National Public Safety Licensee," and negotiate multiple "leases" with commercial carriers on an "open access" basis, while permitting "Carterphone" applications for their end users, not to speak of simultaneously providing "automatic roaming" for all customers of "compatible" networks.⁵⁶ Frontline also promises to implement an "open auction" capacity on at least 25 percent of its "commercial network capacity."⁵⁷ USCC does not consider these ambitious promises to be either compatible or achievable. In one way, or in many ways, some now foreseeable and some not, this scheme will fail, with all the deleterious consequences that failure will have for public safety and the public interest.

USCC also objects to Frontline's attempt to interpret the Communications Act and the FCC's regulations to make itself eligible for "designated entity" status to construct its national wholesale network.⁵⁸ The relevant FCC rule⁵⁹ forbids Designated Entities from receiving a bidding credit if they propose to lease or resell "more than 50 percent of their spectrum capacity." This of course precisely describes what Frontline has in mind. Frontline argues that it is not proposing the type of "DE resale" about which the FCC was and is legitimately concerned. But again, its proposal that the FCC read the rules to permit its plan to go forward is a perfect illustration of the perils of "customized" rulemaking. USCC supports increased FCC efforts to

⁵⁵ Frontline Comments, p. 40.

⁵⁶ Ibid, pp. 17-47.

⁵⁷ Ibid, p. 23.

⁵⁸ Ibid, pp. 58-69.

⁵⁹ Section 1.2110(b)(3(iv)(A) of the FCC's Rules.

aid public safety, perhaps along the lines proposed by MetroPCS,⁶⁰ but Frontline's approach is the wrong one.

6. The Commission Should Not Adopt Any Restriction on Incumbent Eligibility.

In our comments (p. 21), USCC strongly opposed any "eligibility" restriction on the ability of ILECs, cable operators or wireless carriers to participate in the 700 MHz auction. We stressed first the absence of evidence in the record concerning an actual threat to competition; second, legitimate carrier expectations concerning their ability to participate in upcoming auctions; and third, the inefficiency of either excluding large categories of potential service providers or implementing cumbersome regulations regarding affiliate transactions.

The comments only reinforce these conclusions. Verizon Wireless (Comments, pp. 31-35), for example, notes the contradiction between bidding restrictions and putting spectrum to its "highest and best use," as well as the negative impact of such restrictions on total auction receipts, the "proven track record" of ILECs, cable operators and wireless providers in constructing and deploying "highly sophisticated communications networks," as well as the highly competitive nature of the broadband market.

AT&T (Comments, pp. 27-30) painstakingly demonstrates the lack of record evidence to support a reversal of the FCC's previous "open eligibility" determination. As AT&T proves, there is simply no evidence to suggest that "warehousing" of spectrum has taken place in recent AWS network development or will take place in the 700 MHz spectrum. Further, AT&T demonstrates that the actual record of wireless voice and broadband deployment demonstrates that incumbent carriers have the strongest possible incentives to aggressively deploy services, have done so in the past, and will do so in the future.

⁶⁰ See MetroPCS Comments, pp. 80-82.

Despite the lack of actual evidence of warehousing or other anticompetitive behavior, PISC proposes either to bar incumbents from 700 MHz auction participation altogether or to require open access, "Carterfone" and "network neutrality" policies for 700 MHz spectrum. PISC seems to believe that blocking the participation of incumbents will magically produce a national broadband network on a "wholesale" basis.⁶¹

However, there is absolutely no evidence that adoption of any of these types of coercive eligibility limiting proposals will produce either faster or more extensive deployment of advanced wireless spectrum than the old-fashioned but effective means of auctioning spectrum for the use of those entities willing to pay the most for it. It is the latter policy which has produced the existing national and regional wireless networks whose growth and innovation the FCC celebrates in its yearly competition reports. As we have previously argued, the Commission should maintain existing eligibility requirements. If the Commission has reason to believe that competition is threatened in any market by excessive concentration of spectrum, it can adopt a reasonable "spectrum cap," perhaps on a "per county" basis.

Conclusion

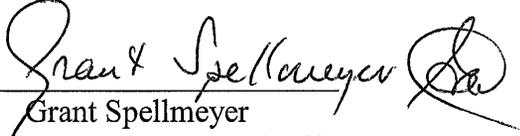
We and numerous commentators support Commission adoption of the mix of smaller license sizes in its Lower band proposal and in its Upper band Proposal #2. This combination provides a balanced set of initial licensing opportunities and makes available more licenses to match the needs of different potential users. The Commission should reject the proposals of

⁶¹ PISC Comments, p. 31, pp. 10-12.

companies with nationwide business plans which seek to create a private bidding preserve by having the Commission sanction set-asides of specific license blocks for their use. With limited time to prepare for the very high-stakes 700 MHz auction, the Commission stands the greatest likelihood of duplicating the resounding success of Auction #66 by sticking with its familiar band plan models, flexible use for all license blocks, SMR procedures and familiar access to auction information under transparent open bidding. We also believe that the Commission should maintain existing flexible wireless performance standards and existing broad eligibility criteria for auction participation, both of which have served this country well.

Respectfully submitted,

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June 4, 2007

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